NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

January 8, 1988 **CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Mr. Bill Moore, President
Rinchem Company, Inc.
6133 Edith Boulevard, N.E.
Albuquerque, NM 87107

Re: NMD 002208627

Dear Mr. Moore:

Enclosed is the operating permit for Rinchem Company, Inc.'s hazardous waste storage facility located at 6133 Edith Boulevard, N. E. , Albuquerque. This permit is issued under authority of the New Mexico Hazardous Waste Act (Section 74-4-1 *et seq.*, NMSA 1978, as amended) and the Hazardous Waste Management Regulations (HWMR-4).

The permit will become final and effective after the appeal period provided for in Section 303.G. of HWMR-4 has expired. The appeal period runs for thirty days after receipt of this permit by Rinchem, and the permit may be appealed by any adversely-affected person. Operations under the permit may not commence until the permit is final and effective. The permit will run for a term of ten years from the effective date.

After the effective date of the permit, Rinchem will be subject to all provisions of the Hazardous Waste Act and HWMR-4, both as a regulated storage facility and as a transporter of hazardous waste.

If you have any questions, please contact Mr. C. Kelley Crossman of the Hazardous Waste Management Section at 827-2923, or Mr. Pat Anderson of the Office of General Counsel at 827-2990.

Sincerely,

Michael J. Burkhart

Michael J. Burkhart, Director
Environmental Improvement Division

cc: Tanga Winkle, EPA (6H-HS)

Hazardous Waste Facility Permit

PERMITTEE: Rinchem Company, Inc.

LOCATION: 6133 Edith Blvd., N.E.
Albuquerque, NM 87107

ID NUMBER:
NMD002208627

PERMIT NUMBER
NMD 002208627-1

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6901, *et seq.*), and the New Mexico Hazardous Waste Act (§§ 74-4-1 *et seq.* NMSA 1978, as amended 1987) a permit is issued to Rinchem Company, Inc. (hereafter called the Permittee) to operate a hazardous waste storage facility at the location stated above.

The Permittee must comply with all the terms and conditions of this permit. This permit consists of the conditions contained herein including the attachments. Applicable provisions of regulations cited are those which are in effect on the effective date of this permit, New Mexico Hazardous Waste Management Regulations (HWMR-4). This permit shall become effective in accordance with HWMR-4, Sections 303.F. and 303.G. and shall run for a period of ten years.

This permit is based on the provisions of HWMR-4. This permit is also based on the assumption that all information contained in the permit application is accurate and that the facility will be operated as specified in the application. The permit application consists of information submitted August 5, 1986 and revised on February 17, 1987.

Any inaccuracies found in the information may be grounds for the termination or modification of this permit and potential enforcement action.

Signed this 8th day of January 1988

by Michael J. Burkhart

Michael J. Burkhart, Director, N.M.E.I.D.

New Mexico
Health and Environment Department
Environmental Improvement Division

RINCHEM COMPANY, INC.

PERMIT DISTRIBUTION LIST

1. Hazardous Waste Bureau Permit File
2. Permitee
3. EPA Region VI (6H-HS)
4. Hazardous Waste Management Section Inspection File
5. Hazardous Waste Management Section Permitting Unit Working File
6.
7.
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MODULE I STANDARD CONDITIONS

A. EFFECT OF PERMIT

The Permittee is allowed to store hazardous waste in accordance with the conditions of this permit. Any treatment or disposal of hazardous waste not authorized in this permit is prohibited. Compliance with this permit constitutes compliance, for purposes of enforcement, with the New Mexico Hazardous Waste Act (§§ 74-4-1 *et seq*. NMSA 1978, (as amended 1987) and the New Mexico Hazardous Waste Management Regulations (HWMR-4). A complete Resource Conservation and Recovery Act (RCRA) permit consists of this permit and a US EPA permit issued under the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA) which addresses the portion of the RCRA program for which the State is not authorized. Issuance of this permit does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local law or regulations. Compliance with the terms of this permit does not constitute a defense to any action brought under Section 7003 of RCRA (42 U.S.C. 6973), Section 206(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq*.), §§ 74-4-1 *et seq*. NMSA 1978, (as amended 1987), or any other law governing protection of public health or the environment.

B. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated for cause as specified in HWMR-4, Section 302, included herein by reference. The filing of a request for a permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the permittee, does not stay the applicability or enforceability of any permit condition. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations.

C. PERMIT REVIEW

This permit shall be reviewed by the Director or his representative five (5) years after the effective date. At that time, this permit may be modified, suspended, revoked or terminanted pursuant to HWMR-4, Section 303.B.2. Nothing in permit paragraph I.C. limits any permit action allowed by statute or regulation, or as provided elsewhere in this permit.

D. SEVERABILITY

The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

E. DUTIES AND REQUIREMENTS

1. Duty to Comply. The Permittee shall comply with all conditions of this permit, and with HWMR-4, Section 302.F.1., except to the extent and for the duration such noncompliance is authorized by an emergency permit. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of the New Mexico Hazardous Waste Act and is grounds for enforcement action, permit termination, revocation and reissuance, modification, or denial of a permit renewal application.

2. Duty to Reapply. If the Permittee wishes to continue an activity allowed by this permit after the expiration date of this permit, the Permittee shall comply with HWMR-4, Section 302.F.2., and submit a complete application for a new permit at least 180 days before this permit expires.

3. Permit Extension. This permit shall expire ten years after the effective date and shall not be extended. The Permittee must have received a new permit prior to the expiration of this permit to continue activities under HWMR-4.

4. Need to Halt or Reduce Activity Not a Defense. In accordance with HWMR-4, Section 302.F.3., it shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

5. Duty to Mitigate. In accordance with HWMR-4, Section 302.F.4., the Permittee shall take all reasonable steps to minimize or correct any adverse impact on human health or the environment resulting from noncompliance with this permit.

6. Proper Operation and Maintenance. In accordance with HWMR-4, Section 302.F.5., the Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facility or similar systems only when necessary to achieve compliance with the conditions of this permit.

7. Duty to Provide Information. In accordance with HWMR-4, Section 302.F.8., the Permittee shall furnish to the Director, within a reasonable time, any relevant information which he or she may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

8. Inspection and Entry. In accordance with HWMR-4, Section 302.F.9., the Permittee shall allow the Director or any authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter at reasonable times upon the Permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the New Mexico Hazardous Waste Act, any substances or parameters at any location.

9. Monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be an accepted and appropriate method such as described in *Test Methods for Evaluating Solid Waste: Physical/Chemical Methods* SW-846, 1986 as revised, or equivalent. Laboratory methods must be those specified in SW-846; *Standard Methods for the Examination of Water and Wastewater*, Fifteenth Edition, 1980 and 1981 Supplement, or current edition; or an equivalent method as specified in Permit Attachment A.

10. Notice of Planned Physical Facility Changes. The Permittee shall give notice to the Director, as soon as possible, of any planned physical alterations or additions to the permitted facility. Physical alterations or additions shall include all hazardous and solid waste activities and underground tanks. Construction of new units may not begin until a permit or permit modification has been issued.

11. Certification of Construction or Modification. The Permittee may not commence treatment or disposal of waste at the modified facility until:

a. The Permittee has submitted to the Director, by certified mail or hand delivery, a letter signed by the Permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

b. (i) The Director or his designee has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(ii) The Director, or his designee, has either waived the inspection or has not, within 15 days, notified the Permittee of his intent to inspect.

12. Anticipated Noncompliance. The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

13. Transfer of Permit. This permit may be transferred to a new owner or operator only if it is modified or revoked and reissued pursuant to HWMR-4,

Sections 302.M.2.b., and/or 302.0.4. Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of HWMR-4, Sections 206.A., B., D., 301., 302., and HSWA.

14. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

15. Other information. Whenever the Permittee becomes aware that he failed to submit any relevant facts in the permit application, or submitted incorrect information in a permit application or in any report to the Director, the Permittee shall promptly submit such facts or information. The term "Permit Application" includes any information submitted on solid waste management units.

F. SIGNATORY REQUIREMENT

All reports or other information requested by the Director shall be signed and certified as required by HWMR-4, Section 302.B.

G. CONFIDENTIAL INFORMATION

The Permittee may claim confidential in accordance with HWMR-4, Section 302.P. any information required to be submitted by this permit.

H. DOCUMENTS TO BE MAINTAINED AT FACILITY

The Permittee shall maintain at the facility, until closure is completed and certified by an independent registered professional engineer, the following documents and amendments, revisions and modifications to these documents:

1. This Permit and its attachments;

2. Waste Analysis Plan required by HWMR-4, Section 206.B.3. and this permit;

3. Personnel training documents and records required by HWMR-4, Section 206.B.6. and this permit;

4. Contingency Plan required by HWMR-4, Section 206.B.10. and this permit;

5. Closure Plan required by HWMR-4, Section 206.D.2.c. and this permit;

6. Operating record required by HWMR-4, Section 203.C.2.c. and this permit; and

7. Inspection schedules required by HWMR-4, Section 206.B.5.b. and this permit.

I. PERMIT CONSTRUCTION

1. Cites. Whenever paragraphs of this permit or of the Hazardous Waste Management Regulations are cited, such cite includes all subordinate sections of the cited paragraph. When subordinate sections are cited, such cite

includes all subsections of the cited subparagraph, but not preceeding subsections.

2. Gender. Whenever the pronoun "he" is used in reference to the Director of the Environmental Improvement Division or the Permittee, it is to be read as "she" in any instance where the object of the reference is female.

3. Definitions. The definitions within HWMR-4, Section 102, and 40 CFR 260.10 shall apply to the terms used in this permit.

MODULE II GENERAL FACILITY CONDITIONS

A. DESIGN AND OPERATION OF THE FACILITY

The Permittee shall maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release to air, soil, or surface water of hazardous waste constituents which could threaten human health or the environment.

B. REQUIRED NOTICE

1. Foreign Wastes. This permit does not allow the Permittee to accept hazardous wastes from a foreign source. If the Permittee is to receive hazardous waste from a foreign source, he shall apply for and receive a permit modification in accordance with HWMR-4, Section 302.M. or 302.O., if appropriate, prior to accepting such waste.

2. Off-Site Wastes. When the Permittee is to receive hazardous waste from an off-site source (except where the Permittee is the generator), he must inform the generator in writing that he has the appropriate permits for, and will accept, the waste the generator is shipping. The Permittee must keep a copy of this written notice as part of the operating record.

C. WASTE ANALYSIS

1. Analytical Procedures. The Permittee shall follow the procedures described in Permit Attachment A.

2. Quality Assurance. The Permittee shall verify his waste analysis as part of his quality assurance program. The quality assurance program shall be in accordance with current accepted practices such as specified in *Test Methods for Evaluating Solid Waste: Physical/Chemical Methods* SW-846, 1986, as revised, or equivalent methods approved by the Director; and at a minimum, shall ensure that the Permittee maintains proper functional instruments, uses approved sampling and analytical methods, verifies the validity of sampling and analytical procedures, and performs correct calculations.

D. SECURITY

The Permittee shall comply with the security provisions described in Permit Attachment B.

E. INSPECTION REQUIREMENTS

The Permittee shall follow Permit Attachment C. and shall remedy any deterioration or malfunctionof equipment or structure discovered by an inspection, as required by HWMR-4, Section 206.B.5.d.

F. PERSONNEL TRAINING

The Permittee shall conduct personnel training as required by HWMR-4, Section 206.B.6. This training program shall follow Permit Attachment D. The training manual shall be updated, whenever necessary, so as to remain current and

accurate. A dated copy of the revised training program will be submitted to the Director for the permit files and permit modification in accordance with HWMR-4, Section 302.O. prior to its implementation.

G. REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTE

The Permittee shall comply with the requirements of HWMR-4, Section 206.B.7.

H. PREPAREDNESS AND PREVENTION

1. Required Equipment. At a minimum, the Permittee shall equip the facility with the equipment set forth in Permit Attachments C and E.

2. Testing and Maintenance of Equipment. The Permittee shall test and maintain the equipment specified in permit paragraph II.H.1. above as necessary to assure its proper operation in time of emergency.

3. Access to Communications or Alarm System. The Permittee shall maintain access to the communications or alarm system as required by HWMR-4, Section 206.B.9.e. and 206.B.9.f.

I. CONTINGENCY PLAN

1. Implementation of Plan. The Permittee shall immediately carry out the provisions of Permit Attachment E whenever there is a fire, explosion, or release of hazardous waste or constituents which threatens or could threaten human health or the environment.

2. Amendment of the Plan. The Permittee shall review and immediately amend, if necessary, the Contingency Plan, as required by HWMR-4, Section 206.B.10.k.

3. Copies of the Plan. The Permittee shall comply with the requirements of HWMR-4, Section 206.B.10.j. A dated copy of any amended Contingency Plan will be submitted to the Director for the permit files. ~~and~~ The permit shall be modified ~~modification~~ in accordance with HWMR-4, Section 302.O prior to ~~its~~ implementation of the amended Contingency Plan except for updates to the List of Emergency Coordinators. The Permittee shall immediately provide the Program Manager of the RCRA Permitting Section in the Hazardous and Radioactive Materials Bureau an update to Permit Attachment E, Section C, Table CP-1 for incorporation into this Permit on the effective date of any updates to the Table.

4. Emergency Coordinator. The Permittee shall comply with the requirements of HWMR-4, Section 206.B.10.l concerning the emergency coordinator.

J. MANIFEST SYSTEM

The Permittee shall comply with the manifest requirements of HWMR-4, Sections 203.A., B., and C. for any hazardous wastes received by the Permittee and shipped off-site for treatment, storage or disposal.

K. RECORDKEEPING AND REPORTING

1. Facility Operating Record.

a. The Permittee shall maintain at the facility, until the end of the closure period, a written record of waste and decontamination washwater analyses. The following shall be recorded:

(i) The dates, exact place, and times of sampling or measurements;

(ii) The individual who performed the sampling or measurements;

(iii) The dates analyses were performed;

(iv) The individuals who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

b. The Permittee shall maintain at the facility a written record of Contingency Plan implementation reports. The record shall contain at least the information required in permit paragraph II.K.2.b. below. These records shall be kept until the end of the closure period.

c. The Permittee shall keep at the facility a written record of all inspections conducted in accordance with Permit Attachment C. These records shall be maintained for a minimum period of three years from the date of the last action taken as a result of the inspection.

d. The Permittee shall keep at the facility training documents and records as required by HWMR-4, Sections 206.B.6.d. and 206.B.6.e. Records of training shall be kept on all current employees and for a minimum of three years after an employee leaves the facility.

e. The Permittee shall maintain at the facility a copy of all biennial reports submitted in accordance with permit paragraph II.K.2. below. These copies shall be kept until the end of the closure period.

f. The Permittee shall maintain at the facility a written record of hazardous wastes received, stored and/or disposed. Current EPA-approved nomenclature and codes shall be used where appropriate. The record shall be kept until final closure of the facility. The following information shall be recorded:

   (i) Source;

   (ii) Description;

   (iii) Quantity;

   (iv) Storage location; and

   (v) Disposal location and agency. A properly completed Uniform Hazardous Waste Manifest will be sufficient.

g. The Permittee shall retain in the operating record a copy of the notification to generators required by permit paragraph II.B.2. above.

h. The Permittee shall retain in the operating record an estimate of closure costs. This estimate shall be updated annually on the anniversary of this

permit's effective date. A copy of the current estimate shall be sent to the EID.

2. Reports.

a. The Permittee shall comply with the Biennial Report requirements of HWMR-4, Section 203.C.3.a.

b. The Permittee shall report to the Director any noncompliance with the permit which may endanger human health or the environment. Any such information shall be reported orally immediately upon the Permittee becoming aware of the circumstances. This report shall include the following:

(i) Information concerning the release of any hazardous waste which may endanger public or private drinking water supplies.

(ii) Information concerning the release or discharge of any hazardous waste, or of a fire or explosion at the facility, which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:

(a) Name, address, and telephone number of the owner or operator;

(b) Name, address, and telephone number of the facility;

(c) Date, time, and type of incident;

(d) Name and quantity of materials involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazard to the environment and human health outside the facility, where this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

The immediate report shall be made by calling (505) 827-2929 during normal working hours, or (505) 827-9329 (24-hour emergency line) after normal work hours.

c. The Permittee shall provide to the Director within five (5) days of the time the Permittee becomes aware of the event, a written report on the event(s) reported orally in permit paragraph II.K.2.b. above. The written submission shall contain a description of the noncompliance and its cause; the periods of noncompliance (including exact dates and times), whether the noncompliance has been corrected; and if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Permittee need not comply with the five day written notice requirement if the Director waives the requirement and the Permittee submits a written report within fifteen

(15) days of the time the Permittee becomes aware of the circumstances. The written report shall be submitted by certified mail to:

EID Director
P. O. Box 968
Santa Fe, NM 87504-0968

d. The Permittee shall report all other instances of noncompliance not otherwise required to be reported above. The report shall contain the information listed in permit paragraph II.K.2.b. above.

L. CLOSURE

1. Performance Standard. The Permittee shall close the facility as required by HWMR-4, Section 206.D.2.b., 206.D.4.i. and in accordance with Permit Attachment F.

2. Amendment of Closure Plan. The Permittee shall amend the Closure Plan in accordance with HWMR-4, Section 206.D.2.c.(2) whenever necessary.

3. Notification of Closure. The Permittee shall notify the Director at least 180 days prior to the date he expects to begin closure.

4. Time Allowed For Closure. After receiving the final volume of hazardous waste, the Permittee shall treat or remove from site all hazardous waste in accordance with the schedule specified in the Closure Plan. After receiving the final volume of hazardous waste, the Permittee shall complete closure activities in accordance with the schedule specified in the Closure Plan.

5. Disposal or Decontamination of Equipment. The Permittee shall properly dispose of or decontaminate all facility equipment as required by the Closure Plan.

6. Certification of Closure. The Permittee shall certify that the facility has been closed in accordance with the specifications in the Closure Plan.

7. Financial Assurance For Facility Closure. The Permittee shall demonstrate continuous compliance with HWMR-4, Section 206.D.3.d. by providing documentation of financial assurance. Any surety method detailed in HWMR-4, Section 206.D.3.d. may be used. See also permit paragraph II.K.1.h. above.

M. SPILLS

The Permittee shall take corrective action, as required by Section 74-4-4.2.B NMSA 1978 (as amended), for all releases of hazardous wastes or constituents from any solid waste management unit at his facility. Corrective action may include, but shall not be limited to, the following: decontamination and/or removal of all releases, spills and leaks; immediate cleanup of release or spillage of hazardous waste, or constituent residue or listed chemicals which become wastes; prevention of surface-water or ground-water contamination which could result from a release or spill; and, cleanup of any surface-water or ground-water contamination which results from a release or spill.

N. BUILDING

This permit applies to the building described in the permit application and as shown in Permit Attachment H. Any additions to or modifications of the building will require a permit modification in accordance with HWMR-4, Section 302.M. or 302.0.

MODULE III - CONTAINER STORAGE

A. DESIGNATED STORAGE AREAS

The Permittee may store for more than ninety days hazardous wastes in containers only in the designated areas shown on Attachment H facility drawing. No hazardous wastes shall be stored outside the building or on the loading docks.

B. AUTHORIZED WASTES

1. Identification. Only hazardous wastes identified in Attachment G of this permit shall be stored.

2. Quantities. The annual cumulative quantity of individual hazardous wastes in storage shall not exceed the quantity indicated in Permit Attachment I. EPA Form 3510-3 (6-80), pages A-5 through page A-7, column B., "Estimated Annual Quantity of Waste." An aggregate maximum of 500 drums of waste shall not be exceeded at any time.

C. CONTAINERS

1. Capacity. Hazardous wastes shall be stored in containers not to exceed 55 gallons nominal capacity, except as described in permit paragraph III.C.3.b. below.

2. Type.

   a. As a minimum, the containers must be of a type specified in the U.S. Department of Transportation (DOT) hazardous materials regulations, 49 CFR Parts 171 to 179, if those regulations specify a particular container for the waste.

   b. As applicable, the containers should be either: (1) previously unused or certified reconditioned DOT shipping containers; (2) the original shipping containers in which the material was first marketed; or (3) any other suitable container which satisfies the requirements of permit paragraph III.C. If the hazardous wastes are to be received and stored in their original shipping containers, the Permittee must insure that the requirements of permit paragraph III.C. are satisfied.

3. Condition.

   a. If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in compliance with the conditions of this permit.

   b. The Permittee may use overpack containers of more than 55 gallon capacity to manage defective waste storage containers.

4. Compatibility of Waste with Containers. The Permittee shall assure that the ability of the container to contain the waste is not impaired, as required by HWMR-4, Section 206.D.4.c. When necessary this should include procedures for determining whether the hazardous waste is no longer compatible with the shipping container if it is to be stored in its original container.

5. Management of Containers. The Permittee shall manage containers as required by HWMR-4, Section 206.D.4.d.

D. CONTAINMENT

The Permittee shall ensure all hazardous wastes are stored only in areas with adequate containment as required by HWMR-4, Section 206.D.4.f.

E. IGNITABLE OR REACTIVE WASTES

The Permittee shall not locate containers holding ignitable or reactive waste within 15 meters (50 feet) of the facility's property line.

F. INCOMPATIBLE WASTES

1. Incompatible Waste Management. The Permittee shall manage incompatible wastes or incompatible wastes and materials in accordance with the requirements of HWMR-4, Section 206.D.4.h.

2. Incompatible Wastes and Materials. Incompatible wastes or incompatible wastes and materials shall be separated by a minimum distance of 60 inches. Such separation shall form a readily accessible aisle.

G. CLOSURE

The Permittee shall comply with permit paragraph II.L. above and Permit Attachment F. for closure of the storage area.

H. INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS

The Permittee shall comply with HWMR-4, Section 206.D.3.i. whenever necessary.

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT A

WASTE ANALYSIS PLAN

WASTE ANALYSIS PLAN

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Waste Analysis Plan [N.M.- 302.A.4.b.(1)(c), U.S. - 270.14(b)(3)]

1. Introduction

In accordance with the regulatory requirements set forth in 40 CFR 264.13(b), Rinchem Company, Inc. has developed this Waste Analysis Plan as an integral part of the Part B RCRA Permit Application. The procedures set forth in this plan dictate that this facility will be in compliance with all requirements of 40 CFR 264.13. A copy of this plan will be available at the facility at all times.

In order to make the waste analysis plan eaiser to understand, a few terms should be defined.

Covered Wastes - Wastes which are designated in the Chemical and Physical Analysis section of the permit application (pages 56-62) when and only when they are stored in excess of 10 days or manifested to this facility as a treatment, storage, and disposal facility and signed for by an authorized agent of the facility.

Exempt Wastes - Wastes that do not require a permit because (1) they are not regulated under RCRA as hazardous, or (2) they are not manifested to Rinchem and not stored in excess of 10 days.

The purpose of this Waste Analysis plan is to document the necessary analytical techniques, sampling methodologies, and

procedures appropriate to covered wastes entering the facility. For storage for a period exceeding ten days, three areas are considered:

(1) Pre-Acceptance Procedures - to determine the acceptability of a particular waste stream with regard to facility permit conditions and safe operating capabilities prior to the shipment of that waste stream.

(2) Incoming Load Procedures - to verify that the delivered waste is in accordance with the accompanying waste manifest and the pre-acceptance documentation.

(3) Storage Procedures- to maintain safe and appropriate methods of storage of wastes while at the facility.

2. Pre-Acceptance Procedures

Rinchem Company has developed procedures to determine the acceptability of specific wastes for receipt at the facility. These procedures dictate the information a potential customer must provide to enable Rinchem Company to determine the acceptability of the waste for storage for a period exceeding 10 days.

2.1 Generator Requirements [Federal - 264.13(b)(5)]

For each new waste stream that is a candidate for delivery to the facility, the following procedures are implemented:

(1) The generator will provide Rinchem Company with pertinent chemical and physical data requested on the Generator's Waste

Profile Sheet shown as Figure WAP-1 and a representative sample. The profile includes a certification that the sample is representative and that generator will notify Rinchem of known changes in the waste stream.

(2) Rinchem will verify the data on the Generator's Waste Material Profile Sheet by having confirming analyses performed on the representative sample.

(3) After comparing the data supplied by the generator with that obtained by verification, Rinchem will determine the acceptability of the waste based on the permit conditions of the facility.

2.2 Frequency of Analysis [Federal - 264.13(b)(4)]

The pre-acceptance evaluation will be repeated when a generator notifies Rinchem that the process generating the waste has changed, or if Rinchem has reason to suspect that the waste is in non-conformance with available pre-acceptance documentation, or if a significant discrepency is detected. When the process generating a hazardous waste has changed, the generator must submit a new waste profile sheet and sample.

2.3 Waste Analysis Parameters and Rationale for Selection [Federal - 264.13(b)(1)]

Under this permit, Rinchem plans to enlarge its activities to storing hazardous waste. It would not be feasible to hire personnel

RINCHEM COMPANY, INC.
GENERATOR'S WASTE PROFILE SHEET

RINCHEM COMPANY INC.
PHONE (505) 345-3655
6133 EDITH BLVD. NE
ALBUQUERQUE NM 87107

A. GENERAL INFORMATION

GENERATOR NAME _____

FACILITY ADDRESS _____ NUMBER _____

_____ GENERATOR USEPA I.D. _____

_____ GENERATOR STATE I.D. _____

TECHNICAL CONTACT _____ TITLE: _____ PHONE: _____

NAME OF WASTE: _____

PROCESS GENERATING WASTE: _____

B. PHYSICAL CHARACTERISTICS OF WASTE

COLOR: Describe _____

Clarity: ☐ Clear ☐ Cloudy
Describe _____

Phase Separation:
Number of layers _____

pH ☐ < 2.0 ☐ 8.1-10.0 ☐ 2.0-4.0 ☐ 10.1-12.5 ☐ 4.1-5.9 ☐ >12.5 ☐ 6.0-8.0 ☐ EXACT _____

SPECIFIC GRAVITY ☐ <.8 ☐ .8-1.0 ☐ 1.0-1.2 ☐ EXACT _____ ☐ 1.2-1.4 ☐ 1.4-1.6 ☐ >1.6

FLASH POINT ☐ < 70 °F ☐ 70°F - 140°F ☐ 140°F-200°F ☐ >200°F ☐ EXACT _____

C. CHEMICAL COMPOSITION

	RANGE LOWER	RANGE UPPER	
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%

D. METALS ☐ TOTAL (PPM) ☐ EPA EXTRACTION PROCESS (MG/ML)

ARSENIC _____
BARIUM _____
CADMIUM _____
CHROMIUM _____
MERCURY _____
LEAD _____
CHROMIUM HEX _____
SELINIUM _____
SILVER _____
COPPER _____
NICKEL _____
ZINC _____
THALLIUM _____

E. OTHER COMPONENTS

CYANIDES _____ PCB'S _____
SULFIDES _____ PHENOLICS _____

F. SHIPPING INFORMATION

D.O.T. HAZARDOUS MATERIAL ☐ YES ☐ NO
PROPER SHIPPING NAME _____
HAZARD CLASS _____
I.D. NO _____ R.Q. _____
ANTICIPATED VOLUME (UNITS) _____
PER ☐ ONE TIME ☐ WEEK ☐ MONTH ☐ QUARTER ☐ YEAR ☐ _____

G. HAZARDOUS CHARACTERISTICS

REACTIVE: ☐ NONE ☐ PYROPHORIC ☐ SHOCK SENSITIVE ☐ EXPLOSIVE ☐ WATER REACTIVE ☐ OTHER _____

OTHER HAZARDOUS CHARACTERISTICS:
☐ NONE ☐ RADIOACTIVE ☐ ETIOLOGICAL ☐ PESTICIDE MANUFACTURING WASTE ☐ OTHER _____

USEPA HAZARDOUS WASTE
USEPA HAZARDOUS CODES _____, _____, _____, _____

H. SPECIAL HANDLING INFORMATION _____

I HEREBY CERTIFY THAT ALL INFORMATION SUBMITTED IN THIS AND ALL ATTACHED DOCUMENTS IS COMPLETE AND ACCURATE, AND THAT ALL KNOWN OR SUSPECTED HAZARDS HAVE BEEN DISCLOSED. I FURTHER CERTIFY THAT ANY SAMPLES SUBMITTED WITH THIS PROFILE NUMBER ARE REPRESENTATIVE OF THE WASTE TO BE SHIPPED AND ARE TAKEN IN ACCORDANCE WITH SW 846 OR OTHER APPROVED PROCEDURES. I AGREE TO NOTIFY RINCHEM IN WRITING WHEN THE PROCESS GENERATING THIS WASTE STREAM CHANGES OR WHEN I HAVE REASON TO BELIEVE THE DATA CONTAINED HEREIN IS NOT COMPLETE AND ACCURATE.

SIGNATURE _____ TITLE _____ DATE _____

FIGURE WAP-1. WASTE PROFILE SHEET

and to equip a complete laboratory for the limited amount of covered wastes being handled at this facility. Rinchem will maintain laboratory personnel and equipment comensurate with the safe storage and handling of wastes for which it is permitted.

2.3.1 Mandatory Analyses

Mandatory Analyses include five basic screening procedures to be performed on all covered waste streams. They will provide a general characterization of the waste, and indicate compatibility with other materials in the same building.

(1) Physical Description - is used to determine the general characteristics of the waste which facilitates comparison of the sample waste with prior waste descriptions or samples.

(2) pH Screening - is used to indicate the corrosive nature of the waste and to ensure that no highly alkaline or acidic wastes are stored in a flammable area and that wastes are compatible with their containers.

(3) Specific Gravity - is selected because significant changes are strongly indicative of changes in waste characteristics.

(4) Ignitable Screen - is used to indicate the fire-producing potential of the waste, and to determine whether the waste is a RCRA ignitable waste or is regulated as flammable or combustible by

the federal DOT. This test can be applied to all waste liquids, or semi-solids.

(5) Assay - is obtained by a gas chromatograph to confirm identity, amount of recoverable component(s), and major contaminents, if any.

2.3.2 Supplemental Analyses

Supplemental analyses are preformed to provide the Hazardous Waste Coordinator with another level of confidence concerning the proper means of storage should the need arise. Some of these additional analyses utilize unique procedures which have been found preferable for waste characterization. Others are standard analytical techniques recognized by EPA and ASTM. Rinchem will perform the supplemental analyses if possible. If Rinchem does not have the equipment to perform certain analytical procedures, waste samples will be sent to an outside laboratory that will be able to characterize the waste stream further.

The applicability of the analysis parameters described below is based on procedures and protocol formulated by Rinchem Company, Inc.

(1) Distillation - is used to determine the percent recovery and boiling range of a sample, and to generate distillate and bottoms samples for further testing.

(2) Liquid Waste Compability - is to determine whether liquid

wastes if stored or processed together are compatible.

(3) Beilstein Copper Wire Test for Organic Chlorides - is to detect the presence of organic chlorides in the wastes prior to acceptance. If the Beilstein test is positive, then a total organic halogen analysis will be performed to determine the exact chloride concentration.

(4) Heavy Metals (As, Ba, Cd, Cr, Pb, Hg, Se, Ag) - are run to quantify heavy metals concentration to determine process operating parameters.

(5) Flash Point - further characterizes ignitable wastes to establish proper storage mode and conformance with permit conditions.

(6) Water Content - is to determine the amount of free water or indicate the combustibility of the waste.

(7) Heat Value - assesses the amount of heat available for release during thermal combustion (incineration or use as fuel supplement).

(8) Total Organic Halides - is used to quantify the halides that are present in the waste stream.

2.4 Test Methods for Analyzing Parameters

All the test methods for mandatory and supplemental analyses at the Rinchem facility are found in Appendix WAP-B.

2.5. Procedures for Collecting Representative Samples [Federal - 263.14(b)(3)]

Rinchem performs sampling at its own facility and often assists generators in sampling at their location. Waste generators are referred to 40 CFR 261, Appendix I for sampling procedures. Specific sampling methods used by Rinchem Company personnel are divided into three subsections: (1) description of sampling device, (2) personnel safety precautions, and (3) sampling procedure for drums.

B.2.5.1. Description of Sampling Device

The sampling device that will be used to sample drums is a Coliwasa type sampler. Figure WAP-2 is a schematic of the Coliwasa type sampler used (following page). There are limitations in the effectiveness of the Coliwasa type sampler:

(1) Use of a plastic Coliwasa type sampler, unless it is constructed of fluorocarbons (e.g. Teflon), to sample wastes containing organic materials may contaminate the sampler.

(2) If significant amounts of solid material are present within 2 inches of the bottom of the container, special procedures will be necessary to obtain a representative sample of this solid phase.

(3) A clean dry sampler must be used for each sampler to prevent cross contamination.

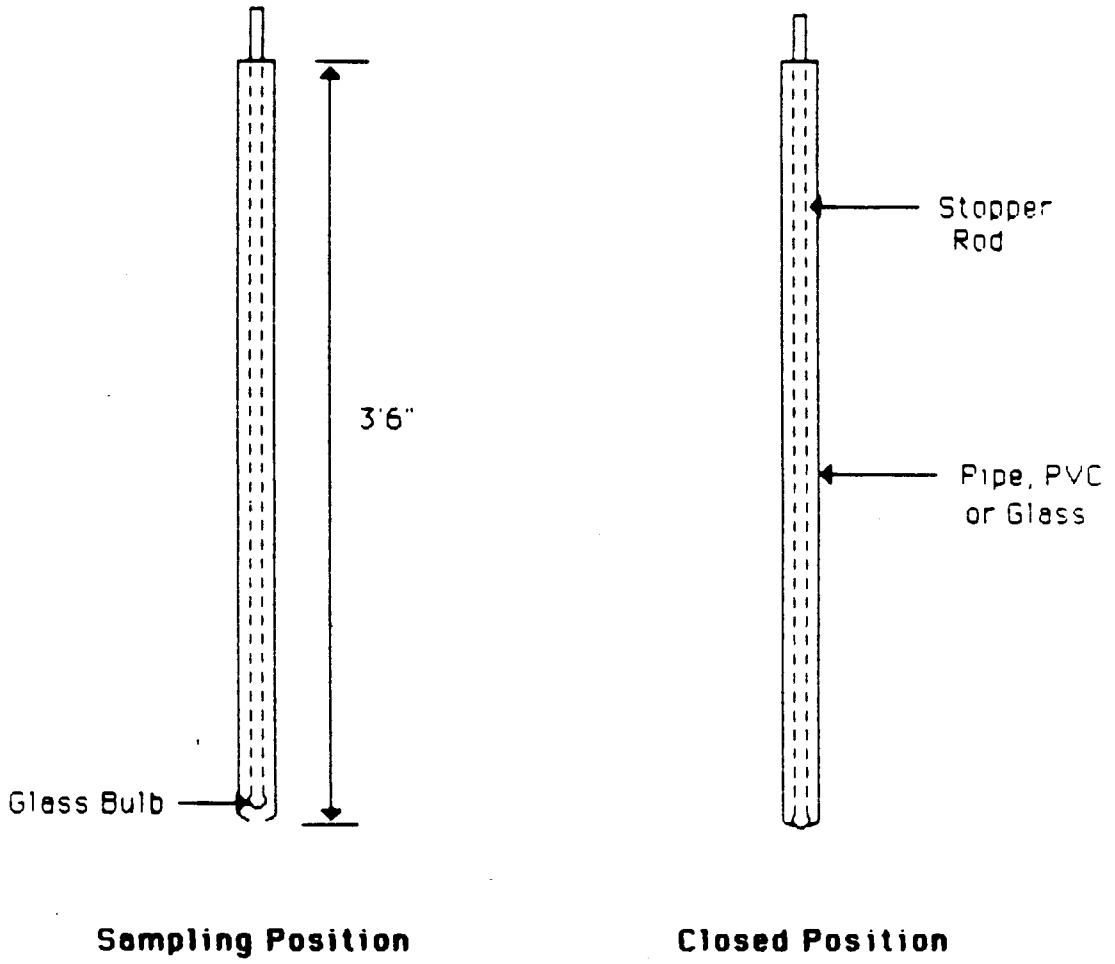

Figure WAP-2. Schematic of a Coliwasa Type Sampler

2.5.2. Personnel Safety Precautions

Prior to opening the container for sample withdrawal, the employee who is to do the sampling must be wearing safety glasses, gloves, and a long-sleeved chemical resistant apron or suit.

The equipment required in order to obtain a sample consists of:

(1) A Bung wrench

(2) A Coliwasa type sampling tube

(3) A clean, dry sample bottle

(4) A screw cap for the sample bottle

(5) A label containing the following information:

- (i) The manifest or profile number corresponding to the waste shipment
- (ii) The name of the waste being sampled
- (iii) The date on which the sample is taken
- (iv) The name of the employee withdrawing the sample

2.5.3. Sampling Procedures for Drums

NON AQUEOUS SAMPLES

Samples should be taken in glass containers. Caution should be taken to always leave at least one-half inch of free space in the sample bottle before it is closed. Never fill the sample bottle to the brim. Quite frequently the sample is withdrawn at a temperature which is less than the storage temperature. As the temperature increases, the sample will expand. If the bottle is filled, the

expanding sample will have no room and the bottle may deform or break.

AQUEOUS SAMPLES

When sampling for organics in an aqueous solution, care should be taken to assure there is no air space in the sample container, since many solvents are very volatile, and they could disperse into the air space, and be undetected by the laboratory. These samples probably should be collected in plastic bottles to allow for liquid expansion, and insure sample container integrity

The following steps will be taken while sampling a drum:

(1) Sampling is to be done on the receiving dock at Rinchem or at a well ventilated location away from ignition sources. Do not open containers in Rinchem's warehouse.

(2) Sampling is done through the bung on the drum. When removing the bung closure of the drum, loosen it slightly without completely removing the bung in order to relieve any internal pressure.

(3) Remove the bung closure completely.

(4) Open the bottom of the Coliwasa type sampler completely.

(4) Slowly lower the sampler into the drum until the bottom of the sampler reaches the bottom of the drum. If the sample is lowered faster than it can fill, the sample will be not representative of the waste shipment.

(5) Close the bottom stopper of the Coliwasa type sampler.

(6) Withdraw the Coliwasa type sampler.

(7) Transfer the content of the sampler to the sample bottle.

(8) Screw the cap onto the bottle.

(9) Wipe any spillage from the outside of the bottle.

(10) Affix and complete the appropriate label to the bottle.

(11) Clean the Coliwasa type sampler before it is used again.

(12) Inspect the gasket on the drum closure to make sure it is in good condition (replace if necessary).

(13) Reseal the drum.

(14) Take the samples to the sample storage area.

2.6. Waste Analysis Procedures and Methods for Waste Ignitability, Reactivity, or Incompatibility [Federal-264.13(b)(6) & 264.17(c)]

Many of the wastes handled by Rinchem are ignitable wastes. The flash point range of the wastes will be determined for each waste stream. A detailed description of the procedures used to store the hazardous, reactive, and incompatible wastes is described in the Procedures and Prevention subsection of this permit.

3. Incoming Load Procedures

3.1 Consistency Between Waste and Manifest

Most of the waste delivered to the facility is in the Rinchem trucks. Each shipment and drum of covered waste is checked in

accordance with the Pre-Acceptance Inspection Sheet shown in Figure WAP-3 (following page). This verification may be completed either as the shipment is loaded or unloaded. The form must be completed and signed by a trained and authorized employee. Sampling will be carried out as described in the Sample Procedures subsection that follows (page 16).

Once the shipment is accepted, the drums will be removed to the designated hazardous waste storage area.

FEB. 19

RINCHEM COMPANY, INC.
PRE-ACCEPTANCE INSPECTION SHEET

RINCHEM COMPANY INC.
PHONE (505) 345-3655
6133 EDITH BLVD.NE
ALBUQUERQUE NM 87107

A. GENERAL INFORMATION

GENERATOR NAME _____

FACILITY ADDRESS _____ NUMBER _____

_____ GENERATOR USEPA I. D. _____

_____ GENERATOR STATE I. D. _____

TECHNICAL CONTACT: _____ TITLE: _____ PHONE: _____

NAME OF WASTE: _____

PROCESS GENERATING WASTE: _____

Inspector's Name _____ Date of Inspection _____

TYPES OF PROBLEMS	STATUS ACCEPTABLE (A) OR UNACCEPTABLE (U)
Stored Containers	
- Check manifest compliance to instructions in Schedule A	☐ A ☐ U
- Yellow Hazardous Waste labels on drums match date on manifest	☐ A ☐ U
- Check for appropriate DOT hazard labels	☐ A ☐ U
- Insure all inappropriate labeling is removed or painted out	☐ A ☐ U
- Check drums for the following: a. DOT approved containers only (Check for DOT stamp on odd looking drums)	☐ A ☐ U
b. Appropriateness for material (generally, closed head drum--liquid, metal drum--organics, poly or poly-lined drum-- corrosives)	☐ A ☐ U
c. No leaks, bungs sealed, no deep dents or creases, filled at least 24 hours before pick up of shipment	☐ A ☐ U
d. No liquid or dried waste on exterior (including top)	☐ A ☐ U
- Before signing manifest, confirm quantity of each stream (number of items recieved and loaded same as number on manifest)	☐ A ☐ U

It is vital to be firm, but very courteous when dealing with customers regarding suspected discrepancies If they don't readily agree that changes are necessary, ask for permission to contact your supervisor. We do not reject shipments without every effort to rectify non-compliance and we do not accept shipments until they comply

Figure WAP-3 Pre-Acceptance Inspection Sheet

3.2 Fingerprint Waste Analysis Parameters [Federal - 264.13(c)]

Upon receipt of a shipment, Rinchem has the responsibility of measuring a sufficient number of parameters to insure that the customer did indeed send what was profiled and accepted. This consideration leads to the selection of "fingerprint" parameters, the measurement of which will provide reasonable assurance that the drums received from a generator agree with the accompanying manifest. The following data will be determined at the facility on samples taken from an appropriate number of drums from each waste stream:

(1) Physical state of the spent solvent including color, clarity, and phase separation.

(2) pH of the waste stream

(3) Specific gravity of the waste stream

The test methods used for the fingerprint analysis are the same as are already described in the previous subsection entitled, "Test Methods for Analyzing Parameters" (page 7).

3.3 Tolerance Levels for Fingerprint Analysis

The results of the measurements of the fingerprint parameters selected for a given waste stream will be compared to the values obtained from previous shipments of the stream and will be required to fall within an established tolerance limit ("plus or minus") for that parameter. At this time, Rinchem has no long term customers who store waste at this facility and consequently no body of historical

information with which tolerance levels could be calculated. Until sufficient information is obtained to permit establishing a "specification" for an acceptable waste stream, two approaches will be undertaken to provide standards against which to compare subsequent samples taken from a given waste stream upon its arrival at this facility:

(1) For a quantitative value (e.g. specific gravity), plus or minus 10% of the value determined from the pre-shipment sample will be used as a tolerance level.

(2) For qualitative values (color, phase separation, etc.) comparison against a retained sample stored at the facility from a previous sample. A significant deviation in color or general appearance will lead to consideration of rejection of the shipment.

3.4 Procedures for Collecting Representative Shipment Samples

The method for sampling the drums in each shipment has already been explained in the preceeding subsection entitled " Procedures for Collecting Representative Samples" (page 8). The number of drums that will be sampled will be according to the cube root equation. The cube root of the number of drums in the shipment will be the number that will be sampled for each shipment. The source for this cube root procedure is the American Society for Testing and Materials, Method D 140-70. This procedure is described in more detail in Appendix WAP-C. For a typical load, the formula provides the following:

Drums Received	Drums Sampled
1	1
2-8	2
9-27	3
28-64	4
65-125	5

The drums to be sampled will be chosen at random by the person taking the samples.

3.5 Procedures for Rejecting Shipments of Wastes

The general logic utilized by the Hazardous Waste Coordinator (or his designee) in deciding whether to accept or reject a particular load is shown in Figure WAP-4 (following page). There are major points that need to be evaluated by the Hazardous Waste Coordinator. The decision to accept or reject the waste shipment depends on the following considerations:

(1) Failure to prequalify waste stream or provide appropriate data

(2) Wastes for which Rinchem is not permitted

(3) Waste shipments that contain components such as radioactive and/or explosive wastes

(4) Improper or inappropriate packaging, labeling, or manifesting

(5) Characteristic quantity or composition discrepencies between the waste and the waste manifest or profile

(6) Values for fingerprint analysis parameters that are out of the tolerance levels set by the Rinchem Company

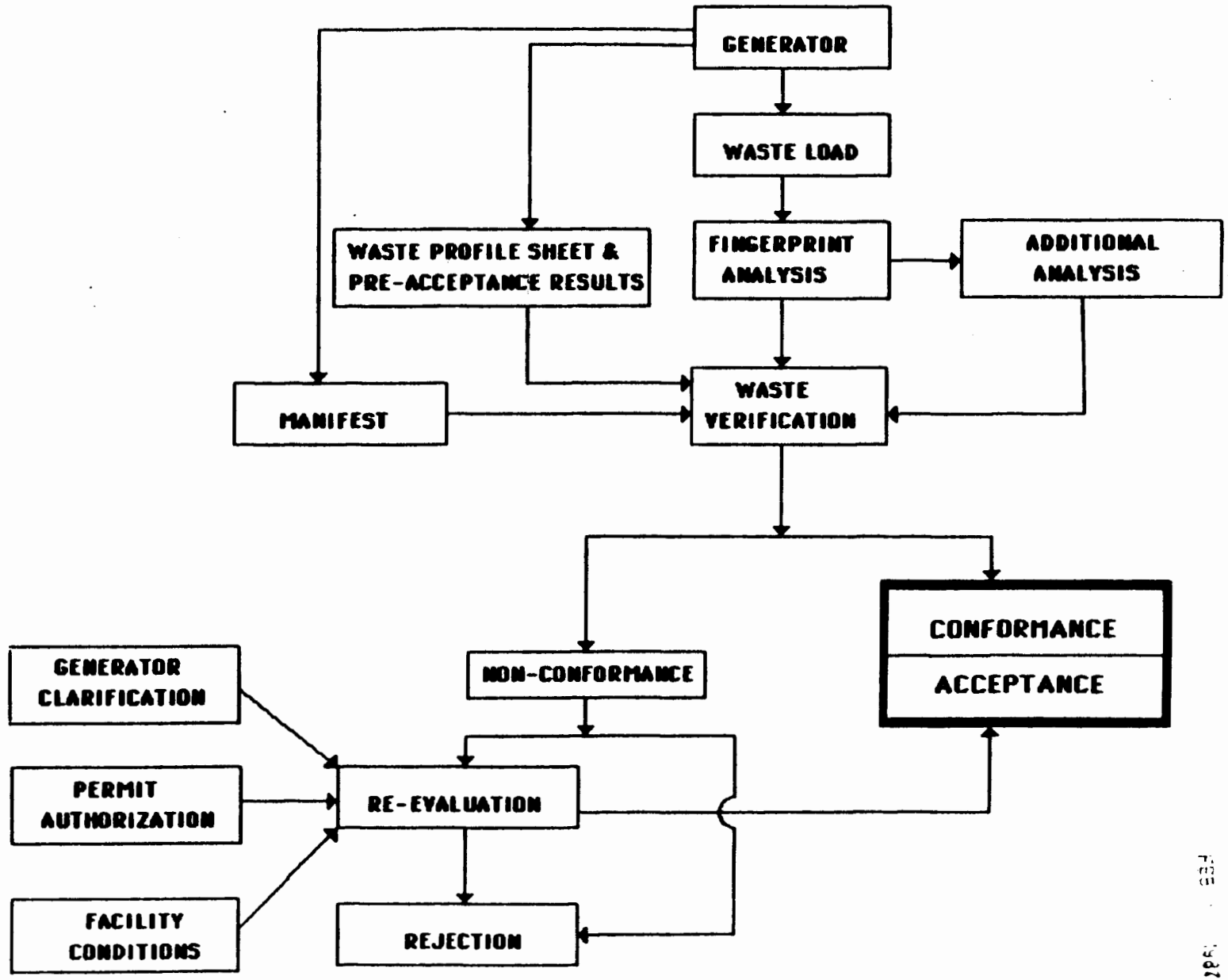

Figure WAP-5. Incoming Load Verification Logic Diagram

(7) Lack of credit approval.

The Hazardous Waste Coordinator (or designee) must classify the waste unacceptable for storage at the Rinchem Company facility if it is significantly different in compostion or volume from the information shown in the waste profile sheet, the pre-acceptance analysis of the representative sample, or on the manifest. Containers are counted to determine quantity discrepency.

Wastes found to be in non-conformance may be rejected or they may be reevaluated for possible acceptance by the facility despite the variance. Rinchem's reevaluation procedure is designed to determine whether a waste material can be handled at the facility and whether the generator concurs with the characterization conducted by Rinchem Company. The Hazardous Waste Coordinator evaluates the shipment according to the following criteria:

(1) Permit requirements of the Rinchem Company facility
(2) Discussions with the generator
(3) Facility parameters for storage
(4) Need for additional supplemental analyses.

If all of the above parameters including supplemental analysis indicate the waste can be accepted and the generator concurs, new manifests or profiles may be created as necessary to insure compliance. If a discrepency cannot be resolved within 15 days of shipment receipt, the appropriate regulatory agencies will be notified, in writing, of the discrepency and of attempts to reconcile it,

including a copy of the involved manifest.

4. Storage Procedures

Storage procedures are intended to insure that no hazard will befall the personnel of Rinchem and/or the environment. Wastes that are radioactive and/or explosive will not be accepted at the Rinchem Company facility. A more detailed discussion of the procedures that are used at the Rinchem facility for ignitable and incompatible wastes is given in the Prevention and Procedure subsection of the permit application.

In the event that a spill should occur and a hazardous waste should be contained by the secondary containment system, the following steps will be taken to analyze the waste for its physical and chemical characteristics:

(1) The labels on the drum(s) that caused the spill will be checked for the waste stream that was contained in that drum.

(2) The waste analysis data on that waste stream will be retrieved from the waste analysis files at the Rinchem Company facility.

(3) The spill will be analyzed using fingerprint analysis parameters and will be compared to the analysis that is on file for particular waste stream.

(4) If discrepencies appear between the fingerprint analysis completed on the spill and the analysis on file at the facility, the drum(s)' labels will be rechecked and additional analysis will be done on the spill if appropriate.

(5) Having identified the important physical and chemical characteristics of the waste spill, appropriate action will be taken to insure that the spill is safely and adequately neutralized and cleaned up.

More detailed information about the procedures for cleaning up a hazardous waste spill can be found in the Contingency Plan (page CP-9).

APPENDIX WAP-A

RINCHEM COMPANY'S QUALITY CONTROL POLICY

Quality Assurance/Quality Control Policy

A. Program Goal

Our program's goal is to obtain accurate and precise data on waste characterstics and to maintain an up-to-date log of those data. The analytical data we obtain are available for the following reasons:

(1) We need to be sure the waste received at our facility are wastes that the facility is permitted to store.

(2) Data is on file on the individual waste shipments should a spill occur.

(3) Notification can be made to the organic solvent recovery facility and/or the incineration facility of changes in the characteristics of the waste streams.

(4) Find the kind and amount of chemical(s) that can be recovered using a recovery process.

B. Sampling Program

Several people at the Rinchem facility are trained to be samplers. They have been properly trained to sample the waste using the equipment described in the subsection entitled "Procedures for Collecting Representative Samples" (page 10). A description of their training is found in the Training section of this permit application. Their sampling skills are evaluated regularly by our

Hazardous Waste Coordinator. This appears to be sufficient because waste streams are routinely sampled on an annual basis.

When samples are taken, our employee logs vital data on a Fingerprint Analysis form (Refer to Figure WAPA-1, next page), labels the containers (See Figure WAPA-2, page A-4), and hand carries them to a designated storage area.

C. Analysis Program

Our personnel have been trained to perform the analytical techniques that have been discussed in this Waste Analysis Plan (page 9) in order to adequately analyze incoming waste shipments. This Part B application contains a description of their training program.

Prior to analyzing the samples, the company's equipment is calibrated according to the specific manufacturer's instructions for each piece of equipment. Recalibration is carried out on a regular basis. The employee's analytical techniques and the company's analytical equipment are checked regularly with blanks and known standards. Problems that are apparent upon completion of the quality control check will be resolved by taking appropriate actions.

RINCHEM COMPANY INC.

WASTE ANALYSIS SHEET

A. GENERAL INFORMATION

GENERATOR NAME _____

FACILITY ADDRESS _____ NUMBER _____

_____ GENERATOR USEPA I.D. _____

_____ GENERATOR STATE I.D. _____

TECHNICAL CONTACT: _____ TITLE: _____ PHONE: _____

NAME OF WASTE: _____

PROCESS GENERATING WASTE: _____

B. Fingerprint Analysis or Initial Waste Analysis

1. Physical Description

A. Color: Describe _____

B. Clarity: ☐ Clear ☐ Cloudy

Describe _____

C. Phase Separation Number of Layers _____

2. Sample pH

☐ < 2.0 ☐ 2.0 - 4.0 ☐ 4.0 - 6.0 ☐ 6.0 - 8.0 ☐ 8.0 - 10 ☐ 10.0-12.5 ☐ >12.5 Exact _____ (if necessary)

3. Specific Gravity

☐ < .8 ☐ .8 - .9 ☐ .9 - 1.0 ☐ 1.0 - 1.1 ☐ 1.1 - 1.2 ☐ 1.2 - 1.3 ☐ 1.3 - 1.4 ☐ 1.4 - 1.5 ☐ Exact _____ ☐ 1.5 - 1.6 ☐ 1.6 - 1.7 ☐ > 1.7

4. Ignitable Screen (Flash Point)

☐ < 70 °F

☐ 70 °F - 140 °F

☐ > 140 °F

Exact (if necessary) _____

5. Assay (Composition)

	Range High	Range Low		Range High	Range Low
_____	_____	%	_____	_____	%
_____	_____	%	_____	_____	%
_____	_____	%	_____	_____	%
_____	_____	%	_____	_____	%
_____	_____	%	_____	_____	%

E. Other Supplemental Analysis (if necessary) _____

_____

_____

Figure WAPA-1.
Waste Analysis Sheet

RINCHEM COMPANY INC.
6133 EDITH BLVD. NE
ALBUQUERQUE NM 87107
PHONE (505) 345-3655

Manifest # _____ or Profile # _____

Waste Stream Name _____

Date Sampled _____

Samplers Name _____

Comments:

Figure WAPA-2. Sample Container Label

Source: "Test Methods for Evaluating Solid Wastes," SW-846, July 1982

APPENDIX WAP-B

DESCRIPTION OF TEST METHODS FOR WASTE ANALYSIS PARAMETERS USED AT RINCHEM COMPANY, INC.

Analytical methods described herein are grouped in accordance with the two catagories identified in the Waste Analysis Plan, mandatory analyses and supplementary analyses.

B.1 Mandatory Analyses

Physical Description - Samples are inspected and the physical appearance of the waste is recorded, including color, viscosity, physical state (solid, semi-solid, or liquid), layering (if multiple phases are present, color and viscosity are reported for each layer), and presence of free liquid.

pH Screen - Full-range pH paper may be used as an initial screening method. If this intitial screen indicates a pH near the limits of 3 or below, or 11.5 and above, a pH meter, as referenced in §261.22 will be used. A pH meter is used directly on liquid samples and on the free liquid portion of liquid/solid samples.

Specific Gravity - Preliminary checking of specific gravity need only be approximate. Testing for specific gravity is performed at room temperature rather than under controlled conditions. An apporopriate hydrometer will be placed in a 100 ml graduated cylinder containing about 70 ml of the sample liquid. The specific gravity is read from the hydrometer scale where it is crossed by the bottom of the miniscus of the sample. When more accurate measurements are needed, the specific gravity will be measured in accordance with ASTM D2111-71.

Ignitable Screen - A small amount of a liquid waste sample is placed into a five mm container. An ignition source is introduced into the vapor zone immediately above the sample. For liquid samples, the flash point is recorded as less than 70 °F if the sample ignites at room temperature. If not, the sample temperature is elevated to approximately 140 °F. The ignition source is introduced again. If the sample ignites, the flash point is recorded as greater than 70 °F but less than 140 °F. If the sample does not ignite after sustained heating or boiling is observed, the flash point is recorded as greater than 140 °F. Halogenated solvents typically give off vapors that burn with a yellow, smokey flame in the presence of an external flame. Wastes with this type of non-sustaining flame are reported as having a flash greater than 140 °F.

Assay - The gas chromatograph techniques that will be used at the Rinchem facility will depend on the class of compounds that will be tested for. Exact quantification of all the components is not necessary. The verification procedure requires only that the presence or absence of the components which render the waste hazardous and which have been declared by the generator be verified. Significant unknown peaks can be investigated further with other common laboratory techniques if necessary.

B.2 Supplemental Analyses

Distillation - In an appropriate size stand flask/condenser distillation set-up, add known quantity of sample and boiling chips.

Apply heat with an electrically-heated oil bath or steam. During distillation, maintain heat so that a drop of liquid remains on the thermometer bulb. Monitor temperature and collected volume of each fraction.

Liquid Waste Compatability - Samples of liquid wastes are added to each other in proportion to their final mixed volumes. The generation of heat, gases, precipitates, increase in viscosity, and layering are noted. Unacceptable reactions are the generation of pressure greater than 50 psi and/or a heat rise greater than 20 °C. Viscosity will be measured using a viscometer. Layering and precipitates will be measured on a volume/volume basis in a graduated cyclinder.

Beilstein Copper Wire Test for Organic Chlorides - A copper wire is put into a flame until there is a colorless flame. The copper is then put into a sample of the waste. The wire is placed in the flame again. If a green flame can be seen, the copper wire test is positive for organic chlorides.

B.3 Standard Supplemental Analyses

(Appendix WAP-B usually contains all the procedures used at the Rinchem facility. However, since these procedures are standard methods, the test method number and reference only are included in this permit application.)

PARAMETER	TEST METHOD	REFERENCE
Inorganic Techniques:		
(preperatory techniques)		
Acid Digestion Flame Adsorption Spec.	3010	1
Acid Digestion Furnace Adsorption Spec.	3020	1
Acid Digestion of Oils, Greases, and Waxes	3030	1
Dissolution for Oils, Greases, and Waxes	3040	1
Heavy Metals:		
Arsenic	7060	1
	7061	1
Barium	7080	1
	7081	1
Cadmium	7130	1
	7131	1
Chromium	7190	1
	7191	1
Lead	7420	1
	7421	1
Mercury	7470	1
	7471	1
Selinium	7740	1
	7741	1
Silver	7760	1
	7761	1

Flash Point (Pensky Martens closed-cup method)	1010	1
Water Content	By material	2
Heat Value	D240	2
Total Organic Halides	E442 - 74	2

1 "Test Methods for Evaluating Solid Waste ", 3rd Edition, SW-846, U.S. Environmental Protection Agency, Office of Water and Waste Management, Washington, D.C. 20406, November, 1986 or later edition.

2 "Annual Book of ASTM Standards", American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

APPENDIX WAP-C

ESTIMATING DRUM SAMPLE SIZE

(Recopied from "Waste Analysis Plans, A Guidance Manual", EPA/530-SW-84-012, United States Environmental Agency, Washington D.C., October 1984.)

APPENDIX C

DRUMMED WASTES - ESTIMATING SAMPLING SIZE

Designation: D 140 - 70

AMERICAN SOCIETY FOR TESTING AND MATERIALS

1916 Race St., Philadelphia, Pa., 19103

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Standard Methods of SAMPLING BITUMINOUS MATERIALS[1]

This Standard is issued under the fixed designation D 140; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval.

12. Sampling Semisolid or Uncrushed Solid Materials

12.1 *Drums, Barrels, Cartons, and Bags*—Where the lot of material to be sampled is obviously from a single run or batch of the producer, one package shall be selected at random, and sampled as described below. Where the lot of material to be sampled is not obviously from a single run or batch of the producer, or where the single samples selected as described above fails on test to conform to the requirements of the specifications, a number of packages shall be selected at random equivalent to the cube root of the total number of packages in the lot. The following table is given, showing the number of samples to be selected for shipments of various sizes.

Packages in Shipment	Packages Selected
2 to 8	2
9 to 27	3
28 to 64	4
65 to 125	5
126 to 216	6
217 to 343	7
344 to 512	8
513 to 729	9
730 to 1000	10
1001 to 1331	11

Samples shall be taken from at least 3 in. (76 mm) below the surface and at least 3 in. from the side of the container. A clean hatchet may be used if the material is hard enough to shatter and a broad, stiff putty knife if the material is soft. When more than one package in a lot is sampled, each individual sample shall be not less than [illegible] lb (0.1 kg) in weight. When the lot of material is obviously from a single run or batch of the producer, all samples from the lot shall be melted and thoroughly mixed, and an average 1-gal (4-dm[illegible]) sample taken from the combined material for examination. In case more than a single run or batch of the producer is present and the batches can be clearly differentiated, a composite 1-gal sample shall be prepared for examination from each batch. Where it is not possible to differentiate between the various batches, each sample shall be examined separately.

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT B

SECURITY REQUIREMENTS

II. Security [N.M. - 302.4.b.(1)(d), Federal - 264.14(b)(4)]

A. Security Procedures Waiver Justification [Federal - 264.14(a)]

Rinchem Company, Inc. does not wish to request a waiver of the security procedures. Detailed information about the security procedures employed at the Rinchem facility are addressed below.

B. Description of 24-hour Surveillance System and/or Artificial or Natural Barriers [Federal - 270.14(b)(4) and 264.14(b)]

The Rinchem Company, Inc. facility employs a number of measures to ensure adequate security in order to comply with government regulations and to assure the protection of the facility.

The above-mentioned facility has an alarm system that is connected by phone to a secure monitoring station. The alarm system is connected to each window and door, the fire sprinkler system, the temperature control system, and the pull stations. This monitoring system is manned 24 hours a day and is located on the top floor of a building located on the corner of San Mateo and Central in Albuquerque, New Mexico. A list of important phone numbers is kept at this monitoring system should an emergency occur.

The entire facility including the outside area around the building, is maintained in a secure manner. A fence encompasses the entire facility. The fencing utilized to surround the facility is constructed of

6 foot high, fabric light gage, 2" mesh chain link fence. The fence is topped by coils of concertina wire. Figure 10 shows the location of the fence around the facility (page 44).

Access to the facility which is surrounded by the fence is by means of two gates. Trucks carrying hazardous waste gain access to the unloading/loading dock area by way of a 20-foot gate constructed of materials similiar to the fixed fencing already described. This access gate is part of the fence to the east of the office and loading dock. The gate to the north of the office is opened only on rare occasions to allow for maintainence of the yard area.

Both gates are maintained in a closed and padlocked condition during all periods of facility non-working hours. During working hours, the opened gates are observed at all times by office personnel located at windows on the east side of the building and from personnel that are working on the loading/unloading dock. Access through the open gate is blocked by a barrier with a stop sign informing the truck drivers to check in with the office before entering. The receptionist, immediately inside the office entrance door, confirms identification of all visitors and the purpose of their visit. Visitors are not allowed in the warehouse without an employee accompanying them.

Inspections are made of the fence, gate, and the alarm system at regular intervals. A detailed description of the inspections that are completed as well as the frequency of these inspections are found in

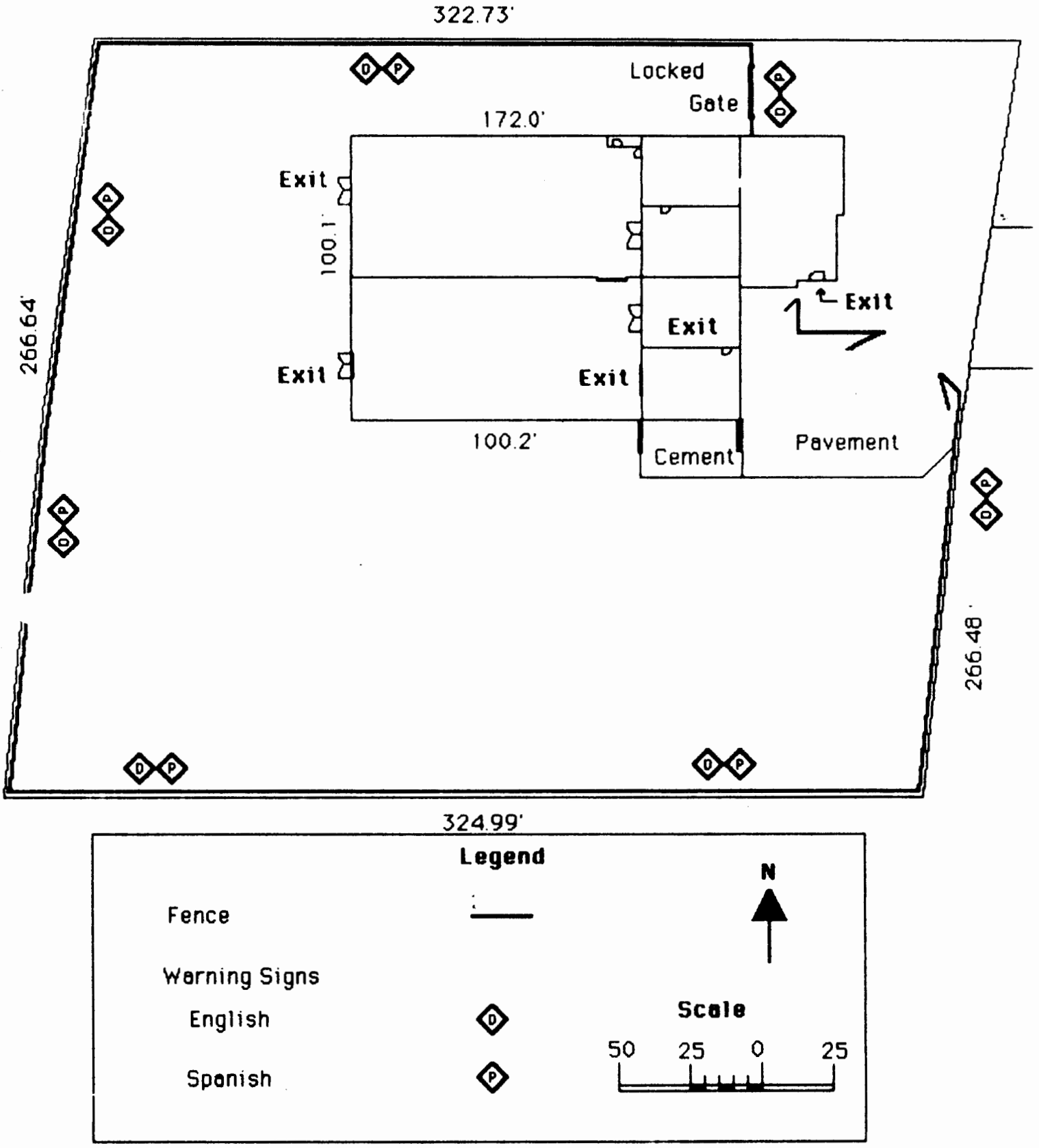

Figure 10. Security Measures at the Rinchem Facility

the Inspection section of this permit application (page 46).

Doors and gates are maintained in a locked and a secure position during non-working hours and on weekends. All critical locks and the electric alarm code are changed when an employee leaves the company, or when a key is lost.

C. Description of Warning Signs [Federal - 264.14(c)]

Warning Signs are posted at the east gate and several other fence locations around the facility in such a manner to be visible from all angles of approach, and bear the legend in English, "Danger - Unauthorized Persons Keep Out." Warnings signs in Spanish are posted next to the English warning signs and bear the legend " PELIGRO Personas Sin Autorizacion NO ENTRAN". All signs are legible from a distance of 25 feet. The exact location of these safety signs are shown in Figure 10 (page 44).

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT C

INSPECTION PLAN

FEB 1997

F. Training Instructor

The training instruction will be divided between the Hazardous Waste Management Coordinator, and the Customer Service Supervisor. Qualifications for the Waste Management Coordinator can be found in Section B.2 (page 66) and for the Customer Service Supervisor in Section B.3 (page 67). Documentation which demonstrates that these qualifications are met will be maintained in the respective personnel files of the individuals in these positions.

The hazardous waste management coordinator has a working knowledge of all the characteristics and hazards of the different waste streams, of governmental regulations regarding the handling of hazardous waste, and of the Rinchem Waste Analysis Plan and the sampling and laboratory techniques that are used in this plan.

The customer service coordinator is the actual person in charge of the physical handling of the hazardous waste, and is responsible for the safety and inspection of the Rinchem Facility.

These two individuals serve as instructors for the training program in the areas of their respective expertise.

III. Inspection [Federal - 270.14(b)(5), N.M. - 302.A.4.b.(1)(e)]

A. General Description

As a result of Rinchem Company, Inc. being only a distributor of chemicals (no manufacturing, no processing), this facility will employ only a limited variety of equipment in its daily business. Because of the type of activity that is undertaken, the inspection activity required is low in comparison to that required in a processing or manufacturing business. However, a number of regular and routine inspections are carried out on that equipment that is involved in the daily business. Futhermore, inspections are conducted on safety equipment which might be required in emergencies to ensure that these items will be operable and ready if an emergency occurs.

B. Identification of Equipment/Processes to be Inspected [Federal - 264.15(b)(1)]

Figures 11-14 list the items which are routinely inspected (pages 51-55). The items selected allow a worker to carry out tasks of both a routine and nonroutine nature in such a manner to ensure the employee's safety and to prevent any threat to the public and/or the environment.

C. Identification of Types of Problems for Each Equipment/Process to be Inspected. [Federal - 264.15(b)(3)]

Figures 11-14 list, along with the items which are routinely

inspected, the types of problems which could be present or cause an item to be non-functional. Each item is inspected for each type of problem that would make the item non-functional.

D. Frequency of Inspections [Federal - 264.15(b)(4)]

Figures 11-14 also indicate the frequency with which the items are inspected. It should be noted that some equipment might be inspected more than the regular amount shown in these figures. For example, emergency equipment when used should be inspected immediately. The inspection schedule shown is the maximum amount of time that will occur between subsequent inspections for each item.

E. Written Schedule [Federal - 264.15(b)(1)]

All equipment, devices, and structures that are inspected are found in a written schedule of inspection. The written inspection is used at the Rinchem facility to ensure that all the necessary items are in good working order and the emergency equipment will be functional should an emergency occur. The inspection schedules are divided up by the time intervals of the inspections. There is a weekly, quarterly, and semiannual schedule. Each inspection schedule form includes the following information: (1) item inspected, (2) date of inspection, (3) name of inspector, (4) observations, (5) remedial action (if necessary), (6) data repair completed (if required), and (7) supervisor's signature. The weekly schedule is completed at the end of each working week. The

quarterly schedule is completed on the final working day of each third month. The semiannual schedule is completed in June and December of each year. Figures 12-14 are examples of these written inspection forms that are used by Rinchem Company, Inc. In addition, each waste shipment is inspected using a Pre-Acceptance Inspection Sheet. Figure 11 (page 51) is an example of this inspection sheet.

F. Inspection Schedule and Records [Federal - 264.15(b)(2) and 264.15(d)]

Inspection schedules are maintained and kept at the Rinchem Company, Inc. facility. The format of these different inspection schedules are shown in Figures 11-14 (pages 51-55). The completed inspection schedules are maintained for a period of three years from the date of inspection. Any extraordinary occurrances such as a waste release or fire requires a written report which shall be kept on file at the facility as well as being forwarded to the appropriate agencies as outlined in the Contingency Plan (page CP-23). The records will be open to inspection to the appropriate state and federal authorities during normal business hours.

G. Schedule of Remedial Action [Federal - 264.15(c)]

As has been mentioned, Figures 11-14 (pages 51-55) are examples of the inspections schedule forms that are used at the Rinchem Company, Inc. The inspector checks the status of each item and makes a decision as to its being acceptable or unacceptable. If

Rinchem Company, Inc. personnel during a routine inspection find that a condition of a non-emergency nature is present which requires some type of maintainence in order to bring the particular item into compliance with inspection standards, it shall be that employee's responsibility either to bring that item into compliance or to bring the defective item to the attention of his immediate supervisor in order to correct the deficiency. All remedial actions are to be performed promptly to diminish the potential for further deterioration of equipment, and/or hazard to the personnel and/or environment. Remedial actions are noted on the inspection schedule forms along with the date the repair is completed.

If during an inspection a situation would be found which is of an emergency nature, or has the potential to become such, the employee will immediately initiate remedial action as well as notify the Emergency Coordinator. The Emergency Coordinator shall carry out his/her actions for the specific emergency as outlined in the Contingency Plan (page CP-5). In the event of a hazardous waste spill, the objective shall be to contain, isolate, clean-up, and decontaminate the affected area with utmost concern for minimizing risk to Rinchem Company, Inc. workers, the public, and the environment. The necessary documentation and reporting will be written and submitted to the appropriate authorities.

H. Inspection of Containers [Federal - 264.174]

According to the regulations, at least weekly, the owner or

operator must inspect areas where the containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. Rinchem's Inspection Schedule provides for weekly inspections of the containers and the containment system to ensure that no defective containers or problems with the containment system will go unnoticed.

I. Other Specific Inspection Requirements

Rinchem Company Inc. will inspect the spillage collection sump within 48 hours after precipitation equalling or exceeding one inch water equivalent in any consecutive twelve hour period.

RINCHEM COMPANY INC.

PRE-ACCEPTANCE INSPECTION SHEET

PHONE (505) 345-3655
COMPANY INC
6133 EDITH BLVD NE
ALBUQUERQUE NM 87107

A. GENERAL INFORMATION

GENERATOR NAME _____

FACILITY ADDRESS _____ NUMBER _____

_____ GENERATOR USEPA I D _____

_____ GENERATOR STATE I D _____

TECHNICAL CONTACT _____ TITLE _____ PHONE _____

NAME OF WASTE _____

PROCESS GENERATING WASTE _____

Inspector's name _____ / _____ Date of Inspection _____

TYPES OF PROBLEMS	STATUS ACCEPTABLE (A) OR UNACCEPTABLE (U)
Stored Containers	
- Check manifest compliance to instructions in Schedule A	☐A ☐U
- Yellow Hazardous Waste labels on drums match data on manifest	☐A ☐U
- Check for appropriate DOT hazard labels	☐A ☐U
- Ensure all inappropriate labelling is removed or painted out	☐A ☐U
- Check drums for the following:	
a. DOT approved containers only (Check for DOT stamp on odd looking drums)	☐A ☐U
b. Appropriateness for material (generally, closed head drum - liquid, metal drum - organics, poly or poly-lined drum - corrosives)	☐A ☐U
c. No leaks, bungs sealed, no deep dents or creases, filled at least 24 hours before pick up of the shipment	☐A ☐U
d. No liquids or dried waste on exterior (including top)	☐A ☐U
- Before signing manifest, confirm quantity of each stream (number of items received and loaded same as number manifested)	☐A ☐U

It is vital to be firm, but very courteous when dealing with customers regarding suspected discrepencies. If they don't readily agree that changes are necessary, ask for permission to contact your supervisor. We do not reject shipments without every effort to rectify non-compliance and we do not accept shipments until they comply.

Figure 11. Pre-Acceptance Inspection Sheet

Rinchem Weekly Inspection Sheet

Inspector's name _____ Date of Inspection _____

ITEM	TYPES OF PROBLEMS	STATUS ACCEPTABLE (A) OR UNACCEPTABLE (U)	DATE AND NATURE OF REPAIRS/ REMEDIAL ACTION
Container Loading/ Unloading Area	- Check that no containers of hazardous waste are left open or exposed overnight	☐A ☐U	
	- Check for evidence of spilled material on concrete below truck and on dock	☐A ☐U	
	- Check for debris and refuse	☐A ☐U	
Container Storage Area	- Check for evidence of spilled material on concrete floor, drains, walls	☐A ☐U	
	- Check for debris and refuse	☐A ☐U	
	- Check adequacy of aisle space	☐A ☐U	
Stored Container	- Check for drum leaks or swelling	☐A ☐U	
	- Checks that drums are not open	☐A ☐U	
	- Check for proper placement	☐A ☐U	
Security Equipment			
Doors	- Check doors are securely locked	☐A ☐U	
Gates	- Check that gates are closed and locked at end of working day	☐A ☐U	
Communication Equipment			
Telephones	- Check accessibility	☐A ☐U	
Pull Stations	- Check accessability	☐A ☐U	
Emergency Equipment			
Fire Extinguishers	- Ensure that access to units is not blocked	☐A ☐U	
Eye Wash/Showers	-Ensure access is not blocked	☐A ☐U	
Exits	-Ensure access is not blocked	☐A ☐U	

I certify that the above recommended action has been taken on items mentioned above and/or defective items are now satisfactory. Date: _____ Supervisor: _____

Figure 12 - Weekly Inspection Schedule

Rinchem Quarterly Inspection Sheet

Inspector's name _____ Date of Inspection _____

ITEM	TYPES OF PROBLEMS	STATUS ACCEPTABLE (A) OR UNACCEPTABLE (U)	DATE AND NATURE OF REPAIRS/ REMEDIAL ACTION
Container Loading/ Unloading Area	- Check dock leveler for proper adjustment, operation, and corrosion	☐A ☐U	
Storage Container Area	- Check for condition and availability of overpack and DOT 17H containers	☐A ☐U	
<u>Security Equipment</u>			
Gates	- Check for damage or corrosion	☐A ☐U	
Facility Fence	- Check for corrosion	☐A ☐U	
	- Check fence for broken areas	☐A ☐U	
Signs	- Check that signs are present (Spanish and English)	☐A ☐U	
	- Check that they are legible (not damaged, readable at 25 feet)	☐A ☐U	
Lighting	- Check to see all lights work (no defective bulbs or bad connections)	☐A ☐U	
<u>Safety Equipment</u>			
Emergency Shower/ Eyewash	- Check water pressure	☐A ☐U	
	- Check for leaks	☐A ☐U	
Face Shields	- Check if broken or dirty	☐A ☐U	
	- Adequate number of face shields	☐A ☐U	
Protective glasses	- Check if broken	☐A ☐U	
	- Adequate number of protective glasses for employees & visitors	☐A ☐U	
First Aid Equipment and Kit	- Check that all necessary items are present	☐A ☐U	

Figure 13 - Quarterly Inspection Schedule

ITEM	TYPES OF PROBLEMS	STATUS ACCEPTABLE (A) OR UNACCEPTABLE (U)	DATE AND NATURE OF REPAIRS/ REMEDIAL ACTION
Protective Clothing	- Check clothes for holes, wear and tear	☐A ☐U	
	- Adequate number of sets of protective clothing	☐A ☐U	
Chemical Respirator	- Adequate number of cartridges for respirators	☐A ☐U	
	- Adequate number of respirators	☐A ☐U	
<u>Emergency Equipment</u>			
Fire Extinguishers	- Check pressure guage for full charge indication	☐A ☐U	
	- Check inspection tag to ensure annual maintainence by outside fire service is up-to-date	☐A ☐U	
	- Check seal to ensure no one has used extinguisher	☐A ☐U	
Emergency Lights	- Check for operation	☐A ☐U	
Absorbents	- Check for accessability	☐A ☐U	
	- Check for adequate supply	☐A ☐U	
Self-Contained Breathing Apparatus	- Check if tanks are charged	☐A ☐U	
	- Check if spare tanks are present	☐A ☐U	
	- Check to see of spare tanks are charged	☐A ☐U	
SPILPAC	- Check if all necessary items are present	☐A ☐U	
Leak Detection System	- Check if tanks are sound	☐A ☐U	
	- Check if tanks are empty	☐A ☐U	

I certify that the above recommended action has been taken on items mentioned above and/or defective items are now satisfactory. Date: _____ Supervisor: _____

Figure 13 - Quarterly Inspection Schedule (cont.)

Rinchem Semiannual Inspection Sheet

Inspector's name _____ Date of Inspection _____

ITEM	TYPES OF PROBLEMS	STATUS ACCEPTABLE (A) OR UNACCEPTABLE (U)	DATE AND NATURE OF REPAIRS/ REMEDIAL ACTION
Forklift	- Complete safety checkup	☐ A ☐ U	
Ground Monitoring System	- Sample and analyze the ground water for the following data: total dissolved solids, pH, and total organic carbon	☐ A ☐ U	

I certify that the above recommended action has been taken on items mentioned above and defective items are now satisfactory. Date: _____ Supervisor: _____

Figure 14 - Semiannual Inspection Schedule

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT D

PERSONNEL TRAINING

TRAINING PROGRAM [40 CFR 270.14(b)(12)]

The primary objective of Rinchem's training program is to instruct employees in the practices, procedures and rules regarding safe operation and maintenance of the facility in accordance with applicable state and federal regulations. The training program requires at least 24 hours training in safety, proper transport and response to hazardous waste emergencies. These classes can be conducted by Rinchem's training department, governmental agencies such as the EPA or DOE and/or outside training providers. The instruction is in the form of classroom instruction and on-the-job training. The training classes and program will be updated as necessary to meet the regulations.

All new employees who handle hazardous waste will complete the initial training courses within six months of their date of hire or transfer of job assignment. Personnel will not work unsupervised in their positions until they have completed 24 hours of training. Annually, all personnel must participate in a minimum of eight hours of review of the initial training.

Some examples of training courses which will satisfy all or part of the training include:

Initial Facility Orientation
OSHA 40-hr Emergency Response Technician
OSHA 8-hr Refresher
DOT Hazardous Materials Transportation Training

Some examples of course contents follow.

EXAMPLE OF INITIAL FACILITY ORIENTATION COURSE CONTENTS

The key elements of the program include:

Discussion of Emergency Preparedness Plan for Rinchem Facility

Hazard Identification and Discussion

Storage and Segregation

Contingency Plan and Emergency Procedures

Facility Tour

Identify Safety Features

Identify Communications and Alarm Systems

Discuss Evacuation Routes

Standard Operating Procedures

Review of Procedures to Perform Operations at Facility

Safety Practices

The training will consist of lectures, discussions,exercises, examinations and on-the-job training.

EXAMPLE OF OSHA 40-HOUR EMERGENCY RESPONSE TECHNICIAN [29 CFR 1910.120(q)] COURSE CONTENTS

The key elements of the program include:

Emergency Response to Hazardous Materials Incidents

Characteristics of Hazardous Materials

Information Resources

Identifying Hazardous Materials

Levels of Protection

Chemical Protective Clothing

Response Operations: Safety Plans and SOP's

Response Operations: Size-up

Response Operations: Strategy and Tactics

Site Entry

Incident Control: Confinement and Containment

Direct-Reading Instruments

Response Organization /Incident Command

Level A Demonstration

Decontamination

Establish Incident Command for Transportation Incident

Organize for Transportation Incident

The training will consist of lectures, discussions,exercises and examinations.

EXAMPLE OF OSHA 8-HOUR REFRESHER [29 CFR 1910.120] COURSE CONTENTS

The key elements of the program include:

Hazardous Waste Management and Regulations

Sources of Information

Compatibility of Hazardous Wastes

Personnel Protection

Principles of Safety

Emergency Procedures

The training will consist of lectures, discussions,exercises and examinations.

EXAMPLE OF DOT HAZARDOUS MATERIALS TRANSPORTATION TRAINING [49 CFR 172.700]COURSE CONTENTS

The key elements of the program include:

General Awareness/Familiarization

Identification of Hazardous Materials

Packaging

Marking

Labeling

Shipping Papers

Placarding

Separation and Segregation

Unique Moves

Safety

Hazardous Waste Transportation Issues

The training will consist of lectures, discussions,exercises and examinations.

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT E

CONTINGENCY PLAN

RINCHEM CONTINGENCY PLAN

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RINCHEM CONTINGENCY PLAN

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A. Introduction

A.1 Purpose

The purpose of the Contingency Plan is to minimize hazards to human life and the natural environment that may arise in an emergency situation at the Rinchem facility. The provisions of the Contingency Plan are to be carried out by facility personnel immediately when an emergency occurs; whether it be a fire, an explosion, or a release of hazardous material. Any releases of hazardous waste constituents to air, soil or surface water that may be deemed as a possible threat to human health will be considered an emergency situation that will require implementation of the Contingency Plan.

A.2 Types of Potential Emergencies

The potential for an emergency exists at this facility due to its activities and the types of materials handled. Additionally, natural events could create emergency situations, which must be managed appropriately and effectively. Such events potentially could trigger implementation of the Contingency Plan.

A.2.1 Emergencies Inherent to Industrial Facility Operations

Potential emergencies that may result from any industrial facility operation include:

(1) Fire

(a) could cause the release of toxic fumes,

(b) could spread and possibly ignite materials at other locations onsite, or cause heat-induced explosions, or

(c) could produce contaminated runoff from controlling fire with water or chemical suppressants.

(2) Explosion

(a) could cause a safety hazard from flying fragments or shock waves,

(b) could ignite other hazardous wastes stored at the facility, or

(c) could result in a release of toxic material.

(3) Hazardous Waste Spill

(a) could release toxic fume,

(b) could ignite itself and/or other onsite wastes , or

(c) could contaminate the environment.

(4) Bomb Threat

(a) could cause the release of toxic fumes, or

(b) could ignite materials at locations onsite, or cause heat-induced explosions of hazardous chemicals.

A.2.2 Natural Events

Certain natural events could cause emergencies at the Rinchem facility which would necessitate the implementation of the Contingency Plan. A flood could cause the contamination of surface and groundwater with hazardous waste. In addition, comingling of

incompatible wastes could be possible in a serious flood. A tornado could cause contamination of the environment as well. In addition, waste could be ignited in an emergency caused by a tornado.

B. Implementation of Response Procedures

B.1 Incident Assessment and Decision Process

In case of an imminent or actual emergency situation, the individual observing the incident will use the intercom system (or make contact in-person) to notify Rinchem's Emergency Coordinator, or his alternate, of the location, nature, and extent of the incident.

The Emergency Coordinator will set up a command post and take control of the affected area, including the commitment of any necessary resources until the emergency has been eliminated and warranted clean-up or restoration is completed.

The Emergency Coordinator will direct the following activities:

(1) Where applicable, see that operations are stopped and that any released waste is contained and collected.

(2) Determine the source, extent of the spilled materials, and assess the primary and secondary hazards. The Emergency Coordinator will determine that the Contingency Plan, in its entirety or in part, should be implemented.

(3) See that any materials spilled in the incident area are isolated from incompatible materials/wastes and ignition

sources.

B.2 Implementation of the Contingency Plan

When a decision has been made to implement the Contingency Plan, the Emergency Coordinator will direct the following procedures:

(1) Initiation of containment and control procedures as described in the Detailed Emergency Procedures section (page 7)

(2) An accounting of all facility personnel/visitors by head count

(3) Implementation of facility notification

(4) Notification of authorities, including requests for assistance, as necessary

(5) Coordination of first aid activities, if casualties are involved, and activation of the casualty control procedures found in the First Aid section (page 18)

(6) Evacuation, if required, and activation of the Evacuation Plan described in a following section (page 15).

C. Emergency Coordinator

The Emergency Coordinator or his alternates will always be "on-call" and can be reached via telephone. The Emergency Coordinator or his alternate arrange their schedules such that one of them can be reached any day of the year, 24

hours per day. In the event all of them will be out of reach on the same day, a surrogate is designated for the period of absence. Table CP-1 shows the Emergency Coordinator and his alternates (following page). The alternates are shown in order of priority.

Table CP-1 Emergency Coordinator List

The current list of the Emergency Coordinator and Alternate Emergency coordinator is maintained in close proximity to each telephone in the facility and a copy of the current list is kept in the Part B Permit Contingency Plan, Attachment E, Section C.

A dated revised copy of Table CP-1 will be ~~is also~~ supplied to the New Mexico Environmental Department, RCRA Permit Program, Hazardous and Radioactive Materials Bureau (HRMB) ~~whenever~~ on the effective date of a change to the names, addresses or phone numbers ~~occurs.~~ of the emergency coordinator list. Any updated Table CP-1 sent to the HRMB will be accompanied by a letter from the Permittee requesting replacement in the Permit of the previous Table. Periodic updates to Table CP-1 may be made outside of the formal Permit modification request procedures.

Emergency Coordinator & Alternates List

Table CP-1 of Rinchem Company, Inc.'s Part B Permit Contingency Plan

Emergency Coordinator	Address	Phone Numbers
Gary Michaelson	377 Teles Los Lunas, NM 87031	Home: 865-7690 Mobile: 269-4405 Pager: 800-759-8888 PIN: 829-0199
1st Alternate: **Paul Levesque**	7409 Derickson NE Albuquerque, NM 87109	Home: 823-0180 Pager: 766-0939
2nd Alternate: Bob Edgar	7510 Los Arboles NE Albuquerque, NM 87110	Home: 889-0561

August 1, 1995

Emergency Coordinator & Alternates List

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Emergency Coordinator	Address	Phone Numbers
Gary Michaelson	377 Teles Los Lunas, NM 87031	Home: 865-7690 Mobile: 269-4405 Pager: 800-759-8888 PIN: 829-0199
1st Alternate: **Paul Levesque**	7409 Derickson NE Albuquerque, NM 87109	Home: 823-0180 Pager: 766-0939
2nd Alternate: **Jim Moore**	341 Mockingbird Lane Corrales, NM 87048	Home: 898-8245 Mobile: 269-4404

Emergency Coordinator & Alternates List

Table CP-1 of Rinchem Company, Inc.'s Part B Permit Contingency Plan

Coordinator	Address	Phone Numbers
Gary Michaelson CES Operations Manager	377 Teles Los Lunas, NM 87031	Home: 865-7690 Mobile: 269-4405 Sky Page:
1st Alternate: **Paul Levesque** ABQ Administrative Coordinator	7409 Derrickson NE Albuquerque, NM 87109	Home: 823-0180 Pager: 766-0939
2nd Alternate: **'im Moore** Director of Operations	341 Mockingbird Lane Corrales, NM 87048	Home: 898-8245 Mobile: 269-4404

Superseded

C.1 Emergency Coordinator and Emergency Coordinator Alternate

The Emergency Coordinator and appointed alternates at the Rinchem facility have a good knowledge of the Contingency Plan and emergency procedures that are found in the plan. They know about the safety equipment and communication devices that are found in the facility. They have knowledge of all the chemicals that are stored at the Rinchem facility and the hazards that accompany each chemical. The Emergency Coordinator and the alternates have the qualifications necessary to be in charge in the event of an emergency.

D. Emergency Telephone Numbers

The necessary telephone numbers that would be needed in an emergency are included in this section. The Emergency Coordinator or the Alternate Emergency Coordinator on site will be responsible for the following notifications if necessary.

Table CP-2 Emergency Telephone Numbers

Agency	Phone Number
Bernalillo County Fire Dept/Sheriff's Office	911
State Emergency Response Team	827-9329
St. Joseph's Northeast Heights Hospital	888-7800

Heights General Hospital	888-7800
Bernalillo County Sheriff's Office	768-4160
Chemtrec	(800) 424-9300
Poison Control Center	843-2551

E. Detailed Emergency Procedures

The potential incidents which are of highest priority for emergency planning at this facility are (1) fire and/or explosion, and (2) spills or material releases. Other disasters such as tornados, earthquakes, or floods, would be handled in similar response manners as outlined in the Contingency Plan as deemed appropriate by the Emergency Coordinator.

E.1 Fire and/or Explosion

The most probable cause for evacuation of the premises of this facility is fire and/or explosion. It is important that all employees never forget that firefighting requires professional action. The facility will follow this procedure:

(1) Once a fire breaks out, supervisory personnel must be alerted and given the following information:
   (a) Name of reporting person
   (b) Location of fire
   (c) Necessity of fire truck, ambulance, police, or any other emergency vehicle or equipment. These will be called

immediately.

(2) If in the judgement of the Emergency Coordinator, the situation calls for the implementation of the facility Evacuation Plan, he will notify immediately the occupants of the facility by six or more short blasts on the claxton horn, or by voice communication.

(3) Upon notification of evacuation, all personnel with no emergency responsibilities will leave the premises by the nearest safe exit (Refer to Evacuation Plan, page 14). Vehicle and forklift operators will clear their equipment from aisles and exits, if possible, and will make sure all engines and motors are turned off.

(4) The Emergency Coordinator will determine the best method of approach, containment, and control:

(a) Move in from upwind side

(b) Cool all affected containers with flooding quantities of water, as appropriate.

(5) The Emergency Coordinator must make an assessment as to the number of different potential problems or situations which might present themselves in an emergency, and how to deal with them. Consideration must be given to items such as:

(a) Release of fumes and possible necessity for neighbor evacuation

(b) Potential materials which when exposed to fire could explode and result in flying debris which could spread fire to off-site areas or previously unaffected areas at

the facility

(c) Explosions which could result in the release of materials from containers

(d) Residues from firefighting activities which may require to be contained and dealt with in an appropriate manner if deemed hazardous.

(6) All individuals are responsible to familiarize themselves with the content of this plan plus the primary and secondary exits within their work areas, as well as the location of fire extinguishers and first aid kits that may be utilized in case of an emergency. Personnel operating electrical equipment at the time the evacuation notice is given, will be responsible to turn that machine off and if possible, unplug it.

E.2 Chemical Spills

The Emergency Coordinator must make an assessment and take action where necessary to alleviate risk in spill situations. Consideration must be given to potential threats involving hazardous materials and the following procedure must be followed:

(1) Rescue injured, remove to safe area and administer first aid.

(2) If necessary, implement the facility Evacuation Plan.

(3) Activate the emergency reaction procedure to deal with chemical as the situation dictates.

(a) If the spill is a corrisive liquid such as an acid or base, or a non-corrosive liquid such as chlorinated solvents, etc,

absorbent will be used to dike/contain the spill and absorb the material. The corrosives will be neutralized at a later date where the neutralization reaction would not be as dangerous as during an emergency.

(b) If the spill is a solid, clean up the spill and place it in a container.

(c) If the spill is liquid, the secondary storage containment area will hold materials released from drums during storage. Samples of resulting materials released should be taken if there are questions as to the composition or hazard due to multiple container releases.

(d) Liquids collected as a result of a spill and cleanup activities will be pumped from the secondary containment system using pumps, and hoses compatible with the liquids involved.

(e) Liquids collected will be containerized immediately following detection. Containers will be immediately labeled and prepared for storage pending shipment.

(4). Keep four things in mind: (a) control, (b) contain, (c) clean, and (d) communicate.

(5). Keep spectators away from spill.

(6). Do not allow smoking in the area.

(7). Be alert for other ignition sources.

(8). Whenever possible, transform small liquid spill into a solid state and then proceed as if it were a solid.

(9). If necessary, the following agencies must be contacted:

(a) Local officials as applicable

(b) State and Federal agencies

(c) Permitted companies to assist with spill containment, clean-up, and disposal, if necessary.

E.3 Accident in Transit

Rinchem is a transporter of hazardous waste. An accident in transit involving hazardous waste is an emergency which Rinchem must be prepared for. The following items should be followed in the event of an accident in transit:

(1) In most cases, the State Police or Highway Patrol will be the first to arrive on the scene of an accident and the driver will give them the emergency telephone numbers of those people or agencies whom he wishes to contact.

(2) The driver should stay with his vehicle.

(3) The driver must take whatever action he feels necessary in order to protect human health and the environment.

(4) Keep unnecessary people away; isolate hazard area and deny entry.

(a) If the vehicle is placarded combustible or flammable, the driver must not allow anyone to use road flares or smoke.

(5) Stay upwind; keep out of low areas.

(6) In case of fire:

(a) Use fire extinguishers that are found in the truck.

(b) Move containers from fire area if one can do it without risk.

(c) Cool containers that are exposed to flames with water from the site until well after fire is out.

(d) Withdraw immediately in case of rising sound from venting

safety device or any discoloration of tank due to fire.

(7) In case of spill:

(a) Stop leak if one can do it without risk.

(b) For small spills, take up with noncombustible absorbent material and place in containers for later disposal.

(c) For large spills, dike far ahead of spill for later disposal. This will prevent run-off into drain lines or waterways.

(8) In case of a victim, use casualty procedures found in the First Aid Section of the Contingency Plan (page 19).

(9) If deemed necessary, Chemtrec should be notified.

(10) When the clean-up is finished, the necessary reporting should be done within the alloted time period.

E.4 Bomb Threat

E.4.1 The Threat

The telephone call threat. (A high percentage of bombings are preceded by telephone calls.) In the event of a bomb phone call:

(1) If possible secure the following information. (Use check list on attached sheet, Figure CP-1, page 14)

(a) Date and time of call

(b) Any background noise - music, people talking, etc

(c) Location of bomb and the time it is set to go off

(d) What kind of bomb

(e) What kind of package

(f) Judge the voice - drugged or drinking, age, sex, etc.

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(g) Ask for caller's name and address (You might get it.)

(2) These questions will detain the caller so a trace can be made. To trace the call, have another employee call the telephone company on a different line.

E.4.2 The Search Technique

Do not touch, handle or move any suspicious object. Make a search for suspicious packages, boxes, or objects. Halls and toilets head the list of places. Make the search while waiting for the police to arrive. Have each supervisor responsible for a certain area. A systematic search will eliminate valuable time loss, awaiting police arrival.

Report the findings of anything suspicious to the police. If anything suspicious is found, set up a "Danger Zone" and evacuate all personnel from the facility using the Evacuation Plan (page 16). Remove flammable materials if practical and possible.

E.5 Storm or Floods

In the event of a severe storm (e.g., tornado), all personnel should take shelter in an interior hallway or room, away from windows. No one should remain in the yard or exposed area of the warehouse.

In the case of floods, or, more likely, high water due to rain, the major precaution is to shut off the main power panel. Inventory must be looked to and repositioned as necessary to protect it.

In any kind of severe weather situations, rely on a battery-powered radio for weather advisories.

F. Evacuation Plan

The Emergency Coordinator, or his alternate, is the only person authorized to call for complete evacuation of the site in response to an emergency situation, which threatens the health and safety of the facility personnel. He takes this action based on his analysis of the emergency situation.

The following actions will be taken when the Emergency Coordinator orders a site evacuation:

(1) Each individual will determine which route he or she will take (primary or secondary) depending on the location of the incident, wind direction, and his or her location.

(2) The Emergency Coordinator will broadcast evacuation alarm with six or more short blasts on claxton horn or via voice communication.

(3) All personnel and visitors will immediately leave following the designated evacuation route as instructed. Customer service or administrative employees will calmly but firmly direct visitors off-site. Routes are shown in Figure CP-2 (following page).

(4) In general, evacuation should proceed as follows:

   (a) If downwind of incident, evacuate perpendicularly to wind direction over the most accessible route.

   (b) If upwind of incident, evacuate in the upwind direction.

(5) Personnel will regroup at the intersection of the road easement and Edith Blvd. east of the facility.

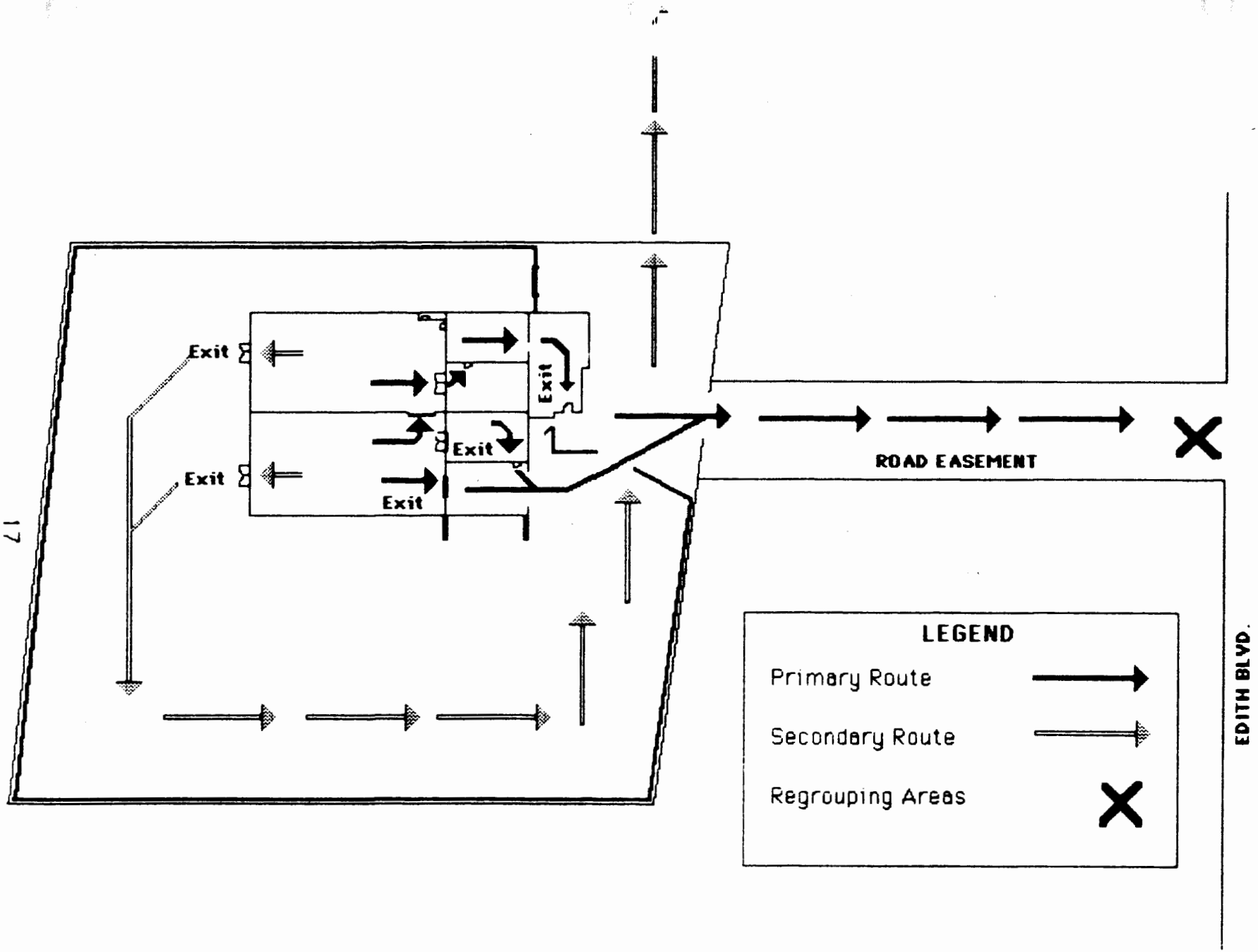


Figure CP-2. Primary and Secondary Evacuation Routes

(6) A person designated by the Emergency Coordinator will initiate a head count of all the people at the regrouping area. This information will be given to the Emergency Coordinator.

F.1 Community Evacuation

In anticipation of the remote possibility that areas adjacent to or near the site may be endangered, the following items must be considered by the Emergency Coordinator:

(1) The Emergency Coordinator will notify the local authorities of the possible need to evacuate off-site areas. He will indicate the nature, extent, and rate of spread (including direction) of potential hazards to the community.

(2) Prior to local response, facility personnel will initiate roadblocks (if necessary) and evacuation procedures for areas adjacent to the site.

(3) The Emergency Coordinator will maintain communications with local authorities and assist in the coordination of the community evacuation, emergency respose, and casualty control activities.

(4) The Bernalillo County Sheriff's Office will implement its procedures for the evacuation of endangered areas.

F.2 Re-Occupancy of Facility

The determination of when the facility may be re-occupied safetly will be made by the Emergency Coordinator in consultation with responding emergency services agency personnel. Site activities

will resume only after the Emergency Coordinator has given an "all clear" notificaiton, and the actions listed in the Post-Emergency Procedures section of this Contingency Plan have been completed (page 21).

G. First Aid

During the course of any emergency, injured individuals will be provided first aid, as appropriate. For more serious injuries, outside medical assistance will be sought. During an emergency situation, the Emergency Coordinator will accomplish the following:

(1) Designate, organize and direct available first-aid personnel.

(2) Access information regarding injury-causing agents, including toxicity and decontamination requirements. If needed, Chemtrec and the National Poison Control Center may be called on for emergency information.

(3) Assess the situation and summon emergency medical assistance from the Bernalillo Fire Dept. as well as Heights General Hospital. The Emergency Coordinator will meet incoming emergency/medical services and guide them to the first-aid station or location of emergency.

(4) Injured personnel will be placed in the care of qualified medical personnel. The Emergency Coordinator will provide first aid resources to the medical service person in charge.

(5) Assist the medical service in charge by providing notification of the appropriate hospital or emergency room of the arrival of the injured, the nature of the injury, information on toxicity and

decontamination, and any other pertinent information. Such information shall be transmitted promptly to those with a "need-to-know."

H. Emergency Press Relations

The following is included only as a quick reference in case you must deal with the press.

(1). If the emergency involves a fire, police, or hospital authorities and is likely to be reported in the press, it is usually to the advantage of the company for a single knowledgable representative (usually the senior manager present) to give the press a brief statement of the facts, in order to prevent rumor and distortion .

(2) Spokesmen are cautioned not to speculate or give opinions on cause, cost, or other information relating to the emergency.

(3) In time of disaster, reporters and photographers desiring admittance to an emergency site should be assisted to the extent that it does not conflict with their safety and response to the emergency.

(4) Allow news and TV photographers to take pictures unless it hampers safety, security, or emergency response.

(5) If reporters cannot get facts from a Rinchem representative, they can get at least some of them readily from police, coroner, hospitals and the fire department, agencies they contact constantly. If reporters have to try to pry "facts" from some bystander who more than likely does not know the facts (but

is usually delighted ot talk anyway), the story could be highly colored and inaccurate.

(6) The wrong answer, or a too-hasty, curt, evasive, or off-the-cuff answer, could do harm to the company and its good reputation with the public.

(7) No answer at all, or a blunt "No Comment" is often the worst possible response. There is a general impression that behind the statement "No Comment" hide the guilty, the frightened, or the intimidated. Politely direct questions to the official company spokesperson.

(8) Experienced reporters know that occasionally there are developments which must be kept confidential for a time. If that is the situation, explain fully and clearly the reason why the answer cannot be give, and assure reporters that they will be informed as soon as information is available.

(9) If reporters want to quote you by name, there is usually no reason why they should not do so.

I. Post-Emergency Procedures

Post-emergency procedures are designed to prevent recurrence, to clean-up and dispose of residuals, to decontaminate equipment, and to debrief personnel. The owner or operator must notify the Regional Administrator, and appropriate State and local authorities that the facility has completed the following items before operations are resumed in the affected area(s) of the facility.

I.1 Prevention of Recurrence

The Emergency Coordinator will take all necessary steps to ensure that a secondary release, fire, or explosion does not occur after an initial incident. Procedures that will be carried out in the affected area include:

(1) Inspection for any leaks or cracks in pipes, valves, and/or drums.
(2) Inspection for gas generation.
(3) Isolation of residual wastes materials.
(4) Ventilation of building if necessary.

Operations that initially were shut down in response to the incident will not be reactivated until the Emergency Coordinator gives an "all clear" signal.

I.2 Treatment or Disposal of Released Materials and Clean-Up Residues

Once the emergency situation is under control, the Emergency Coordinator will initiate additional clean-up activities, including preparation of any residues for storage or shipment off-site for treatment/disposal. This will occur as soon as possible to avoid further contamination. All such residues will be handled as hazardous until verified as nonhazardous.

Liquid spills occurring within a containment area will be analyzed, removed, and stored securely. Spilled liquids cleaned up

with absorbents will be placed in drums and sealed. Leaking containers will be segregated immediately and repackaged. No waste that may be incompatible with the released material will be treated, stored, or disposed of until cleanup procedures are completed.

1.3 Equipment Decontamination and Maintenance

All equipment used during the cleanup will be examined and readied for future use. The equipment deemed to be contaminated will be scrubbed using water. The rinsate from this cleaning procedure will be collected in a drum suitable for shipment of hazardous wastes to a disposal site, if necessary. A sample will be collected from each drum of rinsate in accordance with procedures outlined in WAP-A pages 8-11. They will be analyzed in accordance with test methods described in ASTM 505 for TOC, in the event the total organic carbon content is in excess of 50 mg/l, the specific equipment will be recleaned until TOC levels are <50 mg/l.

All site personnel will shower and remove contaminated clothing, as necessary. Fire extinguishers will be recharged, personnel protection equipment replaced, and absorbent and neutralizing materials restocked. The operability of pumps and generators will be checked; all other emergency equipment (e.g. ladders, shovels, forklift, ropes, etc.) will be checked and confirmed to be in designated areas. Before operations are resumed, an inspection of all safety and emergency equipment will be conducted.

I.4 Personnel Debriefing and Retraining

The Emergency Coordinator will conduct debriefings of site supervisors, operating personnel, and local authorities to assess preparedness and prevention, response, casualty control, and evacuation procedures, as appropriate. Based on this review, suggestions for revisions to the Contingency Plan will be made to facility management.

J. Arrangements with Local Authorities and Other Resources

Appropriate authorities have toured the facility and noted hazards and layout. A copy of the Contingency Plan is maintained at the facility. Copies will be distributed to:

(1) Bernalillo County Sheriff Department
(2) Bernalillo County Fire Depratment
(3) State of New Mexico: Environmental Improvement Division
(4) U.S. EPA Region VI
(5) Heights General Hospital

K. Outside Notification

The Emergency Coordinator must immediately notify either the government official designated as the on-scene coordinator for Rinchem's geographical area, or the National Response Center. The report must include:

(1) Name and telephone number of reporter;

(2) Name and address of facility;

(3) Time and type of incident (e.g., release, fire);

(4) Name and quantity of material(s) involved, to the extent known;

(5) The extent of injuries, if any; and

(6) The possible hazards to human health; or the environment, outside the facility.

The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the Contingency Plan. Within 15 days after the incident, he must submit a written report on the incident to the Director, EID. The report must include:

(1) Name and telephone number of reporter;

(2) Name and address of facility;

(3) Time and type of incident (e.g., release, fire);

(4) Name and quantity of material(s) involved, to the extent known;

(5) The extent of injuries, if any;

(6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(7) Estimated quantity and disposition of recovered material that resulted from the incident.

L. Amendments to the Contingency Plan

The Emergency Coordinator upon discussion with management will be responsible for changing the Emergency Contingency Plan.

This Contingency Plan is subject to review and amendment, if:

(1) The plan fails in an emergency;

(2) The facility's permit is revised;

(3) The facility changes in design, construction, operation, or maintenance; if other circumstances develop that materially increase the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents; or if Rinchem changes in the response necessary for any expected emergency;

(4) The list of Emergency Coordinators changes; or

(5) The list of emergency equipment changes.

When the Contingency Plan is amended for any reason, each major change is reviewed with appropriate agencies and/or emergency response authorities. Modified Contingency Plan copies will be distributed to local, State and Federal agencies, and to the facility personnel responsible for its implementation.

APPENDIX CPA.

EMERGENCY EQUIPMENT LIST

EQUIPMENT AND VEHICLE INVENTORY

Equipment	Number	Capabilities Purpose /Capacity	Location
FIRE CONTROL			
Fire Extinguishers			
Dry Chemical	6	ABC fires	Office, Exits of warehouse rooms, dock (See Figure CPA-1, page A-5)
Dry Pipe Water Sprinkler	1	Water sprinkler system double fireman's hookup	On roof in both warehouse rooms for foam injection if necessary
PERSONNEL PROTECTION			
Protective Eyeglasses or Goggles	12	Protect eyes from vapors or splashes	Office for visitors, Employees keep own glasses.
Face Shields	2	Protect eyes and face	Safety equipment storage rack
Half Face Respirators w/ Cartridges	2	Respiratory protection-moderate containment levels	Safety equipment storage rack

Equipment	Number	Capabilities Purpose /Capacity	Location
SCBA with spare tanks	2	Self-contained breathing apparatus; 30-minute air supply	Office
Aprons	2	Protect skin and clothing	Safety equipment storage rack
Gloves	12	Protect skin from vapors, splashes, free liquids	Safety equipment storage rack
Tyvex suits	12	Protect skin and clothing from hazardous waste	SPILPACs, storage rack
Boot Shields	12	Protect skin from vapors, splashes, free liquids	SPILPACs, storage rack
SPILL CONTROL			
Soda Ash	100 lbs.	Neutralization and containment of acids	Warehouse rooms, SPILPACs,
Absorbent	10 bags	Liquid absorbent and packing equipment	Warehouse rooms, SPILPACs

Equipment	Number	Capabilities Purpose /Capacity	Location
Forklift	1	Moving/loading drums and heavy equipment	Warehouse area
Salvage Drums	10	Overpacking of damaged drums	SPILPACs, storage area
Plastic (polyethylene)	1 per SPILPAC	Containment of hazardous spills, 10' X 20'	SPILPACs
Shovels	1 per SPILPAC	Used in cleaning up debris	SPILPACs
Broom	1 per SPILPAC	Used in cleaning up debris	SPILPACs
Duct Tape	1 per SPILPAC	Used for temporary plugging of leaks	SPILPACs

EMERGENCY DECONTAMINATION AND FIRST AID

Emergency Shower/ Eyewash Stations	5	Decontamination of skin, eyes, and/or clothing	Warehouse rooms (Refer to Figure CPA-1, page A- 5)

Equipment	Number	Capabilities Purpose /Capacity	Location
First Aid Station	1	First aid medical supplies	Office (Refer to Figure CPA-1, page A-5)
EMERGENCY COMMUNICATION AND ALARM SYSTEMS			
Pull Stations	2	Stations are audible and connected to outside monitoring system	Office, Dock (Refer to Figure CPA-1, page A-5)
Intercom	1	Intercom can be heard in many parts of warehouse	All phones
Claxton Horn	1	Can be heard throughout warehouse	All phones

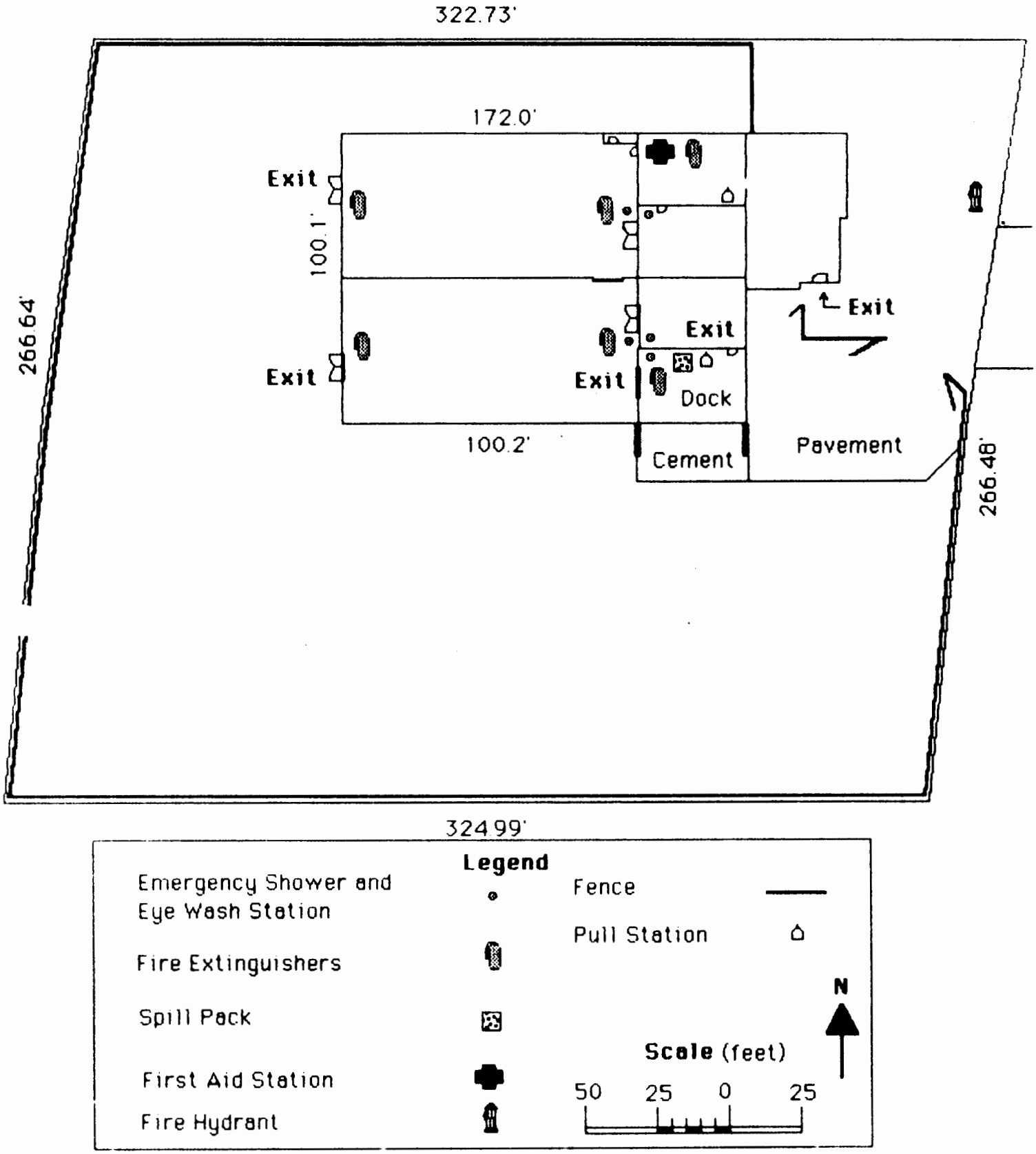


Figure CPA - 1. Emergency Equipment

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT F

CLOSURE PLAN

VII. Closure Requirements

[N.M. - 302.A.4.b.(1)(m-q), Federal - 270.14(b)(13) & 264.112-118]

A. Introduction

This section addresses the RCRA closure and financial assurance requirements as they pertain to Rinchem Company Inc. Upon initiation of the closure period, stored wastes will be removed and transported to a fully permitted T.S.D. facility.

B. Closure Plan [N.M. - 304.A.4.b(1)(m), Federal - 264.112]

This closure plan identifies the steps necessary to close the Rinchem facility at any point during its operation or at the end of its projected life. An independant bound copy of this Closure Plan will be kept on file at the facility. The plan will be updated as necessary, to ensure adequate site closure.

The facility's Hazardous Waste Management Coordinator is responsible for the maintenance of the facility's copy of the Closure Plan.

B.1 Partial and Post-Closure Plans
[Federal -270.14(b)(13), 264.117 & 264.118]

This facility, as it pertains to hazardous waste management

activities, is either active or totally inactive as a storage facility. For this reason, partial closure will not be addressed.

It should be further noted that because of the nature of the hazardous wastes activity at this facility, the accumulation and temporary storage of spent organic solvents and oils in drums until economic truckloads can be shipped to a T.S.D. facility, a post closure plan is not required. Materials are being continually removed from this facility. In a closure situation, all materials would be removed in a similiar fashion as practiced in routine day-to-day business.

B.2 Maximum Waste Inventory and Waste Make-Up

Due to the nature of Rinchem Company's involvement in hazardous materials management, it becomes extremely difficult to be specific on the types of material which would be on hand in a closure situation. Factors such as economic conditions, seasonal trends, and market growth will impact a particular generator's rate of use of materials, and thus affect the amount of materials shipped to this location for temporary storage and eventual recycling and/or disposal.

This facility will not store more than 500 55-gallon drums of hazardous waste at any one time. In the majority of cases, the maximum number of containers held at any given time will be considerably below this quantity.

B.3 Equipment Decontamination Procedure [Federal - 264.114]

Because this facility is designed for storage as opposed to disposal, decontamination activities would be minimal. None of the equipment utilized at this facility would be required to be disposed of due to its utilization in waste management. Since Rinchem policy would have required all traces of contamination resulting from a leakage or spill of hazardous waste to have been cleaned up at the time of the incident, no such cleanup or decontamination is expected to be required at the time of closure. If for the sake of extra certainty, some material was discarded, it would be considered as a hazardous waste in its own right.

At the time of closure, each bay will be scrubbed using a drum of detergent and water. The detergent shall be a suitable laboratory-grade detergent such as Alconox (c) or equivalent. The rinsate from this cleaning procedure will be collected in a drum suitable for shipment of hazardous wastes to a disposal site, if necessary. A sample will be collected from each drum of wash water and rinsate in accordance with procedures outlined in WAP pages 8 thru 11. They will be analyzed in accordance with test methods described in SW 846 for total organic carbon (TOC). In the event the content is in excess of 0.5 mg/l, the specific bay will be recleaned until TOC levels are less than 0.5 mg.l.

B.4 Final Closure Procedures

When Rinchem decides to close this site as a hazardous waste storage facility, a 180-day notice period will be given. If the closure of this facility

were to be undertaken, notices would be sent to present generators employing Rinchem's services to inform them of the pending discontinuation of receiving their waste materials. All materials would be removed from the site within 90 days of receipt of the final volume of waste and the total closure activities will be completed within 180 days.

All inventory in storage would be expected to be already accepted at a permitted T.S.D. facility. Prior to loading, all drums would be inspected for leakage, damage, and proper labelling. Proper manifest forms will be completed for the movement.

B.4.1 Closure Schedule [Federal - 264.113 & 270.14(b)(13)]

The following schedule is proposed for final closure of the Rinchem Company, Inc. facility:

Activity	Cumulative Day Completed
Remove all remaining wastes to approved hazardous waste treatment and/or disposal facility	Day 90
Flush all waste storage areas, and spill containment systems with water; collect contaminated water, and draw samples for analysis; complete appropriate soil sampling program	Day 120

Collect and dispose of contaminated wash water, any contaminated site soil, and/or cleaning materials	Day 150
Inspect and certify closure	Day 170
Site closure complete	Day 180

B.4.2 Expected Closure Date

Rinchem will continue to operate a business at this facility as long as it is deemed economically viable, and so long as its operation is otherwise permitted by applicable law. An "anticipated" date of closure can be postulated as the year 1998 .

C. Closure Cost Estimate

[N.M.- 302.A.4.b.(1)(o), Federal - 270.15(b)(15) & 264.142]

The closure cost for the Rinchem facility is predicted on the estimated point in time at which closure would be most expensive, as required by federal reguations. For this facilty, that point translates to a situation during which the waste storage area is filled to its design/permitted capacity.

The following estimates are presented in 1986 dollars and are based on maximum utilization of storage capacity at the time of closure.

C.1 Summary of Closure Costs

(1) Transport 500 drums to T.S.D. facility (average costs $60/drum)	$ 30,000
(2) Decontaminate drum storage areas	$ 1,000
(3) Collect and dispose of wash water from drum storage area decontamination	$ 2,000
(4) Analytical chemical sampling and analysis program	$ 2,000
(5) Soil sampling and analysis plan	$ 2,000
(6) Certification by Professional Engineer	$ 3,000
(7) Contingency for removal of soil or equipment or part of structure	$ 10,000
Total Estimated Closure Cost (1986 dollars)	$ 50,000

D. Documentation of a Financial Assurance Mechanism [Federal-264.143 & 264.146]

D.1 Closure Trust Fund [Federal - 264.151(a)]

This section attests that Rinchem will utilize a trust fund to satisfy the §264.143 financial assurance requirements for the Rinchem Company, Inc. Rinchem will put $ 5000 each year into the trust fund for a period of 10 years. Prior to a final permit decision, if requested, the amount of money in the Rinchem trust fund will be submitted to the appropriate authorities. The trust fund will be adequate to cover the amount of money that would be needed in a unexpected closure.

E. Coverage by an Equivalent State Financial Mechanism
[Federal - 270.14(b)(18), 264.149, and 264.150]

These provisions are not applicable to the Rinchem Company, Inc. facility. Rinchem does not anticipate any State assumption of legal or financial responsibilities for the closure or liability requirements at this time.

F. Insurance Coverage [to satisfy requirements of HWMR-3, 302.A.4.b.(1).(g).]

Rinchem Company Inc. will deliver to the Director of the New Mexico Environmental Improvement Division either a signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance at least 60 days prior to the date on which hazardous waste is first received for storage under this permit. This insurance will be in effect before the initial reciept of hazardous waste.

G. Corrective Action for SWMU's [Federal 264.101]

The drum storage areas, and the spill collection tank are the only SWMU's at the facility. Ground water testing, physical inspections, employee training, and employee reporting of incidents have been required since the initial construction of the facility. No releases of hazardous waste, or their constituents to the environment are known or believed to have occurred. As such, schedules for corrective action as required in 40 CFR Part 264.101, are not applicable to this permit.

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT G

AUTHORIZED WASTES

Table 1. Wastes Anticipated to be Stored at the Facility

EPA Hazardous Waste Number	Common Name of Waste or Waste Type	EPA Hazard Characteristic
F001	Spent Halogenated Solvents Used in Degreasing:	Toxic
F001	Tetrachloroethylene	Toxic
F001	Trichloroethylene	Toxic
F001	Methylene Chloride	Toxic
F001	1,1,1-Trichloroethane	Toxic
F001	Carbon Tetrachloride	Toxic
F001	Chlorinated Fluorocarbons	Toxic
F002	Spent Halogenated Solvents:	Toxic
F002	Tetrachloroethylene	Toxic
F002	Trichloroethylene	Toxic
F002	Methylene Chloride	Toxic
F002	1,1,1-Trichloroethane	Toxic
F002	Chlorobenzene	Toxic
F002	1,1,2-Trichloro-1,2,2-Trifluoro-ethane	Toxic
F002	O-Dichlorobenzene	Toxic
F002	Trichlorofluoromethane	Toxic

Table 1. Wastes Anticipated to be Stored at the Facility

(cont.)

EPA Hazardous Waste Number	Common Name of Waste or Waste Type	EPA Hazard Characteristic
F003	Spent Non-Halogenated Solvents:	Ignitable
F003	Xylene	Ignitable
F003	Acetone	Ignitable
F003	Ethyl Acetate	Ignitable
F003	Ethyl Benzene	Ignitable
F003	Ethyl Ether	Ignitable
F003	n-Butyl Alcohol	Ignitable
F003	Cyclohexanone	Ignitable
F003	Methyl Isobutyl Ketone	Ignitable
F003	Methanol	Ignitable
F004	Spent Non-Halogenated Solvents:	Toxic
F004	Cresols	Toxic
F004	Cresylic Acid	Toxic
F004	Nitrobenzene	Toxic
F005	Spent Non-Halogenated Solvents:	Toxic, Ignitable
F005	Toluene	Toxic, Ignitable
F005	Methyl Ethyl Ketone	Toxic, Ignitable
F005	Carbon Disulfide	Toxic, Ignitable
F005	Isobutanol	Toxic, Ignitable
F005	Pyridine	Toxic, Ignitable

Table 1. Wastes Anticipated to be Stored at the Facility

(cont.)

EPA Hazardous Waste Number	Common Name of Waste or Waste Type	EPA Hazard Characteristic
	Acute Hazardous Waste:	
P005	Allyl Alcohol	Acute Hazardous
P022	Carbon Disulfide	Acute Hazardous
	Toxic Wastes:	
U001	Acetaldehyde	Ignitable
U002	Acetone	Ignitable
U003	Acetonitrile	Ignitable, Toxic
U008	Acrylic Acid	Ignitable
U012	Aniline	Ignitable, Toxic
U019	Benzene	Ignitable, Toxic
U031	n-Butyl Alcohol	Ignitable
U211	Carbon Tetrachloride	Toxic
U037	Chlorobenzene	Toxic
U044	Chloroform	Toxic
U051	Creosote	Toxic
U052	Cresols	Toxic
U057	Cyclohexanone	Ignitable
U069	Dibutyl Phthalate	Toxic
U070	o-Dichlorobenzene	Toxic
U071	m-Dichlorobenzene	Toxic
U072	p-Dichlorobenzene	Toxic

Table 1. Wastes Anticipated to be Stored at the Facility

(cont.)

EPA Hazardous Waste Number	Common Name of Waste or Waste Type	EPA Hazard Characteristic
U025	Dichloroethyl Ether	Toxic
U088	Diethyl Phthalate	Toxic
U092	Dimethylamine	Ignitable
U102	Dimethyl Phthalate	Toxic
U107	Di-n-Octyl Phthalate	Toxic
U112	Ethyl Acetate	Ignitable
U113	Ethyl Acrylate	Ignitable
U117	Ethyl Ether	Ignitable
U118	Ethylmethacrylate	Toxic
U124	Furan	Ignitable
U125	Furfural	Ignitable
U127	Hexachlorobenzene	Toxic
U140	Isobutyl Alcohol	Ignitable,Toxic
U154	Methyl Alcohol	Ignitable,Toxic
U080	Methylene Chloride	Toxic
U159	Methyl Ethyl Ketone	Ignitable, Toxic
U161	Methyl Isobutyl Ketone	Ignitable
U162	Methyl Methacrylate	Ignitable, Toxic
U165	Naphthalene	Toxic
U169	Nitrobenzene	Ignitable, Toxic
U171	2-Nitropropane	Ignitable
U188	Phenol	Toxic

Table 1. Wastes Anticipated to be Stored at the Facility

(cont.)

EPA Hazardous Waste Number	Common Name of Waste or Waste Type	EPA Hazard Characteristic
U191	2-Picoline	Toxic
U196	Pyridine	Toxic
U210	Tetrachloroethylene	Toxic
U213	Tetrahydrofuran	Ignitable
U220	Toluene	Toxic, Ignitable
U226	1,1,1-Trichloroethane	Toxic
U227	1,1,2-Trichloroethane	Toxic
U228	Trichloroethylene	Toxic
U121	Trichloromonofluoromethane	Toxic
U239	Xylene	Ignitable

Another group of wastes that could be received at this facility are not listed wastes, but do exhibit the hazard characteristic of ignitability. The basis for hazardous designation is a flashpoint of 140 °F or less. The EPA ID number for these compounds is D001. The spent solvents can be received as individual chemicals or mixtures thereof. Examples of such wastes are shown in Table 2 (following page).

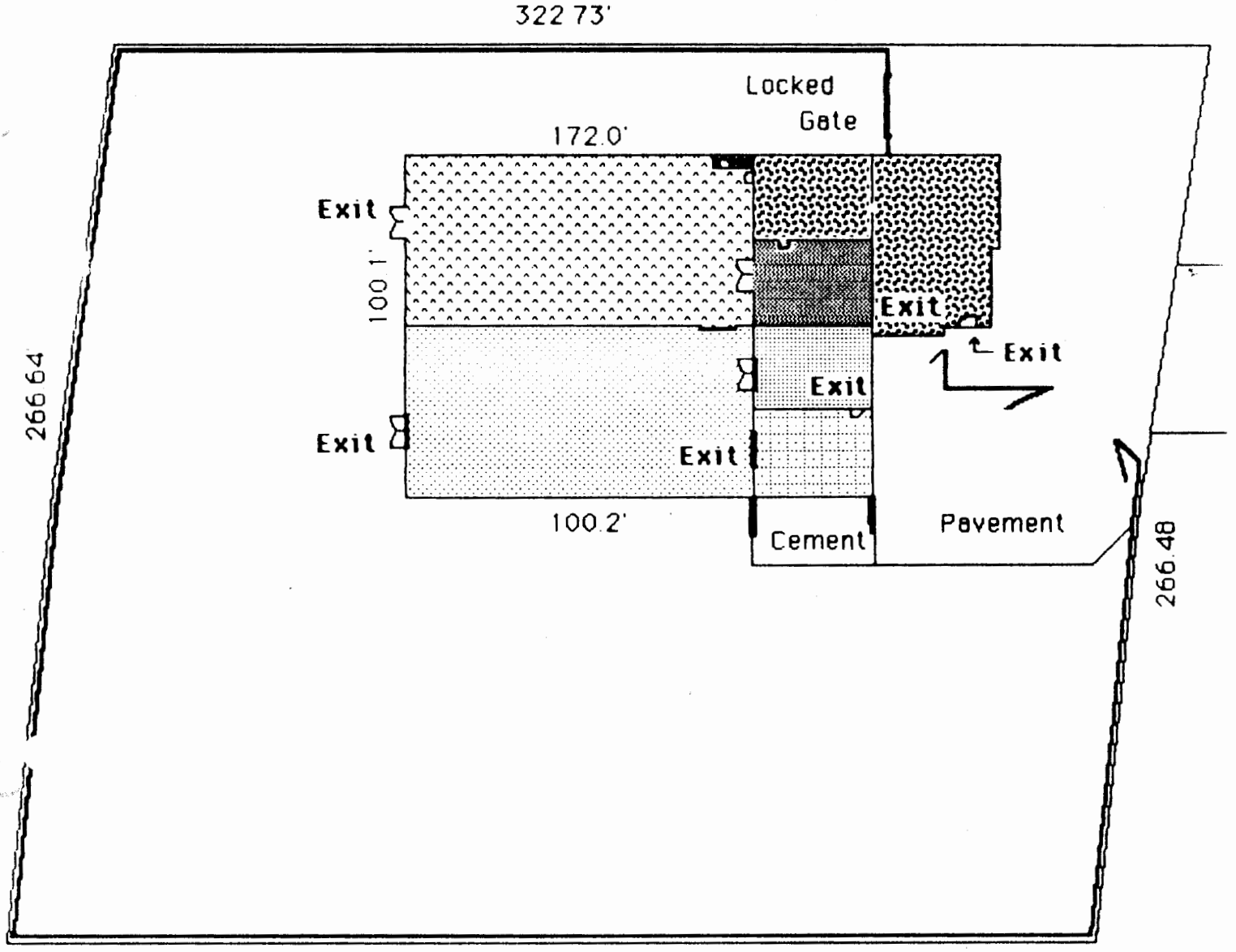
Table 2. Examples of Wastes with EPA Hazardous Waste Number D001

Chemical	Flashpoint (°F)
Amyl Acetate	77
p-Amyl Acetate	77
Butyl Acetate	72
s-Butyl Alcohol	75
t-Butyl Alcohol	52
Cellosolve Acetate	117
Diisobutyl Ketone	120
Ethyl Alcohol	55
Ethyl Cellosolve	80
Heptane	25
Hexane	-7
Lactol Spirits	20
Methyl Acetate	14
Methyl Amyl Ketone	120
Methyl Cellosolve	115
Petroleum Naphtha	105
Propyl Acetone	58
Isopropyl Acetate	40
Propyl Alcohol	77
Isopropyl Alcohol	53
VMP&P Naphtha	40

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT H

DESIGNATED WASTE STORAGE AREA



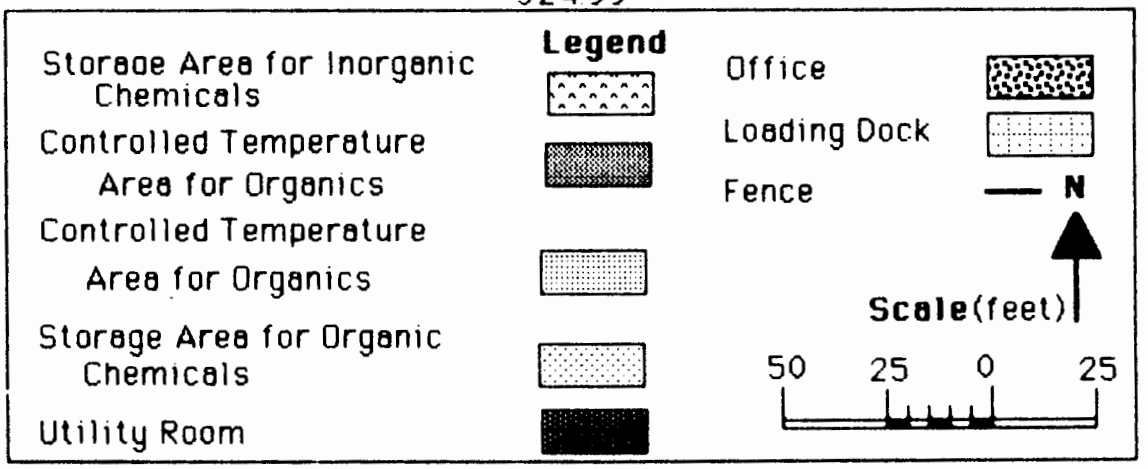


Figure 7 - A Schematic of the Rinchem Company, Inc. Building

RINCHEM COMPANY, INC.

PERMIT ATTACHMENT I

EPA FORM 3510-3 (6-80)

(fill-in areas are spaced for elite type, i.e., 12 characters/inch).

Form Approved OMB No. 158-S80004

FORM 3 RCRA

EPA

U.S. ENVIRONMENTAL PROTECTION AGENCY

HAZARDOUS WASTE PERMIT APPLICATION

Consolidated Permits Program

(This information is required under Section 3005 of RCRA.)

I. EPA I.D. NUMBER

S													T/A	C
F	N	M	D	0	0	2	2	0	8	6	2	7		1

FOR OFFICIAL USE ONLY

APPLICATION APPROVED	DATE RECEIVED (yr., mo., & day)	COMMENTS

II. FIRST OR REVISED APPLICATION

Place an "X" in the appropriate box in A or B below *(mark one box only)* to indicate whether this is the first application you are submitting for your facility or a revised application. If this is your first application and you already know your facility's EPA I.D. Number, or if this is a revised application, enter your facility's EPA I.D. Number in Item I above.

A. FIRST APPLICATION *(place an "X" below and provide the appropriate date)*

☐ 1. EXISTING FACILITY *(See instructions for definition of "existing" facility. Complete item below.)*

C 8 — YR. — MO. — DAY

FOR EXISTING FACILITIES, PROVIDE THE DATE *(yr., mo., & day)* OPERATION BEGAN OR THE DATE CONSTRUCTION COMMENCED *(use the boxes to the left)*

☒ 2. NEW FACILITY *(Complete item below.)*

YR.	MO.	DAY
87	01	01

FOR NEW FACILITIES, PROVIDE THE DATE *(yr., mo., & day)* OPERATION BEGAN OR IS EXPECTED TO BEGIN

B. REVISED APPLICATION *(place an "X" below and complete Item I above)*

☐ 1. FACILITY HAS INTERIM STATUS

☐ 2. FACILITY HAS A RCRA PERMIT

III. PROCESSES – CODES AND DESIGN CAPACITIES

A. PROCESS CODE – Enter the code from the list of process codes below that best describes each process to be used at the facility. Ten lines are provided for entering codes. If more lines are needed, enter the code*(s)* in the space provided. If a process will be used that is not included in the list of codes below, then describe the process *(including its design capacity)* in the space provided on the form *(Item III-C)*.

B. PROCESS DESIGN CAPACITY – For each code entered in column A enter the capacity of the process.

1. AMOUNT – Enter the amount.
2. UNIT OF MEASURE – For each amount entered in column B(1), enter the code from the list of unit measure codes below that describes the unit of measure used. Only the units of measure that are listed below should be used.

PROCESS	PROCESS CODE	APPROPRIATE UNITS OF MEASURE FOR PROCESS DESIGN CAPACITY
Storage:		
CONTAINER *(barrel, drum, etc.)*	S01	GALLONS OR LITERS
TANK	S02	GALLONS OR LITERS
WASTE PILE	S03	CUBIC YARDS OR CUBIC METERS
SURFACE IMPOUNDMENT	S04	GALLONS OR LITERS
Disposal:		
INJECTION WELL	D79	GALLONS OR LITERS
LANDFILL	D80	ACRE-FEET *(the volume that would cover one acre to a depth of one foot)* OR HECTARE-METER
LAND APPLICATION	D81	ACRES OR HECTARES
OCEAN DISPOSAL	D82	GALLONS PER DAY OR LITERS PER DAY
SURFACE IMPOUNDMENT	D83	GALLONS OR LITERS

PROCESS	PROCESS CODE	APPROPRIATE UNITS OF MEASURE FOR PROCESS DESIGN CAPACITY
Treatment:		
TANK	T01	GALLONS PER DAY OR LITERS PER DAY
SURFACE IMPOUNDMENT	T02	GALLONS PER DAY OR LITERS PER DAY
INCINERATOR	T03	TONS PER HOUR OR METRIC TONS PER HOUR; GALLONS PER HOUR OR LITERS PER HOUR
OTHER *(Use for physical, chemical, thermal or biological treatment processes not occurring in tanks, surface impoundments or incinerators. Describe the processes in the space provided; Item III-C.)*	T04	GALLONS PER DAY OR LITERS PER DAY

UNIT OF MEASURE	UNIT OF MEASURE CODE	UNIT OF MEASURE	UNIT OF MEASURE CODE	UNIT OF MEASURE	UNIT OF MEASURE CODE
GALLONS	G	LITERS PER DAY	V	ACRE-FEET	A
LITERS	L	TONS PER HOUR	D	HECTARE-METER	F
CUBIC YARDS	Y	METRIC TONS PER HOUR	W	ACRES	B
CUBIC METERS	C	GALLONS PER HOUR	E	HECTARES	Q
GALLONS PER DAY	U	LITERS PER HOUR	H		

EXAMPLE FOR COMPLETING ITEM III *(shown in line numbers X-1 and X-2 below)*: A facility has two storage tanks, one tank can hold 200 gallons and the other can hold 400 gallons. The facility also has an incinerator that can burn up to 20 gallons per hour.

S		T/A	C
C	DUP		1

LINE NUMBER	A. PROCESS CODE (from list above)	B. PROCESS DESIGN CAPACITY 1. AMOUNT (specify)	B. 2. UNIT OF MEASURE (enter code)	FOR OFFICIAL USE ONLY	LINE NUMBER	A. PROCESS CODE (from list above)	B. PROCESS DESIGN CAPACITY 1. AMOUNT	B. 2. UNIT OF MEASURE (enter code)	FOR OFFICIAL USE ONLY
X-1	S02	600	G		5				
X-2	T03	20	E		6				
1	S01	27,500			7				
2					8				
					9				
4					10				

Continued from the front.

III. PROCESSES *(continued)*

C. SPACE FOR ADDITIONAL PROCESS CODES OR FOR DESCRIBING OTHER PROCESSES *(code "T04")*. FOR EACH PROCESS ENTERED HERE INCLUDE DESIGN CAPACITY.

No additional codes

IV. DESCRIPTION OF HAZARDOUS WASTES

A. **EPA HAZARDOUS WASTE NUMBER** — Enter the four—digit number from 40 CFR, Subpart D for each listed hazardous waste you will handle. If you handle hazardous wastes which are not listed in 40 CFR; Subpart D, enter the four—digit number*(s)* from 40 CFR, Subpart C that describes the characteristics and/or the toxic contaminants of those hazardous wastes.

B. **ESTIMATED ANNUAL QUANTITY** — For each listed waste entered in column A estimate the quantity of that waste that will be handled on an annual basis. For each characteristic or toxic contaminant entered in column A estimate the total annual quantity of all the non—listed waste*(s)* that will be handled which possess that characteristic or contaminant.

C. **UNIT OF MEASURE** — For each quantity entered in column B enter the unit of measure code. Units of measure which must be used and the appropriate codes are:

ENGLISH UNIT OF MEASURE	CODE	METRIC UNIT OF MEASURE	CODE
POUNDS	P	KILOGRAMS	K
TONS	T	METRIC TONS	M

If facility records use any other unit of measure for quantity, the units of measure must be converted into one of the required units of measure taking into account the appropriate density or specific gravity of the waste.

D. **PROCESSES**

1. PROCESS CODES:
   For listed hazardous waste: For each listed hazardous waste entered in column A select the code*(s)* from the list of process codes contained in Item III to indicate how the waste will be stored, treated, and/or disposed of at the facility.
   For non—listed hazardous wastes: For each characteristic or toxic contaminant entered in column A, select the code*(s)* from the list of process codes contained in Item III to indicate all the processes that will be used to store, treat, and/or dispose of all the non—listed hazardous wastes that possess that characteristic or toxic contaminant.
   Note: Four spaces are provided for entering process codes. If more are needed: (1) Enter the first three as described above; (2) Enter "000" in the extreme right box of Item IV-D(1); and (3) Enter in the space provided on page 4, the line number and the additional code*(s)*.

2. PROCESS DESCRIPTION: If a code is not listed for a process that will be used, describe the process in the space provided on the form.

NOTE: HAZARDOUS WASTES DESCRIBED BY MORE THAN ONE EPA HAZARDOUS WASTE NUMBER — Hazardous wastes that can be described by more than one EPA Hazardous Waste Number shall be described on the form as follows:

1. Select one of the EPA Hazardous Waste Numbers and enter it in column A. On the same line complete columns B,C, and D by estimating the total annual quantity of the waste and describing all the processes to be used to treat, store, and/or dispose of the waste.
2. In column A of the next line enter the other EPA Hazardous Waste Number that can be used to describe the waste. In column D(2) on that line enter "included with above" and make no other entries on that line.
3. Repeat step 2 for each other EPA Hazardous Waste Number that can be used to describe the hazardous waste.

EXAMPLE FOR COMPLETING ITEM IV *(shown in line numbers X-1, X-2, X-3, and X-4 below)* — A facility will treat and dispose of an estimated 900 pounds per year of chrome shavings from leather tanning and finishing operation. In addition, the facility will treat and dispose of three non—listed wastes. Two wastes are corrosive only and there will be an estimated 200 pounds per year of each waste. The other waste is corrosive and ignitable and there will be an estimated 100 pounds per year of that waste. Treatment will be in an incinerator and disposal will be in a landfill.

LINE NO.	A. EPA HAZARD. WASTE NO. *(enter code)*	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE *(enter code)*	D. PROCESSES 1. PROCESS CODES *(enter)*	D. PROCESSES 2. PROCESS DESCRIPTION *(If a code is not entered in D(1))*
X-1	K 0 5 4	900	P	T 0 3 D 8 0	
X-2	D 0 0 2	400	P	T 0 3 D 8 0	
X-3	D 0 0 1	100	P	T 0 3 D 8 0	
X-4	D 0 0 2				*included with above*

Continued from page 2.
NOTE: Photocopy this page before completing if you have more than 25 wastes to list.

Form Approved OMB No. 158-S80004

EPA I.D. NUMBER (enter from page 1)	FOR OFFICIAL USE ONLY
W N M D 0 8 5 2 6 7 9 6 1 T/A C 1	W DUP T/A C 2 DUP

IV. DESCRIPTION OF HAZARDOUS WASTES (continued)

LINE NO.	A. EPA HAZARD. WASTE NO. (enter code)	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE (enter code)	D. PROCESSES 1. PROCESS CODES (enter)	D. PROCESSES 2. PROCESS DESCRIPTION (If a code is not entered in D(1))
1	D001	150,000	P	S01	
2	F001	400,000	P	S01	
3	F002	200,000	P	S01	
4	F003	200,000	P	S01	
5	F004	1,000	P	S01	
6	F005	200,000	P	S01	
7	P005	1,000	P	S01	
8	P022	1,000	P	S01	
9	U001	1,000	P	S01	
10	U002	1,000	P	S01	
11	U003	1,000	P	S01	
12	U008	1,000	P	S01	
	U012	1,000	P	S01	
14	U019	1,000	P	S01	
15	U031	1,000	P	S01	
16	U211	1,000	P	S01	
17	U037	1,000	P	S01	
18	U044	1,000	P	S01	
19	U052	1,000	P	S01	
20	U057	1,000	P	S01	
21	U069	1,000	P	S01	
22	U070	1,000	P	S01	
23	U071	1,000	P	S01	
24	U072	1,000	P	S01	
25	U025	1,000	P	S01	
5	U051	1,000	P	S01	

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CONTINUE ON REVERSE

Continued from page 2.

NOTE: Photocopy this page before completing if you have more than 26 wastes to list.

Form Approved OMB No. 158-S80004

EPA I.D. NUMBER (enter from page 1)		FOR OFFICIAL USE ONLY	
W N M D 0 8 5 2 6 7 9 6 1	T/A C 1	W DUP	T/A C 2 DUP

IV. DESCRIPTION OF HAZARDOUS WASTES (continued)

LINE NO.	A. EPA HAZARD. WASTE NO. (enter code)	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE (enter code)	D. PROCESSES 1. PROCESS CODES (enter)	D. PROCESSES 2. PROCESS DESCRIPTION (If a code is not entered in D(1))
1	U 0 8 8	1,000	P	S 0 1	
2	U 0 9 2	1,000	P	S 0 1	
3	U 1 0 2	1,000	P	S 0 1	
4	U 1 0 7	1,000	P	S 0 1	
5	U 1 1 2	1,000	P	S 0 1	
6	U 1 1 3	1,000	P	S 0 1	
7	U 1 1 7	1,000	P	S 0 1	
8	U 1 1 8	1,000	P	S 0 1	
9	U 1 2 4	1,000	P	S 0 1	
10	U 1 2 5	1,000	P	S 0 1	
11	U 1 2 7	1,000	P	S 0 1	
12	U 1 4 0	1,000	P	S 0 1	
13	U 1 5 4	1,000	P	S 0 1	
14	U 0 8 0	1,000	P	S 0 1	
15	U 1 5 9	1,000	P	S 0 1	
16	U 1 6 1	1,000	P	S 0 1	
17	U 1 6 2	1,000	P	S 0 1	
18	U 1 6 5	1,000	P	S 0 1	
19	U 1 6 9	1,000	P	S 0 1	
20	U 1 7 1	1,000	P	S 0 1	
21	U 1 8 8	1,000	P	S 0 1	
22	U 1 9 1	1,000	P	S 0 1	
23	U 1 9 6	1,000	P	S 0 1	
24	U 2 1 0	1,000	P	S 0 1	
25	U 2 1 3	1,000	P	S 0 1	
26	U 2 2 0	1,000	P	S 0 1	

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CONTINUE ON REVERSE

Continued from page 2.

NOTE: Photocopy this page before completing if you have more than 26 wastes to list.

Form Approved OMB No. 158-S80004

EPA I.D. NUMBER (enter from page 1)	FOR OFFICIAL USE ONLY
W N M D O 0 8 5 2 6 7 9 6 1 T/A C 1	W DUP T/A C 2 DUP

DESCRIPTION OF HAZARDOUS WASTES (continued)

LINE NO.	A. EPA HAZARD. WASTE NO. (enter code)	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE (enter code)	D. PROCESSES 1. PROCESS CODES (enter)				D. PROCESSES 2. PROCESS DESCRIPTION (If a code is not entered in D(1))
1	U226	1,000	P	S01				
2	U227	1,000	P	S01				
3	U228	1,000	P	S01				
4	U121	1,000	P	S01				
5	U239	1,000	P	S01				
6								
7								
8								
9								
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CONTINUE ON REVERSE

Continued from the front.

IV. DESCRIPTION OF HAZARDOUS WASTES *(continued)*

E. USE THIS SPACE TO LIST ADDITIONAL PROCESS CODES FROM ITEM D(1) ON PAGE 3.

We have included in the listing of the estimated annual quantity of waste a number of wastes such as U001, U002, etc., which we estimated could be 1,000 pounds each. These quantities are arbitrary. We may receive none or a larger quantity. It is very unpredictable.

EPA I.D. NO. *(enter from page 1)*

F N M D 0 0 8 9 2 6 7 9 6 2 4 6

V. FACILITY DRAWING

All existing facilities must include in the space provided on page 5 a scale drawing of the facility *(see instructions for more detail)*.

VI. PHOTOGRAPHS

All existing facilities must include photographs *(aerial or ground—level)* that clearly delineate all existing structures; existing storage, treatment and disposal areas; and sites of future storage, treatment or disposal areas *(see instructions for more detail)*.

VII. FACILITY GEOGRAPHIC LOCATION

LATITUDE *(degrees, minutes, & seconds)*	LONGITUDE *(degrees, minutes, & seconds)*
35 08 39"	106 37' 43"

VIII. FACILITY OWNER

☐ A. If the facility owner is also the facility operator as listed in Section VIII on Form 1, "General Information", place an "X" in the box to the left and skip to Section IX below.

☑ B. If the facility owner is not the facility operator as listed in Section VIII on Form 1, complete the following items:

1. NAME OF FACILITY'S LEGAL OWNER	2. PHONE NO. *(area code & no.)*
R.C.I. Services Company	505-345-3655

3. STREET OR P.O. BOX	4. CITY OR TOWN	5. ST.	6. ZIP CODE
6133 Edith Boulevard NE	Albuquerque	NM	87107

IX. OWNER CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. NAME *(print or type)*	B. SIGNATURE	C. DATE SIGNED
William Moore	William Moore	August 5, 1986

X. OPERATOR CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. NAME *(print or type)*	B. SIGNATURE	C. DATE SIGNED
William Moore, President	[illegible]	August 5, 1986

CONTINUE ON PAGE 5

ATTACHMENT J

FEDERAL TO STATE REGULATIONS CROSS REFERENCE

Portions of the permit use material extracted from the permit application and plans prepared for the Permittee. These documents cite federal regulations, Title 40 (40CFR) in lieu of the New Mexico Hazardous Waste Management Regulations (HWMR-4). The following cross reference incorporates HWMR-4 as the corresponding cite whenever 40CFR is cited. Any reference to the EPA Regional Administrator shall be construed to mean the Director, New Mexico Environmental Improvement Division.

TITLE 40, CODE OF FEDERAL REGULATIONS		HWMR-4 CITE
WASTE ANALYSIS PLAN		
264.13(b)		206.B.3.b.
264.13		206.B.3.
264.13 (b)(5)		206.B.3.b.(5)
264.13 (b)(4)		206.B.3.b.(4)
264.13 (b)(1)		206.B.3.b.(1)
263.14(b)(3)	(Actually 264.13 (b)(3))	206.B.3.b.(3)
264.13 (b)(6)		206.B.3.b.(6)
264.17 (c)		206.B.7.c.
264.13 (c)		206.B.3.c.
261.22		206.B.3.
SECURITY PLAN		
264.14 (b)(4)	(Actually 270.14(b)(4))	302.A.4.b.(1)(d)
264.14 (a)		206.B.4.a.
270.14 (b)(4)		302.A.4.b.(1)(d)
264.14 (b)		206.B.4.b.
264.14 (c)		206.B.4.c.
INSPECTION PLAN		
270.14(b)(5)		302.A.4.b.(1)(e)
264.15 (b)(1)		206.B.5.b.
264.15 (b)(3)		206.B.5.b.(2)
264.15 (b)(4)		206.B.5.c.
264.15 (b)(1)		206.B.5.b.
264.15 (b)(2)		206.B.5.b.(1)
264.15 (d)		206.B.5.e.
264.15 (c)		206.B.5.d.
264.174		206.D.4.e.

TITLE 40, CODE OF FEDERAL REGULATIONS	HWMR-4 CITE
TRAINING PLAN	
270.14(b)(12)	302.A.4.b.(1)(l)
264.16	206.B.6.a.
CLOSURE PLAN	
270.14(b)(13)	302.A.4.b.(1)
264.112	206.D.2.c.
264.113	206.D.2.d.
264.114	206.D.2.e.
264.115	206.D.2.f.
264.116	206.D.2.i.
264.117	206.D.2.g.
264.118	206.D.2.h.
270.15(b)(15)	302.A.4.b.(1)(o)
264.142	206.D.3.c.
264.143	206.D.3.d.
264.146	206.D.3.g.
264.151(a)	206.D.3.j.(1)
264.101	Not Applicable

NEW MEXICO
HAZARDOUS WASTE
MANAGEMENT REGULATIONS

ENVIRONMENTAL IMPROVEMENT BOARD
P.O. Box 968
Santa Fe, NM 87504-0968

EIB/HWMR - 4

HAZARDOUS WASTE MANAGEMENT REGULATIONS
(Supersedes HWMR-3, filed July 23, 1986)

HAZARDOUS WASTE MANAGEMENT REGULATIONS

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PART I GENERAL PROVISIONS

101 Title.

The following regulations of the New Mexico Environmental Improvement Board, promulgated pursuant to the provisions of the New Mexico Hazardous Waste Act, N.M. Stat. Ann §§ 74-4-1 to 74-4-12 (1978) as amended, Laws 1983, Chapter 302, shall be known as the New Mexico Hazardous Waste Management Regulations.

102. Definitions.

A. As Used In These Regulations:

1. "Act" means the New Mexico Hazardous Waste Act, § 74-4-1 et. seq. NMSA 1978, as amended Laws 1983, Chapter 302;

2. ."Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Director receives certification of final closure.

3. "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after November 19, 1980 and which is not a closed portion. (See also "closed portion" and "inactive portion".);[2]

4. "Administrator" means the Administrator of the Environmental Protection Agency, or his designee;[2]

5. "Application" means the Division forms for applying for a permit, including any additions, revisions, or modifications to the forms, and any other information required by the Director pursuant to these regulations;

6. "Appropriate Act and Regulations" means the New Mexico Hazardous Waste Act and the New Mexico Hazardous Waste Management Regulations;

7. "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs;[2]

8. "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility;[2]

9. "Board" means the Environmental Improvement Board;

10. "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

a. (1) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(2) The unit's combustion chamber and primary energy recovery sections(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts of connection carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such a economizers or air preheaters need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(3) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(4) The unit must export and utilize at least 75 percent of the recovered energy calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

b. The unit is one which the Director has determined, on a case-by-case basis to be a boiler, after considering the standards in 40 CFR §260.32.[2]

11. "CFR" means Code of Federal Regulations;

12. "Certification" means a statement of professional opinion based upon knowledge and belief;[3]

13. "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion");[2]

14. "Closure" means the act of securing a "Hazardous Waste Management facility" pursuant to the requirement of these regulations;[3]

15. "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water;[2]

16. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled;[2]

17. "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment;[2]

18. "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has received an EPA permit (or a facility with interim status) in accordance with the requirements of 40 CFR Parts 270 and 124, or that is regulated under 201.A.6.c.(2) or 206.E.3.a. and that has been designated on the manifest by the generator pursuant to 203 A.1 of these regulations;[2]

19. "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials;[2]

20. "Director" means the Director of the Environmental Improvement Division or his designee;[1]

21. "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water;[2]

22. "Disposal" means to abandon, deposit, inter, or otherwise discard material as a final action after its use has been achieved or a use is no longer intended so that such material may enter the environment;[1]

23. "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure;[2]

24. "Division" means the Environmental Improvement Division of the Health and Environment Department;[1]

25. "Draft permit" means a document prepared and indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit". A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of "draft permits". A denial of a request for modification, revocation and reissuance, or termination, are not a "draft permit". A "proposed permit" is not a "draft permit";[3]

26. "Elementary neutralization unit" means a device which:

a. Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in 201.B.3. or are listed in 201.C. of these regulations only for this reason; and

b. Meets the definition of tank, container, or transport vehicle in 102 of these regulations;[2]

27. "EPA" means the United States Environmental Protection Agency;

28. "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in 201.C. and to each characteristic identified in 201.B. of these regulations;[2]

29. "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility;[2]

30. "Equivalent method" means any testing or analytical method approved by the Administrator;[2]

31. "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

a. The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either

b. (1) A continuous on-site, physical construction program has begun; or

(2) The owner or operator has entered into contractural obligations--which cannot be cancelled or modified without substantial loss--for physical--construction of the facility to be completed within a reasonable time;[2]

32. "Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to issuance of a permit;[5]

33. "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office;[2]

34. "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under Parts 206.C. and 206.D. are no longer conducted at the facility unless subject to the provisions in §204.B.

35. "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances;[2]

36. "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans;[2]

37. "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein;[2]

38. "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure;[2]

39. "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Part II 201, or whose act first causes a hazardous waste to become subject to regulation;[2]

40. "Ground water" means water below the land surface in a zone of saturation;[2]

41. "Hazardous agricultural waste" means hazardous waste generated as part of his licensed activity by any person licensed under the Pesticide Control Act, N.M. Stat. Ann. §§ 76-4-1 to 76-4-39 (1978), or any hazardous waste designated as hazardous agricultural waste by the board, but does not include animal excrement in connection with farm, ranch or feedlot operations;[1]

42. "Hazardous substance incident" means any emergency incident involving a chemical or chemicals, including but not limited to transportation wrecks, accidential spills or leaks, fires or explosions which incident creates the reasonable probability of injury to human health or property;[1]

43. "Hazardous waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility or other discarded material, including solid, liquid, semisolid or containing gaseous material resulting from industrial, commercial, mining or agricultural operations or from community activities which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The term hazardous waste does not include those materials identified in 201.A.3.a., b.,c., and d. for the purpose of these regulations;

44. "Hazardous waste constituent" means a constituent which caused the hazardous waste to be listed in 201.C. of these regulations, or a constituent listed in Table 1 of 201.B.5. of these regulations;[5]

45. "Hazardous waste management facility (HWM facility)" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of "hazardous waste." A facility may consist of several "treatment", "storage", or "disposal" operational units [e.g., one or more landfills, surface impoundments, or combinations of them];[3]

46. "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

47. "Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion");[2]

48. "Incinerator" means any enclosed device using controlled flame combustion, that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.[2]

49. "Incompatible waste" means a hazardous waste which is unsuitable for:

a. Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

b. Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases. (See 206.C., Appendix IV of these regulations for examples.)[2];

50. "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous;[2]

51. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

a. Cement kilns

b. Lime kilns

c. Aggregate kilns

d. Phosphate kilns

e. Coke ovens

f. Blast furnaces

g. Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces)

h. Titanium dioxide chloride process oxidation reactors

i. Methane reforming furnaces

j. Pulping liquor recovery furnaces

k. Combustion devices used in the recovery of sulfur values from spent sulfuric acid

l. Such other devices as the administrator may, after notice and comment, add to this list on the basis of one or more of the following factors:

(1) The design and use of the device primarily to accomplish recovery of the material products;

(2) The use of the device to burn or reduce raw materials to make a material product;

(3) The use of the device to burn or reduce secondary materials as effective substitutes of raw materials in processes using raw materials as principal feedstocks;

(4) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(5) The use of the device in common industrial practice to produce a material product; and

(6) Other factors, as appropriate.[2]

52. "In operation" refers to a facility which is treating, storing or disposing of hazardous waste;[2]

53. "Injection well" means a well into which fluids are injected (see also "underground injection");[2]

54. "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste;[2]

55. "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States;[2]

56. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well;[2]

57. "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits;[2]

58. "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure;[2]

59. "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste;[2]

60. "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate;[2]

61. "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste;[2]

62. "Manifest" means the shipping document EPA form 8700-22 and, if necessary, EPA form 8700-22A, originated and signed by the generator in accordance with the instructions included in the Appendix to 40 CFR Part 262.[6]

63. "Manifest document number" means the U.S. EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the Manifest by the generator for recording and reporting purposes;[6]

64. "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine;[2]

65. "Movement" means the transportation of hazardous waste to a facility in an individual vehicle;[2]

66. "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility".);[2]

67. "Off-site" means any site which is not "on-site";[3]

68. "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property;[2]

69. "Open burning" means the combustion of any material without the following characteristics:

a. Control of combustion air to maintain adequate temperature for efficient combustion,

b. Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

c. Control of emission of the gaseous combustion products. (See also "incinerator" and "thermal treatment".);[2]

70. "Operator" means the person responsible for the overall operation of a facility;[2]

71. "Owner" means the person who owns a facility or part of a facility;[2]

72. "Partial closure" means the closure of a discrete part of a facility in accordance with the applicable closure requirements of 206.C. and 206.D. of these regulations. For example, partial closure may include the closure of a tank (including its asociated piping and underlying containment systems), a unit operation, a landfill cell, or a pit, while other parts of the same facility continue in operation or will be placed in operation in the future;[2]

73. "Permit" means a written permit issued by the Division authorizing the establishment, construction and/or operation of a hazardous waste treatment, storage or disposal facility;

74. "Permit by rule" means a provision of these regulations stating that a "HWM facility" is deemed to have a "permit" if it meets the requirements of the provision;[3]

75. "Person" means any individual, partnership, firm, public or private corporation, association, trust, estate, the state or any political subdivision or agency of the state, or any other entity, its legal representatives, agent or assignees;[1]

76. "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of 206 of these regulations;[2]

77. "Physical construction" means excavation, movement of earth, erection of forms or structures, or similar activity to prepare a "HWM facility" to accept "hazardous waste";[3]

78. "Pile" means any non-containerized accumulation of solid, nonflowing hazardous waste set aside for treatment or storage;[2]

79. "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture;[2]

80. "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality" (as defined by Section 502(4) of the CWA). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment;[2]

81. "Regional Administrator" mean the Regional Administrator for the EPA Region in which the facility is located, or his designee;[2]

82. "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole;[2]

83. "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility;[2]

84. "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility;[2]

85. "Sanitary landfill" means a solid waste disposal site registered by the Division which meets the requirements for a sanitary landfill set out in the New Mexico Solid Waste Management Regulations;

86. "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water;[2]

87. "Schedule of compliance" means a schedule of remedial measures included in a "permit", including a sequence of interim requirements (e.g., actions, operations, or milestone events) enforceable by the Director, leading to compliance with the "appropriate Act and regulations";[3]

88. "Site" means the land or water area where any "HWM facility" is physically located, including adjacent land used in connection with the facility;[3]

89. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant;[2]

90. "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;[2]

91. "Storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste;[1]

92. "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well Examples of surface impoundments are aeration pits, ponds, and lagoons;[2]

93. "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support;[2]

94. "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning".);[2]

95. "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment An example is a pipe in which waste acid is neutralized;[2]

96. "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation;[2]

97. "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo- carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle;[2]

98. "Transportation" means the movement of hazardous waste by air, rail, or highway;[2]

99. "Transporter" means a person engaged in the movement, not including movement at the site of generation, disposal, treatment or storage, of hazardous waste;[1]

100. "Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous;[1]

101. "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized;[5]

102. "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of

the dug well is greater than the largest surface dimension. (See also "injection well");[2]

103. "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;[2]

104. "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table;[2]

105. "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's boundary;[5]

106. "Wastewater treatment unit" means a device which:

a. Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

b. Receives and treats or stores an influent wastewater which is a hazardous waste as characterized in 201 of these regulations, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as characterized in 201 of these regulations, or treats or stores a wastewater treatment sludge which is a hazardous waste as characterized in 201 of these regulations; and

c. Meets the definition of tank in 102 of these regulations;[2]

107. "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in;[2] and

108. "Well injection" (See "underground injection").[2]

B. Unless manifestly inconsistent herewith, other words and phrases in these regulations shall have the same meaning as used in 40 CFR Part 260 (1982), and as published at 47 Fed. Reg. 32348 (1982) (to be codified at 40 C.F.R. § 260.10) and 48 Fed. Reg. 14230 (1983) (to be codified at 40 C.F.R. § 270.2).

103. Availability of Records.

Any records, reports or information obtained by the Division under Parts I through V of these regulations shall be available to the public, except that upon a showing satisfactory to the Division, that records, reports or information, or a particular part thereof, to which the Director or his authorized representatives have access under this section, if made public, would divulge information entitled to protection under Section 1904 of Title 18 of the United States Code, such information or particular portions thereof shall be considered confidential, except that such record, report, document or information may be disclosed to officers, employees or authorized representatives of the United States concerned with carrying out the Resource Conservation and Recovery Act, or when relevant in any proceedings under the New Mexico Hazardous Waste Act. This section is not intended to negate or otherwise eliminate the applicability of statutory privileges or privileges under the New Mexico or Federal Rules of Evidence to such records, reports or information obtained by the Division under Part I through V of these Regulations.

104 References.[4]

A. When used in Parts I, II, and III of these regulations, the following publications are incorporated by reference:

B. "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103;

C. "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80. D-93-80 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103;

D. "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210; and

E. "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", EPA publication number SW-846. Second Edition 1982, as amended by Update I (April, 1984) and Update II (April, 1985). The second edition of SW-846 updates I and II are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20401, (202) 738-3228, on a subscription basis.

105. Endnotes - Part I

Portions of Part I, as noted in the text, have been taken from 40 CFR (1982) as amended, with certain editorial, stylistic or other non-substantive changes and from the New Mexico Hazardous Waste Act, N.M. Stat. Ann. §§ 74-4-1 to 74-4-12 (1978) as amended Laws, 1983, Chapter 302, as indicated below:

[1]New Mexico Hazardous Waste Act.

[2]40 CFR § 260.10 (1982) 50 Fed. Reg. 661(1985) (to be codified at 40 CFR § 260.10).

[3]48 Fed. Reg. 14230 (1983) (to be codified at 40 CFR Part 270.2).

[4]40 CFR § 260.11 (1982).

[5]47Fed. Reg. 32,349 (1982) (to be codified at 40 CFR § 260.10).

[6]49 Fed.Reg. 10500(1984) (to be codified at 40 CFR §260.10).

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PART II. STANDARDS FOR HAZARDOUS WASTE MANAGEMENT

201. Identification And Listing of Hazardous Waste.

A. General.

1. Purpose and scope.

a. This section identifies those solid wastes which are subject to regulation as hazardous wastes under Sections 202 through 206 of this part and Part III. in this section:

(1) 201.A. defines the terms "solid waste" and "hazardous waste", identifies those wastes which are excluded from regulation under Sections 202 through 206 and Part III, and establishes special management requirements for hazardous waste produced by small quantity generators and hazardous waste which is used, re-used, recycled or reclaimed;

(2) 201.B. identifies characteristics of hazardous waste; and

(3) 201.C. lists particular hazardous wastes.

b. (1) The definition of solid waste contained in this part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles, or rubber) that are not otherwise hazardous wastes and that are recycled.

(2) This part identifies only some of the materials which are solid wastes and hazardous wastes under Sections 3007, 3013, and 7003 of RCRA. A material which is not defined as a solid waste in this part, or is not a hazardous waste identified or listed in this part, is still a solid waste and a hazardous waste for purposes of these sections if:

(a) In the case of Sections 3007 and 3013, EPA has reason to believe that the material may be a solid waste within the meaning of Section 1004(27) of RCRA and a hazardous waste within the meaning of Section 1004(5) of RCRA; or

(b) In the case of Section 7003, the statutory elements are established.

c. For the purposes of 201.A.2. and 201.A.6.:

(1) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing;

(2) "Sludge" has the same meaning used in Section 102;

(3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process;

(4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents;

(5) A material is "used or reused" if it is either:

(a) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

(b) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment);

(6) "Scrap metal" is bits and pieces of metal parts (e.g. bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g. radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled;

(7) A material is "recycled" if it is used, reused, or reclaimed; and

(8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that - during the calendar year (commencing January 1) - the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g. slags from a single smelting process) that is recycled in the same way (i.e. from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under 201.A.4.c. are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

2. Definition of solid waste.

a. (1) A solid waste is any discarded material that is not excluded by 201.A.4.a. or that is not excluded by variance granted under 40 CFR §§260.30 and 260.31.

(2) A discarded material is any material which is:

(a) Abandoned, as explained in 201.A.2.b; or

(b) Recycled, as explained in 201.A.2.c. of this section; or

(c) Considered inherently waste-like as explained in 201.A.2.d.

b. Materials are solid waste if they are abandoned by being:

(1) Disposed of; or

(2) Burned or incinerated; or

(3) Accumulated, stored or treated but not recycled before or in lieu of being abandoned by being disposed of, burned, or incinerated.

c. Materials are solid wastes if they are recycled -- or accumulated, stored, or treated before recycling -- as specified in 201.A.2.c.(1),(2),(3) and (4):

(1) Used in a manner constituting disposal.

(a) Materials noted with a "*" in column 1 of Table I are solid wastes when they are:

(i) Applied to or placed on the land in a manner that constitutes disposal; or

(ii) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which case the product itself remains a solid waste).

(b) However, commercial chemical products listed in 201.C.4. are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(2) Burning for energy recovery.

(a) Materials noted with a "*" in column 2 of Table I are solid wastes when they are:

(i) Burned to recover energy;

(ii) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste);

(b) However, commercial chemical products listed in 201.C.4. are not solid wastes if they are themselves fuels.

(3) Reclaimed. Materials noted with a "*" in column 3 of Table I are solid wastes when reclaimed.

(4) Accumulated speculatively. Materials noted with a "*" in column 4 of Table I are solid wastes when accumulated speculatively.

d. Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(1) Hazardous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026 and F028;

(2) The Administrator will use the following criteria to add wastes to that list:

(a) (i) The materials are ordinarily disposed of, burned, or incinerated; or

(ii) The materials contain toxic constituents listed in Appendix III of 201, and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

(b) The material may pose a substantial hazard to human health and the environment when recycled.

e. Materials that are not solid wastes when recycled;

(1) Materials are not solid wastes when they can be shown to be recycled by being:

(a) Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

(b) Used or reused as effective substitutes for commercial products; or

(c) Returned to the original process from which they are generated, without first being reclaimed. The material must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

(2) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (described in 201.A.2.e.(1)(a), (b) and (c).

(a) Materials used in a manner constituting disposal or used to produce products that are applied to the land; or

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(c) Materials accumulated speculatively; or

(d) Materials listed in 201.A.2.d.(1).

f. Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing Part II who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

SEE TABLE I, NEXT PAGE

TABLE I.

	Column 1 Use Constituting Disposal 201.A.2. c.(1)(a)	Column 2 Energy Recovery Fuel 201.A.2. c.(2)	Column 3 Reclamation 201.A.2. c.(3)	Column 4 Speculative Accumulation 201.A.2. c.(4)
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in 201.C.2. or C.3.)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	.....	(*)
By-products (listed in 201.C.2. or C.3.)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	.....	(*)
Commercial chemical products listed in 201.C.4.	(*)	(*)	.....	.....
Scrap Metal	(*)	(*)	(*)	(*)

NOTE: the terms "spent materials", "sludges", "by-products", and "scrap metal" are defined in 201.A.1.

3. Definition of hazardous waste.

a. A solid waste is a hazardous waste if:

(1) It is not excluded from regulation as a hazardous waste under 201.A.4.b. and

(2) It meets any of the following criteria:

(a) It exhibits any of the characteristics of hazardous waste identified in 201.B.;

(b) It is listed in 201.C.;

(c) It is a mixture of a solid waste and a hazardous waste that is listed in 201.C., solely because it exhibits one or more of the characteristics of hazardous waste identified in 201.B., unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in 201.B.;

(d) It is a mixture of solid waste and one or more hazardous wastes listed in 201.C.; however, the following mixtures of solid wastes and hazardous wastes listed in 201.C. are not hazardous wastes (except by application of 201.A.3.a.(2)(a) and (b)) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq.), (including wastewater at facilities which have eliminated the discharge of wastewater); and:

(i) One or more of the following spent solvents listed in 201.C.2.--carbon tetrachloride, tetrachloroethylene, trichloroethylene--provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 1 part per million; or

(ii) One or more of the following spent solvents listed in 201.C.2.--methylene chloride, 1,1,1- trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents--provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed 25 parts per million; or

(iii) One of the following wastes listed in 201.C.3.--heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

(iv) A discarded commercial chemical product, or chemical intermediate listed in 201.C.4., arising from "de minimis" losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of these regulations, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

(v) Wastewater resulting from laboratory operations containing toxic (T) wastes listed in 201.C., provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

b. A solid waste which is not excluded from regulation under 201.A.3.a.(1) becomes a hazardous waste when any of the following events occur:

(1) In the case of a waste listed in 201.C., when the waste first meets the listing description set forth in 201.C.;

(2) In the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in 201.C., is first added to the solid waste;

(3) In the case of other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in 201.B.

c. Unless and until it meets the criteria of 201.A.3.d.:

(1) A hazardous waste will remain a hazardous waste; and

(2) Except as otherwise provided in 201.A.3.c.(3) any solid waste generated from the treatment, storage or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate (but not including precipitation run-off), is a hazardous waste. (However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

(3) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste: (A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332).

d. Any solid waste described in 201.A.3.c. is not a hazardous waste if it meets the following criteria:

(1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in 201.B.;

(2) In the case of a waste which is a listed waste under 201.C., contains a waste listed under 201.C., or is derived from a waste listed in 201.C., it also has been excluded from 201.A.3.c. for a particular facility under the provisions of 40 C.F.R. § 260.20 and § 260.22.

4. Exclusions.

a. The following materials are not solid wastes for the purpose of these regulations:

(1) Domestic sewage and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(3) Irrigation return flows.

(4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 20011 et seq.

(5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(6) Pulping liquors (i.e. black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the paper process, unless it is accumulated speculatively as defined in 201.A.1.b.(8).

(7) Spent sulfuric acid used to produce virgin sulfuric acid unless it is accumulated speculatively as defined in 201.A.1.b.(8).

b. The following solid wastes are not hazardous wastes:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger

stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas).

(2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:

(a) The growing and harvesting of agricultural crops.

(b) The raising of animals, including animal manures.

(3) Mining overburden returned to the mine site.

(4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(6) Wastes which fail the test for the characteristic of EP toxicity because chromium is present or are listed in 201.C., due to the presence of chromium, which do not fail the test for the characteristic of EP toxicity for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(a) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(b) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(c) The waste is typically and frequently managed in non-oxidizing environments.

(7) Specific wastes which meet the standards in 201.A.4.b.(6)(a), (b) and (c) (so long as they do not fail the test for the characteristic of EP toxicity, and do not fail the test for any other characteristic) are:

(a) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(b) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(c) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/ wet finish; hair save/ chrome tan/retan/wet finish; retan/ wet finish; no beamhouse; through-the-blue.

(d) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(e) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/ wet finish; hair save/chrome tan/retan/wet finish; retan/ wet finish; no beamhouse; through-the-blue; and shearling.

(f) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(g) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(h) Wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process.

(8) Solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(9) Cement kiln dust waste.

(10) Solid waste which consists of discarded wood or wood products which fails the test for the characteristic of EP toxicity and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

c. Hazardous wastes which are exempted from certain regulations.

A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline; or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under Parts II and III until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

d. Samples.

(1) Except as provided in 201.A.4 d.(2), a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of Part II and III when:

(a) The sample is being transported to a laboratory for the purpose of testing; or

(b) The sample is being transported back to the sample collector after testing; or

(c) The sample is being stored by the sample collector before transport to a laboratory for testing; or

(d) The sample is being stored in a laboratory before testing; or

(e) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(f) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

(2) In order to qualify for the exemption in 201.A.4 d.(1)(a) and (b), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(a) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(b) Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

(i) Assure that the following information accompanies the sample:

A. The sample collector's name, mailing address, and telephone number;

B. The laboratory's name, mailing address, and telephone number;

C. The quantity of the sample;

D. The date of shipment; and

E. A description of the sample.

(ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in 201.A.4.d.(1).

5. Special requirements for hazardous waste generated by small quantity generators.

a. A generator is a small quantity generator in a calendar month if he generates less than 1000 kilograms of hazardous waste in that month.

b. Except for those wastes identified in 201.A.5.e. and f., a small quantity generator's hazardous wastes are not subject to regulation under Parts II and III, provided the generator complies with the requirements of 201.A.5.g.

c. Hazardous waste that is recycled and that is excluded from regulation under 201.A.6.a.(2)(c) and (e) and 201.A.6.a.(3) or 206.E.2.e. is not included in the quantity determinations of this section and is not subject to any requirement of this section. Hazardous waste that is subject to the requirements of 201.A.6.b. and c. and 206.E.1., 2. and 3. is included in the quantity determination of this section and is subject to the requirements of this section.

d. In determining the quantity of hazardous waste he generates, a generator need not include:

(1) His hazardous waste when it is removed from on-site storage; or

(2) Hazardous waste produced by on-site treatment of his hazardous waste.

e. If a small quantity generator generates acutely hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acutely hazardous waste are subject to regulation under Parts II and III of these regulations:

(1) A total of one kilogram of acute hazardous wastes listed in 201.C.2., 201.C.3., or 201.C.4.e.

(2) A total of 100 kilograms of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in 201.C.2., 201.C.3., or 201.C.4.e.

f. A small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous waste, or his acutely hazardous wastes in quantities greater than set forth in 201.A.5.e.(1) or (2), all of those accumulated wastes for which the accumulation limit was exceeded are subject to regulation under Parts II and III of these regulations. The time period of 204.B. for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed the applicable exclusion level.

g. In order for hazardous waste generated by a small quantity generator to be excluded from full regulation under 201.A.5., the generator must:

(1) Comply with 204.A.3. of these regulations;

(2) If he stores his hazardous waste on-site, store it in compliance with the requirements of 201.A.5.f.; and

(3) Either treat or dispose of his hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment or disposal facility, either of which is:

(a) Permitted under Part III of these regulations;

(b) In interim status under Parts II and III of these regulations;

(c) A sanitary landfill registered by the Division and approved for the disposal of the quantity and types of hazardous waste as set out in 201.A.5.; or

(d) A facility which:

(i) Beneficially uses or re-uses, or legitimately recycles or reclaims his waste; or

(ii) Treats his waste prior to beneficial use or re-use, or legitimate recycling or reclamation.

h. Hazardous waste subject to the reduced requirements of 201.A.5. may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in 201.A.5., unless the mixture meets any of the characteristics of hazardous wastes identified in 201.B.

i. If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of 201.A.5., the mixture is subject to full regulation.

6. Requirements for recyclable material.

a.(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of 201.A.6.b. and c. except for materials listed in 201.A.6.a.(1) and (2). Hazardous wastes that are recycled will be known as "recyclable materials."

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under 206.E.1., 2., 3. and 4. and all applicable provisions in 301 and 302 and 40 CFR Part 124.

(a) Recyclable materials used in a manner constituting disposal (206.E.1.);

(b) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under 206.C.10. or 206.D.8. (206.E.2.);

(c) (Reserved for used oil);

(d) Recyclable materials from which precious metals are reclaimed (206.E.3.);

(e) Spent lead-acid batteries that are being reclaimed (206.E.5.);

(3) The following recyclable materials are not subject to regulation under 202, 203, 204, 205 or 206 or 301 and 302 or 40 CFR Part 124:

(a) Industrial ethyl alcohol that is reclaimed;

(b) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;

(c) Used oil that exhibits one or more of the characteristics of hazardous waste; or

(d) Scrap metal.

(e) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;

(f) Oil reclaimed from hazardous waste resulting from normal petroleum refining, production, and transportation practices which oil is to be refined along with normal process streams at a petroleum refining facility; or

(g) Coke from the iron and steel industry that contains hazardous waste from the iron and steel production process.

b. Generators and transporters of recyclable materials are subject to the notification requirements of 202 and the applicable requirements of 204 and 205 except as provided in 201.A.6.a.

c.(1) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of 206.A., B., C., D., E., F., G., H., I., J., K. and L., 301 and 302 and the notification requirements of 202 except as provided in 201.A.6.a. (The recycling process itself is exempt from regulation.)

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to 203.C.1.c. and d. and the notification requirements of 202.

7. Residues of hazardous waste in empty containers

a Any hazardous waste remaining in an empty container or any inner liner removed from an empty container, as defined in 201.A.8., is not subject to regulation under Parts II and III of these regulations.

b Any hazardous waste in a container that is not empty or any inner liner removed from a container that is not empty, as defined in 201.A.8., is subject to regulation under Parts II and III of these regulations.

8 Definition of empty container

a A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in 201.C.2., 201.C.3., or 201.C.4.e. is empty if:

(1) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and

(2) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner; or

(3) Either:

(a) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

(b) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

b A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

c. A container or an inner liner removed from a container that has held an acute hazardous waste listed in 201.C.2., 201.C.3., or 201.C.4.e. is empty if:

(1) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(2) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(3) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

B. Characteristics of Hazardous Waste.[2]

1. General.

a. A solid waste which is not excluded from regulation as a hazardous waste under 201.A.4.b. is a hazardous waste if it exhibits any of the characteristics identified below.

b. A hazardous waste which is identified by a characteristic, but is not listed as a hazardous waste in 201.C., is assigned the EPA Hazardous Waste Number set forth in the respective characteristic. This number must be used in complying with the notification requirements and applicable recordkeeping and reporting requirements under Parts II and III of these regulations.

2. Characteristic of Ignitability.

a. A solid waste exhibits the characteristic of ignitability if a representative sample (see 201.-Appendix I) of the waste has any of the following properties:

(1) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume and has a flash point less than 60°C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80 [incorporated by reference, see 104.C.], or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78 [incorporated by reference, see 104.B.], or as determined by an equivalent test method approved by the Administrator.

(2) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.

(3) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation or equivalent test methods approved by the Administrator.

(4) It is an oxidizer as defined in 49 CFR 173.151.

b. A solid waste that exhibits the characteristic of ignitability, but is not listed as a hazardous waste in 201.C., has the EPA Hazardous Waste Number of D001.

3. Characteristic of Corrosivity.

a. A solid waste exhibits the characteristic of corrosivity if a representative sample (see 201.-Appendix I) of the waste has either of the following properities:

(1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using either an EPA test method or an equivalent test method approved by the Administrator. The EPA test method for pH is specified as Method 5.2 in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" [incorporated by reference, see 104.E.].

(2) It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm(0.250 inch) per year at a test temperature of 55°C (130°F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" [incorporated by reference, see 104.E.] or an equivalent test method approved by the Administrator.

b. A solid waste that exhibits the characteristic of corrosivity, but is not listed as a hazardous waste in 201.C. has the EPA Hazardous Waste Number of D002.

4. Characteristic of Reactivity.

a. A solid waste exhibits the characteristic of reactivity if a representative sample (see 201.-Appendix I) of the waste has any of the following properties:

(1) It is normally unstable and readily undergoes violent change without detonating.

(2) It reacts violently with water

(3) It forms potentially explosive mixtures with water.

(4) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(5) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(6) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement.

(7) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

(8) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88.

b. A solid waste that exhibits the characteristic of reactivity, but is not listed as a hazardous waste in 201 C. has the EPA Hazardous Waste Number of D003.

5. Characteristic of EP Toxicity.

a. A solid waste exhibits the characteristic of EP toxicity if, using the test methods described in 201-Appendix II or equivalent methods approved by the Administrator, the extract from a representative sample (see 201-Appendix I) of the waste contains any of the contaminants listed in Table I at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering, is considered to be the extract for the purposes of these regulations.

b. A solid waste that exhibits the characteristic of EP toxicity, but is not listed as a hazardous waste in 201 C. has the EPA Hazardous Waste Number specified in Table I (following) which corresponds to the toxic contaminant causing it to be hazardous.

Table I. -- MAXIMUM CONCENTRATION OF CONTAMINANTS FOR CHARACTERISTIC OF EP TOXICITY

EPA Hazardous Waste Number	Contaminant	Maximum Concentration (milligrams per liter)
D004	Arsenic	5.0
D005	Barium	100.0
D006	Cadmium	1.0
D007	Chromium	5.0
D008	Lead	5.0
D009	Mercury	0.2
D010	Selenium	1.0
D011	Silver	5.0
D012	Endrin (1, 2, 3, 4, 10, 10-hexachloro-1, 7-epoxy-1, 4, 4a, 5, 6, 7, 8, 8a-octahydro-1, 4-endo, endo-5, 8-dimethano naphthalene).	0.02
D013	Lindane (1, 2, 3, 4, 5, 6-hexachlorocyclohexane, gamma isomer).	0.4
D014	Methoxychlor (1, 1, 1-Trichloro-2, 2-bis [p-methoxyphenyl] ethane).	10.0
D015	Toxaphene ($C_{10}H_{10}Cl_8$ Technical chlorinated camphene, 67-69 percent chlorine).	0.5
D016	2, 4-D, (2, 4-Dichlorophenoxyacetic acid).	10.0
D017	2, 4, 5-TP Silvex (2, 4, 5-Trichlorophenoxypropionic acid)	1.0

C. Lists of Hazardous Waste.[3]

1. General.

a. A solid waste is a hazardous waste if it is listed in 201.C.2. through 201.C.4.

b. Each class or type of waste listed in 201.C.2. through 201.C.4. has been listed based on one or more of the following Hazard Codes:

Ignitable Waste	(I)
Corrosive Waste	(C)
Reactive Waste	(R)
EP Toxic Waste	(E)
Acute Hazardous Waste	(H)
Toxic Waste	(T)

Appendix IV identifies the constituent which caused the waste to be listed as an EP Toxic Waste (E) or Toxic Waste in 201.C.2. and 201.C.3.

c. Each hazardous waste listed in 201.C.2. through 201.C.4., is assigned an EPA Hazardous Waste Number which precedes the name of the waste. This number must be used in complying with the notification requirements and certain recordkeeping and reporting requirements under Parts II and III of these regulations.

d. The following hazardous wastes listed in 201.C.2. or 201.C.3. are subject to the exclusion limits for acutely hazardous wastes established in 201.A.5.: EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027.

2. Hazardous Waste From Non-Specific Sources.

The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under 40 CFR Sections 260.20 and 260.22 and listed in 40 CFR Part 261 - Appendix IX.

EPA Hazardous Waste No	Hazardous Waste	Hazard Code

Generic:

F001 ..... The following spent halogenated solvents used in degreasing:
tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations. (T)

F002 .... The following spent halogenated solvents:
tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, o-dichlorobenzene, trichlorofluoromethane; and the still bottoms from the recovery of these solvents..... (T)

F003 ..... The following spent non-halogenated solvents:
xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, n-butyl alcohol, cyclohexanone, methyl isobutyl ketone, methanol; and the still bottoms from the recovery of these solvents ..... (I)

F004 .... The following spent non-halogenated solvents:
cresols and cresylic acid and nitrobenzene; and the still bottoms from the recovery of these solvents ..... (T)

F005 ..... The following spent non-halogenated solvents:
toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; and the still bottoms from the recovery of these solvents ..... (I, T)

F006 ..... Wastewater treatment sludges from electroplating operations except from the following processes: (1)sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum ..... (T)

F007 ..... Spent cyanide plating bath solutions from electroplating operations. ..... (R, T)

F008 . . . Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process. . . . . (R, T)

F009 . . . Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process. . . . . (R, T)

F010 . . . . Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process. . . . . (R, T)

F011 . . . . Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations. . . . . (R, T)

F012 . . . Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process. . . . . (T)

F019 . . . Wastewater treatment sludges from the chemical conversion coating of aluminum. . . . . (T)

F020. . . . Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5 trichloro-phenol.). . . . . (H)

F021. . . . . Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of inter-mediates used to produce its derivatives. . . . . (H)

F022 . . . . . Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachloro-benzenes under alkaline conditions. . . . . (H)

F023 . . . . . Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.). . . . . (H)

F024 . . . Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges spent catalysts, and wastes listed in 201 C.3.). . . . . (T)

F026 . . . . Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. . . . . (H)

F027 . . . . . Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component. . . . . (H)

F028 . . . . Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027. . . . . (T)

3. Hazardous Waste from Specific Sources.

The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under 40 CFR Sections 260.20 and 260.22 and listed in 40 CFR Part 261 - Appendix IX.

EPA Hazardous Waste No.	Hazardous Waste	Hazard Code

Wood Preservation:

K001 . . . Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. . . . . (T)

Inorganic Pigments:

K002 . . . . . Wastewater treatment sludge from the production of chrome yellow and orange pigments. (T)

K003 . . . . . Wastewater treatment sludge from the production of molybdate orange pigments. . . . . (T)

K004 . . . . . Wastewater treatment sludge from the production of zinc yellow pigments . . . . . (T)

K005 . . . . . Wastewater treatment sludge from the production of chrome green pigments. . . . . (T)

K006 . . . . . Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated) . . . . . (T)

K007 . . . . Wastewater treatment sludge from production of chrome oxide iron blue pigments. . . . . (T)

K008 . . . . . Oven residue from the production of chrome oxide green pigments. . . . . (T)

Organic Chemicals:

K009 . . . . Distillation bottoms from the production of acetaldehyde from ethylene. . . . . (T)

K010 . . . . Distillation side cuts from the production of acetaldehyde from ethylene. . . . . (T)

K011 . . . . . Bottom stream from the wastewater stripper in the production of acrylonitrile . . . . . (R, T)

K013 . . . . . Bottom stream from the acetonitrile column in the production of acrylonitrile . . . . . (R, T)

K014 . . . . . Bottoms from the acetonitrile purification column in the production of acrylonitrile. . . . . (T)

K015 . . . . . Still bottoms from the distillation of benzyl chloride. . . . . (T)

K016 . . . . Heavy ends or distillation residues from the production of carbon tetrachloride. . . . . (T)

K017 . . . . . Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin . . . . . (T)

K018 . . . . . Heavy ends from the fractionation in ethyl chloride production . . . . . (T)

K019 . . . . . Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. . . . . (T)

K020 . . . . . Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production . . . . . (T)

K021 . . . . . Aqueous spent antimony catalyst waste from fluoromethanes production . . . . . (T)

K022 . . . . . Distillation bottom tars from the production of phenol/acetone from cumene . . . . . (T)

K023 . . . . . Distillation light ends from the production of phthalic anhydride from naphthalene. . . . . (T)

K024 . . . . . Distillation bottoms from the production of phthalic anhydride from naphthalene . . . . . (T)

K025 . . . . Distillation bottoms from the production of nitrobenzene by the nitration of benzene. . . . . (T)

K026 . . . . . Stripping still tails from the production of methyl ethyl pyridines. . . . . (T)

K027 . . . . Centrifuge residue from toluene diisocyanate production. . . . . (R,T)

K028 . . . . . Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane . . . (T)

K029 . . . . . Waste from the product stream stripper in the production of 1,1,1-trichloroethane . . . . . (T)

K030 . . . . . Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene . . . . . (T)

K093 . . . . Distillation light ends from the production of phthalic anhydride from orthoxylene . . . . . (T)

K094 . . . . Distillation bottoms from the production of phthalic anhydride from orthoxylene . . . . . (T)

K095 . . . . Distillation bottoms from the production of 1,1,1-trichloroethane . . . . . (T)

K096 . . . . Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane . . . . . (T)

K083 . . . . Distillation bottoms from aniline production. . . . . (T)

K085 . . . . . Distillation or fractionation column bottoms from the production of chlorobenzenes . . . . . (T)

K103 . . . . Process residues from aniline extraction from the production of aniline . . . . . (T)

K104 . . . . . Combined wastewater streams generated from nitrobenzene/aniline production . . . . . (T)

K105 . . . . . Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. . . . . (T)

Inorganic Chemicals:

K071 . . . . . Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. . . . . (T)

K073 . . . . Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. . . . . (T)

K106 . . . . Wastewater treatment sludge from the mercury cell process in chlorine production . . . . . (T)

Pesticides:

K031 . . . . By-products salts generated in the production of MSMA and cacodylic acid . . . . . (T)

K032 . . . . Wastewater treatment sludge from the production of chlordane . . . . . (T)

K033 . . . . Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane . . . . . (T)

K034 . . . . . Filter solids from the filtration of hexachloro-cyclopentadiene in the production of chlordane. . . . . (T)

K035 . . . . Wastewater treatment sludges generated in the production of creosote. . . . . (T)

K036 . . . . . Still bottoms from toluene reclamation distillation in the production of disulfoton. . . . . (T)

K037 . . . . . Wastewater treatment sludges from the production of disulfoton. . . . . (T)

K038 . . . . Wastewater from the washing and stripping of phorate production. . . . . (T)

K039 . . . . Filter cake from the filtration of diethylphosphorodithoric acid in the production of phorate . . . (T)

K040 . . . . . Wastewater treatment sludge from the production of phorate. . . . . (T)

K041 . . . . . Wastewater treatment sludge from the production of toxaphene. . . . . (T)

K042 . . . . . Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T . . . . . (T)

K043 . . . . 2,6-Dichlorophenol waste from the production of 2,4-D. . . . . (T)

K097 . . . . Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. . . . . (T)

K098 . . . . . Untreated process wastewater from the production of toxaphene . . . . . (T)

K099 . . . . . Untreated wastewater from the production of 2,4-D. . . . . (T)

Explosives:

K044 . . . Wastewater treatment sludges from the manufacturing and processing of explosives. . . . . (R)

K045 . . . . . Spent carbon from the treatment of wastewater containing explosives. . . . . (R)

K046 . . . . . Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds. . . . . (T)

K047 . . . . Pink/red water from TNT operations. . . . . (R)

Petroleum Refining:

K048 . . . Dissolved air flotation (DAF) float from the petroleum refining industry . . . . . (T)

K049 . . . . Slop oil emulsion solids from the petroleum refining industry . . . . . (T)

K050 . . . . . Heat exchanger bundle cleaning sludge from the petroleum refining industry . . . . . (T)

K051 . . . . . API separator sludge from the petroleum refining industry . . . . . (T)

K052 . . . . . Tank bottoms (leaded) from the petroleum refining industry . . . . . (T)

Iron and Steel:

K061 . . . . . Emission control dust/sludge from the primary production of steel in electric furnaces. . . . (T)

K062 . . . . . Spent pickle liquor from steel finishing operations. . . . . (C,T)

Secondary Lead:

K069 . . . . Emission control dust/sludge from secondary lead smelting . . . . . (T)

K100 . . . . Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting . . . . . (T)

Veterinary Pharmaceuticals:

K084 . . . . Wastewater treatment sludge generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. . . . . (T)

K101 . . . . . Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. . . . . (T)

K102 . . . . . Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organoarsenic compounds . . . . . (T)

Ink Formulation:

K086 . . . . Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. . . . . (T)

Coking:

K060 . . . . . Ammonia still lime sludge from coking operations. . . . . (T)

K087 . . . . . Decanter tank tar sludge from coking operations. . . . . (T)

4. The following materials or items are hazardous wastes when they are discarded or intended to be discarded as described in 201.A.2.a.(2)(a), when they are burned for purposes of energy recovery in lieu of their original intended use, when they are used to produce fuels in lieu of their original intended use, when they are applied to the land in lieu of their original intended use, or when they are contained in products that are applied to the land in lieu of their original intended use.

a. Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in 201.C.4.e. or f.

b. Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in 201.C.4.e. or f.

c. Any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in 201.C.4.e., unless the container is empty as defined in 201.A.7.c. of these regulations.

d. Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in 201.C.4.e. or f., or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in 201.C.4.e. or f.

e. The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in 201.C.4.a. through d., are identified as acute hazardous wastes (H) and are subject to be the small quantity exclusion defined in 201.A.5.e. These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance
P023	Acetaldehyde, chloro-
P002	Acetamide, N-(aminothioxomethyl)-
P057	Acetamide, 2-fluoro-
P058	Acetic acid, fluoro-, sodium salt
P066	Acetimidic acid, N-[(methyl-carbamoyl)oxy]thio-, methyl ester
P001	3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3 %
P002	1-Acetyl-2-thiourea
P003	Acrolein
P070	Aldicarb
P004	Aldrin
P005	Allyl alcohol
P006	Aluminum phosphide
P007	5-(Aminomethyl)-3-isoxazolol
P008	4-aAminopyridine
P009	Ammonium picrate (R)
P119	Ammonium vanadate
P010	Arsenic acid
P012	Arsenic (III) oxide
P011	Arsenic (V) oxide
P011	Arsenic pentoxide
P012	Arsenic trioxide
P038	Arsine, diethyl-
P054	Aziridine
P013	Barium cyanide
P024	Benzenamine, 4-chloro-
P077	Benzenamine, 4-nitro-
P028	Benzene, (chloromethyl)-
P042	1,2-Benzenediol, 4-[1-hydroxy- 2-(methyl-amino)ethyl]-
P014	Benzenethiol
P028	Benzyl chloride
P015	Beryllium dust
P016	Bis(chloromethyl)ether
P017	Bromoacetone
P018	Brucine
P021	Calcium cyanide
P123	Camphene, octachloro-
P103	Carbaminidoselenoic acid
P022	Carbon bisulfide
P022	Carbon disulfide

P095 Carbonyl chloride
P033 Chlorine cyanide
P023 Chloroacetaldehyde
P024 p-Chloroaniline
P026 1-(o-Chlorophenyl)thiourea
P027 3-Chloropropionitrile
P029 Copper cyanides
P030 Cyanides (soluble cyanide salts), not elsewhere specified
P031 Cyanogen
P033 Cyanogen chloride
P036 Dichlorophenylarsine
P037 Dieldrin
P038 Diethylarsine
P039 O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate
P041 Diethyl-p-nitrophenyl phosphate
P040 O,O-Diethyl O-pyrazinyl phosphorothioate
P043 Diisopropyl fluorophosphate
P044 Dimethoate
P045 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl]oxime
P071 O,O-Dimethyl O-p-nitro-phenyl phosphorothioate
P082 Dimethylnitrosamine
P046 alpha, alpha-Dimethylphenethylamine
P047 4,6-Dinitro-o-cresol and salts
P034 4,6-Dinitro-o-cyclohexylphenol
P048 2,4-Dinitrophenol
P020 Dinoseb
P085 Diphosphoramide, octamethyl-
P039 Disulfoton
P049 2,4-Dithiobiuret
P109 Dithiopyrophosphoric acid,tetraethyl ester
P050 Endosulfan
P088 Endothall
P051 Endrin
P042 Epinephrine
P046 Ethanamine, 1,1-dimethyl-2-phenyl
P084 Ethenamine, N-methyl-N-nitroso-
P101 Ethyl cyanide
P054 Ethylenimine
P097 Famphur
P056 Fluorine
P057 Fluoroacetamide
P058 Fluoroacetic acid, sodium salt
P065 Fulminic acid, mercury(II) salt (R,T)
P059 Heptachlor
P051 1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, endo-1,4:5,8-dimethanonaphthalene
P037 1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene
P060 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonaphthalene
P004 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene
P060 Hexachlorohexahydro-exo, exo-dimethanonaphthalene
P062 Hexaethyl tetraphosphate
P116 Hydrazinecarbothioamide
P068 Hydrazine, methyl-
P063 Hydrocyanic acid
P063 Hydrogen cyanide
P096 Hydrogen phosphide
P064 Isocyanic acid, methyl ester
P007 3(2H)-Isoxazolone, 5-(aminomethyl)-
P092 Mercury, (acetato-O)phenyl-
P065 Mercury fulminate (R,T)
P016 Methane, oxybis(chloro-
P112 Methane, tetranitro-(R)
P118 Methanethiol, trichloro-
P059 4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7 a-tetrahydro-
P066 Methomyl
P067 2-Methylaziridine
P068 Methyl hydrazine
P064 Methyl isocyanate
P069 2-Methyllactonitrile
P071 Methyl parathion
P072 alpha-Naphthylthiourea
P073 Nickel carbonyl
P074 Nickel cyanide
P074 Nickel(II) cyanide
P073 Nickel tetracarbonyl
P075 Nicotine and salts
P076 Nitric oxide
P077 p-Nitroaniline
P078 Nitrogen dioxide
P076 Nitrogen(II) oxide
P078 Nitrogen(IV) oxide
P081 Nitroglycerine (R)
P082 N-Nitrosodimethylamine

P084 N-Nitrosomethylvinylamine
P050 5-Norbornene-2,3-dimethanol,1,4,5,6,7,7-hexachloro,cyclic sulfite
P085 Octamethylpyrophosphoramide
P087 Osmium oxide
P087 Osmium tetroxide
P088 7-Oxabicyclo[2.2.1] heptane-2,3-dicarboxylic acid
P089 Parathion
P034 Phenol, 2-cyclohexyl-4,6-dinitro-
P048 Phenol, 2,4-dinitro-
P047 Phenol, 2,4-dinitro-6-methyl-
P020 Phenol, 2,4-dinitro-6- (1-methylpropyl)-
P009 Phenol, 2,4,6-trinitro, ammonium salt (R)
P036 Phenyl dichloroarsine
P092 Phenylmercuric acetate
P093 N-Phenylthiourea
P094 Phorate
P095 Phosgene
P096 Phosphine
P041 Phosphoric acid, diethyl-p-nitrophenylester
P044 Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl]ester
P043 Phosphorofluoric acid, bis(1-methylethyl)-ester
P094 Phosphorothioic acid, O,O-diethyl S-(ethyl-thio)methyl ester
P089 Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester
P040 Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097 Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl]ester
P110 Plumbane, tetraethyl-
P098 Potassium cyanide
P099 Potassium silver cyanide
P070 Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101 Propanenitrile
P027 Propanenitrile, 3-chloro-
P069 Propanenitrile, 2-hydroxy-2-methyl
P081 1,2,3-Propanetriol, trinitrate-(R)
P017 2-Propanone, 1-bromo-
P102 Propargyl alcohol
P003 2-Propenal
P005 2-Propen-1-ol
P067 1,2-Propylenimine
P102 2-Propyn-1-ol
P008 4-Pyridinamine
P075 Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts
P111 Pyrophosphoric acid, tetraethyl ester
P103 Selenourea
P104 Silver cyanide
P105 Sodium azide
P106 Sodium cyanide
P107 Strontium sulfide
P108 Strychnidin-10-one, and salts
P018 Strychnidin-10-one, 2,3-dimethoxy-
P108 Strychnine and salts
P115 Sulfuric acid, thallium(I) salt
P109 Tetraethyldithiopyrophosphate
P110 Tetraethyl lead
P111 Tetraethylpryophosphate
P112 Tetranitromethane (R)
P062 Tetraphosphoric acid, hexaethyl ester
P113 Thallic oxide
P113 Thallium(III) oxide
P114 Thallium(I) selenite
P115 Thallium(I) sulfate
P045 Thiofanox
P049 Thioimidodicarbonic diamide
P014 Thiophenol
P116 Thiosemicarbazide
P026 Thiourea, (2-chlorophenyl)-
P072 Thiourea, 1-naphthalenyl-
P093 Thiourea, phenyl-
P123 Toxaphene
P118 Trichloromethanethiol
P119 Vanadic acid, ammonium salt
P120 Vanadium pentoxide
P120 Vanadium(V) oxide
P001 Warfarin, when present at concentrations greater than 0.3 %
P121 Zinc cyanide
P122 Zinc phosphide, when present at concentrations greater than 10 %

f. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in 201.C.4.a. through d., are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in 201.A.5.a. and f. of these regulations.

Hazardous Waste No.	Substance
U001	Acetaldehyde (I)
U034	Acetaldehyde, trichloro-
U187	Acetamide, N-(4-ethoxyphenyl)-
U005	Acetamide, N-9H-fluoren-2-yl-
U112	Acetic acid, ethyl ester (I)
U144	Acetic acid, lead salt
U214	Acetic acid, thallium(I) salt
U002	Acetone (I)
U003	Acetonitrile (I, T)
U248	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3 % or less
U004	Acetophenone
U005	2-Acetylaminofluorene
U006	Acetyl chloride (C,R,T)
U007	Acrylamide
U008	Acrylic acid (I)
U009	Acrylonitrile
U150	Alanine, 3-[p-bis(2-chloroethyl)amino] phenyl-L-
U011	Amitrole
U012	Aniline (I,T)
U014	Auramine
U015	Azaserine
U010	Azirino (2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-
U157	Benz[j]aceanthrylene,1,2-dihydro-3-methyl-
U016	Benz[c]acridine
U016	3,4-Benzacridine
U017	Benzal chloride
U018	Benz[a]anthracene
U018	1,2-Benzanthracene
U094	1,2-Benzanthracene, 7,12-dimethyl-
U012	Benzenamine (I,T)
U014	Benzenamine, 4,4'-carbonimidoylbis N,N-dimethyl-
U049	Benzenamine, 4-chloro-2-methyl-
U093	Benzenamine, N,N'-dimethyl-4-phenylazo-
U158	Benzenamine, 4,4'-methylenebis(2-chloro-
U222	Benzenamine, 2-methyl-,hydrochloride
U181	Benzenamine, 2-methyl-5-nitro
U019	Benzene (I,T)
U038	Benzeneacetic acid,4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester
U030	Benzene, 1-bromo-4-phenoxy-
U037	Benzene, chloro-
U190	1,2-Benzenedicarboxylic acid anhydride
U028	1,2-Benzenedicarboxylic acid, [bis(2-ethyl-hexyl)] ester
U069	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	1,2-Benzenedicarboxylic acid, diethyl ester
U102	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester
U070	Benzene, 1,2-dichloro-
U071	Benzene, 1,3-dichloro-
U072	Benzene, 1,4-dichloro-
U017	Benzene, (dichloromethyl)-
U223	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	Benzene, dimethyl- (I,T)
U201	1, 3-Benzenediol
U127	Benzene, hexachloro-
U056	Benzene, hexahydro- (I)
U188	Benzene, hydroxy-
U220	Benzene, methyl-
U105	Benzene, 1-methyl-2,4-dinitro-
U106	Benzene, 1-methyl-2,6 dinitro-
U203	Benzene, 1,2-methylenedioxy-4-allyl-
U141	Benzene, 1,2-methylenedioxy-4-propenyl-
U090	Benzene, 1,2-methylenedioxy-4-propyl-
U055	Benzene, (1-methylethyl)- (I)
U169	Benzene, nitro- (I,T)
U183	Benzene, pentachloro-
U185	Benzene, pentachloro-nitro-
U020	Benzenesulfonic acid chloride (C,R)
U020	Benzenesulfonyl chloride (C,R)

U207 Benzene, 1,2,4,5-tetrachloro-
U023 Benzene, (trichloromethyl)- (C,R,T)
U234 Benzene, 1,3,5-trinitro- (R,T)
U021 Benzidine
U202 1,2-Benzisothiazolin-3-one, 1,1-dioxide
U120 Benzo[j,k]fluorene
U022 Benzo[a]pyrene
U022 3,4-Benzopyrene
U197 p-Benzoquinone
U023 Benzotrichloride (C,R,T)
U050 1,2-Benzphenanthrene
U085 2,2'-Bioxirane (I,T)
U021 (1,1'-Biphenyl)-4,4'-diamine
U073 (1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U091 (1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-
U095 (1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-
U024 Bis(2-chloroethoxy) methane
U027 Bis(2-chloroisopropyl) ether
U244 Bis(dimethylthiocarbamoyl) disulfide
U028 Bis(2-ethylhexyl) phthalate
U246 Bromine cyanide
U225 Bromoform
U030 4-Bromophenyl phenyl ether
U128 1,3-Butadiene,1,1,2,3,4,4-hexachloro-
U172 1-Butanamine, N-butyl-N-nitroso-
U035 Butanoic acid, 4-[Bis(2-chloroethyl)amino] benzene-
U031 1-Butanol (I)
U159 2-Butanone (I,T)
U160 2-Butanone peroxide (R,T)
U053 2-Butenal
U074 2-Butene, 1,4-dichloro-(I,T)
U031 n-Butyl alcohol (I)
U136 Cacodylic acid
U032 Calcium chromate
U238 Carbamic acid, ethyl ester
U178 Carbamic acid, methylnitroso, ethyl ester
U176 Carbamide, N-ethyl-N-nitroso-
U177 Carbamide, N-methyl-N-nitroso-
U219 Carbamide, thio-
U097 Carbamoyl chloride, dimethyl-
U215 Carbonic acid, dithallium (I) salt
U156 Carbonochloridic acid, methyl ester (I,T)
U033 Carbonyl oxyfluoride (R,T)
U211 Carbon tetrachloride
U033 Carbonyl fluoride (R,T)
U034 Chloral
U035 Chlorambucil
U036 Chlordane, technical
U026 Chlornaphazine
U037 Chlorobenzene
U039 4-Chloro-m-cresol
U041 1-Chloro-2,3-epoxypropane
U042 2-Chloroethyl vinyl ether
U044 Chloroform
U046 Chloromethyl methyl ether
U047 beta-Chloronaphthalene
U048 o-Chlorophenol
U049 4-Chloro-o-toluidine,hydrochloride
U032 Chromic acid, calcium salt
U050 Chrysene
U051 Creosote
U052 Cresols
U052 Cresylic acid
U053 Crotonaldehyde
U055 Cumene (I)
U246 Cyanogen bromide
U197 1,4-Cyclohexadienedione
U056 Cyclohexane (I)
U057 Cycohexanone (I)
U130 1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058 Cyclophosphamide
U240 2,4-D, salts and esters
U059 Daunomycin
U060 DDD
U061 DDT
U142 Decachloroctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one
U062 Diallate
U133 Diamine (R,T)
U221 Diaminotoluene
U063 Dibenz[a,h]anthracene
U063 1,2:5,6-Dibenzanthracene
U064 1,2:7,8-Dibenzopyrene
U064 Dibenz[a,i]pyrene
U066 1,2-Dibromo-3-chloro-propane
U069 Dibutyl phthalate
U062 S-(2,3-Dichloroallyl) diisopropylthiocarbamate
U070 o-Dichlorobenzene
U071 m-Dichlorobenzene
U072 p-Dichlorobenzene
U073 3,3'-Dichlorobenzidine
U074 1,4-Dichloro-2-butene (I,T)
U075 Dichlorodifluoromethane
U192 3,5-Dichloro-N-(1,1-dimethyl-

2-propynyl) benzamide
U060 Dichloro diphenyl dichloroethane
U061 Dichloro diphenyl trichloroethane
U078 1,1-Dichloroethylene
U079 1,2-Dichloroethylene
U025 Dichloroethyl ether
U081 2,4-Dichlorophenol
U082 2,6-Dichlorophenol
U240 2,4-Dichlorophenoxyacetic acid, salts and esters
U083 1,2-Dichloropropane
U084 1,3-Dichloropropene
U085 1,2:3,4-Diepoxybutane (I,T)
U108 1,4-Diethylene dioxide
U086 N,N-Diethylhydrazine
U087 O,O-Diethyl-S-methyl-dithio-phosphate
U088 Diethyl phthalate
U089 Diethylstilbestrol
U148 1,2-Dihydro-3,6-pyradizinedione
U090 Dihydrosafrole
U091 3,3'-Dimethoxybenzidine
U092 Dimethylamine (I)
U093 Dimethylaminoazobenzene
U094 7,12-Dimethylbenz[a]anthracene
U095 3,3'-Dimethylbenzidine
U096 alpha,alpha-Dimethylbenzylhydro-peroxide (R)
U097 Dimethylcarbamoyl chloride
U098 1,1-Dimethylhydrazine
U099 1,2-Dimethylhydrazine
U101 2,4-Dimethylphenol
U102 Dimethyl phthalate
U103 Dimethyl sulfate
U105 2,4-Dinitrotoluene
U106 2,6-Dinitrotoluene
U107 Di-n-octyl phthalate
U108 1,4-Dioxane
U109 1,2-Diphenylhydrazine
U110 Dipropylamine (I)
U111 Di-N-propyl nitrosamine
U001 Ethanal (I)
U174 Ethanamine, N-ethyl-N-nitroso-
U067 Ethane, 1,2-dibromo-
U076 Ethane, 1,1-dichloro-
U077 Ethane, 1,2-dichloro-
U114 1,2-Ethanediyl bis carbamodithioic acid
U131 Ethane, 1,1,1,2,2,2-hexachloro-
U024 Ethane, 1,1'-[methylene-bis(oxy)]bis[2-chloro-
U003 Ethanenitrile (I,T)
U117 Ethane, 1,1'-oxybis-(I)
U025 Ethane, 1,1'-oxybis[2-chloro-
U184 Ethane, pentachloro-
U208 Ethane, 1,1,1,2-tetrachloro-
U209 Ethane, 1,1,2,2-tetrachloro
U218 Ethanethioamide
U227 Ethane, 1,1,2-trichloro-
U247 Ethane, 1,1,1,-trichloro-2,2-bis(p-methoxyphenyl)
U043 Ethene, chloro-
U042 Ethene, 2-chloroethoxy-
U078 Ethene, 1,1-dichloro-
U079 Ethene, trans-1,2-dichloro-
U210 Ethene, 1,1,2,2-tetrachloro-
U173 Ethanol, 2,2-(nitrosoimino) bis-
U004 Ethanone, 1-phenyl-
U006 Ethanoyl chloride (C,R,T)
U112 Ethyl acetate (I)
U113 Ethyl acrylate (I)
U238 Ethyl carbamate (urethan)
U038 Ethyl 4,4'-dichlorobenzilate
U114 Ethylenebis (dithiocarbamic acid)
U067 Etylene dibromide
U077 Ethylene dichloride
U115 Ethlene oxide (I,T)
U116 Ethylene thiourea
U117 Ethyl ether (I)
U076 Ethylidene dichloride
U118 Ethylmethacrylate
U119 Ethyl methanesulfonate
U139 Ferric dextran
U120 Fluoranthene
U122 Formaldehyde
U123 Formic acid (C,T)
U124 Furan (I)
U125 2-Furancarboxaldehyde (I)
U147 2,5-Furandione
U213 Furan, tetrahydro- (I)
U125 Furfural (I)
U124 Furfuran (I)
U206 D-Glucopyranose, 2-deoxy-2 (3-methyl-3-nitrosoureido)-
U126 Glycidylaldehyde
U163 Guanidine, N-nitroso-N-methyl-N'nitro-
U127 Hexachlorobenzene
U128 Hexachlorobutadiene
U129 Hexachlorocyclohexane (gamma isomer)
U130 Hexachlorocyclopentadiene
U131 Hexachloroethane
U132 Hexachlorophene

U243 ..... Hexachloropropene
U133 ..... Hydrazine (R,T)
U086 ..... Hydrazine, 1,2-diethyl-
U098 ..... Hydrazine, 1,1-dimethyl-
U099 ..... Hydrazine, 1,2-dimethyl-
U109 ..... Hydrazine, 1,2-diphenyl-
U134 ..... Hydrofluoric acid (C,T)
U134 ..... Hydrogen fluoride (C,T)
U135 ..... Hydrogen sulfide
U096 ..... Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U136 ..... Hydroxydimethylarsine oxide
U116 ..... 2-Imidazolidinethione
U137 ..... Ideno[1,2,3-cd]pyrene
U139 ..... Iron dextran
U140 ..... Isobutyl alcohol (I,T)
U141 ..... Isosafrole
U142 ..... Kepone
U143 ..... Lasiocarpine
U144 ..... Lead acetate
U145 ..... Lead phosphate
U146 ..... Lead subacetate
U129 ..... Lindane
U147 ..... Maleic anhydride
U148 ..... Maleic hydrazide
U149 ..... Malononitrile
U150 ..... Melphalan
U151 ..... Mercury
U152 ..... Methacrylonitrile (I,T)
U092 ..... Methanamine, N-methyl-(I)
U029 ..... Methane, bromo-
U045 ..... Methane, chloro- (I,T)
U046 ..... Methane, chloromethoxy-
U068 ..... Methane, dibromo-
U080 ..... Methane, dichloro-
U075 ..... Methane, dichlorodifluoro-
U138 ..... Methane, iodo-
U119 ..... Methanesulfonic acid, ethyl ester
U211 ..... Methane, tetrachloro-
U121 ..... Methane, trichlorofluoro-
U153 ..... Methanethiol (I,T)
U225 ..... Methane, tribromo-
U044 ..... Methane, trichloro-
U121 ..... Methane, trichlorofluoro-
U123 ..... Methanoic acid (C,T)
U036 ..... 4,7-Methanoindan, 1,2,4,5,6, 7,8,8a-octachloro-3a,4,7,7a-tetrahydro-
U154 ..... Methanol (I)
U155 ..... Methapyrilene
U247 ..... Methoxychlor
U154 ..... Methyl alcohol (I)
U029 ..... Methyl bromide
U186 ..... 1-Methylbutadiene (I)
U045 ..... Methyl chloride (I,T)
U156 ..... Methyl chlorocarbonate (I,T)
U226 ..... Methylchloroform
U157 ..... 3-Methylcholanthrene
U158 ..... 4,4'-Methylenebis (2-chloroaniline)
U132 ..... 2,2'-Methylenebis (3,4,6-trichlorophenol)
U068 ..... Methylene bromide
U080 ..... Methylene chloride
U122 ..... Methylene oxide
U159 ..... Methyl ethyl ketone (I,T)
U160 ..... Methyl ethyl ketone peroxide (R,T)
U138 ..... Methyl iodide
U161 ..... Methyl isobutyl ketone (T)
U162 ..... Methyl methacrylate (I,T)
U163 ..... N-Methyl-N-nitro-N-nitroso-guanidine
U161 ..... 4-Methyl-2-pentanone (T)
U164 ..... Methylthiouracil
U010 ..... Mitomycin C
U059 ..... 5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxohexopyranosyl) oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-
U165 ..... Naphthalene
U047 ..... Naphthalene, 2-chloro-
U166 ..... 1,4-Naphthalenedione
U236 ..... 2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4-'diyl)]-bis (azo)bis(5-amino-4-hydroxy)-tetrasodium salt
U166 ..... 1,4 Naphthaquinone
U167 ..... 1-Naphthylamine
U168 ..... 2-Naphthylamine
U167 ..... alpha-Naphthlyamine
U168 ..... beta-Naphthylamine
U026 ..... 2-Napththylamine, N,N'-bis(2-chloromethyl)-
U169 ..... Nitrobenzene (I,T)
U170 ..... p-Nitrophenol
U171 ..... 2-Nitropropane (I)
U172 ..... N-Nitrosodi-n-butylamine
U173 ..... N-Nitrosodiethanolamine
U174 ..... N-Nitrosodiethylamine
U176 ..... N-Nitroso-N-ethylurea
U177 ..... N-Nitroso-N-methylurea
U111 ..... N-Nitroso-N-propylamine
U178 ..... N-Nitroso-N-methylurethane

U179 N-Nitrosopiperidine
U180 N-Nitrosopyrrolidine
U181 5-Nitro-o-toluidine
U193 1,2-Oxathiolane, 2,2-dioxide
U058 2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro-ethyl)amino] tetrahydro-,oxide 2-
U115 Oxirane (I,T)
U041 Oxirane, 2-(chloromethyl)-
U182 Paraldehyde
U183 Pentachlorobenzene
U184 Pentachloroethane
U185 Pentachloronitrobenzene
See F027 Pentachlorophenol
U186 1,3-Pentadiene (I)
U187 Phenacetin
U188 Phenol
U048 Phenol, 2-chloro-
U039 Phenol, 4-chloro-3-methyl-
U081 Phenol, 2,4-dichloro-
U082 Phenol, 2,6-dichloro-
U101 Phenol, 2-4-dimethyl-
U170 Phenol, 4-nitro-
See F027 Phenol, pentachloro-
See F027 Phenol, 2,3,4,6-tetrachloro-
See F027 Phenol, 2,4,5-trichloro-
See F027 Phenol, 2,4,6-trichloro-
U137 1,10-(1,2-phenylene)pyrene
U145 Phosphoric acid, Lead salt
U087 Phosphorodithioic acid, 0,0-diethyl-, S-methylester
U189 Phosphorous sulfide (R)
U190 Phthalic anhydride
U191 2-Picoline
U192 Pronamide
U194 1-Propanamine (I,T)
U110 1-Propanamine, N-propyl-(I)
U066 Propane, 1,2-dibromo-3-chloro-
U149 Propanedinitrile
U171 Propane, 2-nitro-(I)
U027 Propane, 2,2'-oxybis[2-chloro-
U193 1,3-Propane sultone
U235 1-Propanol, 2,3-dibromo-, phosphate (3:1)
U126 1-Propanol, 2,3-epoxy-
U140 1-Propanol, 2-methyl-(I,T)
U002 2-Propanone (I)
U007 2-Propenamide
U084 Propene, 1,3-dichloro-
U243 1-Propene, 1,1,2,3,3,3-hexachloro-
U009 2-Propenenitrile
U152 2-Propenenitrile, 2-methyl-(I,T)
U008 2-Propenoic acid (I)
U113 2-Propenoic acid, ethyl ester (I)
U118 2-Propenoic acid, 2-methyl-, ethyl ester
U162 2-Propenoic acid, 2-methyl-, methyl ester (I,T)
See F027 Propionic acid, 2-(2,4,5-trichlorophenoxy)-
U194 n-Propylamine (I,T)
U083 Propylene dichloride
U196 Pyridine
U155 Pyridine, 2-[(2-(dimethylamino)-2-thenylamino]-
U179 Pyridine, hexahydro-N-nitroso-
U191 Pyridine, 2-methyl-
U164 4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180 Pyrrole, tetrahydro-N-nitroso-
U200 Reserpine
U201 Resorcinol
U202 Saccharin and salts
U203 Safrole
U204 Selenious acid
U204 Selenium dioxide
U205 Selenium disulfide (R,T)
U015 L-Serine, diazoacetate (ester)
See F027 Silvex
U089 4,4'-Stilbenediol, alpha, alpha'-diethyl-
U206 Streptozotocin
U135 Sulfur hydride
U103 Sulfuric acid, dimethyl ester
U189 Sulfur phosphide (R)
U205 Sulfur selenide (R,T)
See F027 2,4,5-T
U207 1,2,4,5-Tetrachlorobenzene
U208 1,1,1,2-Tetrachloroethane
U209 1,1,2,2-Tetrachloroethane
U210 Tetrachloroethylene
See F027 2,3,4,6-Tetrachlorophenol
U213 Tetrahydrofuran (I)
U214 Thallium(I) acetate
U215 Thallium(I) carbonate
U216 Thallium(I) chloride
U217 Thallium(I) nitrate
U218 Thioacetamide
U153 Thiomethanol (I,T)
U219 Thiourea
U244 Thiram
U220 Toluene

U221	Toluenediamine
U223	Toluene diisocyanate (R,T)
U222	O-Toluidine hydrochloride
U011	1H-1,2,4-Triazol-3-amine
U226	1,1,1-Trichloroethane
U227	1,1,2-Trichloroethane
U228	Trichloroethene
U228	Trichloroethylene
U121	Trichloromonofluoromethane
See F027	2,4,5-Trichlorophenol
See F027	2,4,6-Trichlorophenol
See F027	2,4,5-Trichlorophenoxyacetic acid
U234	sym-Trinitrobenzene (R,T)
U182	1,3,5-Trioxane, 2,4,5-trimethyl-
U235	Tris(2,3-dibromopropyl) phosphate
U236	Trypan blue
U237	Uracil, 5[bis(2-chloromethyl)amino]-
U237	Uracil mustard
U043	Vinyl chloride
U248	Warfarin, when present at concentrations of 0.3 % or less
U239	Xylene (I)
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-methyl ester
U249	Zinc phosphide, when present at concentrations of 10 % or less

APPENDIX I - REPRESENTATIVE SAMPLING METHODS AND CHEMICAL ANALYSIS TEST METHODS[a]

A. The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste materials to be sampled. Samples collected using the sampling protocols listed below, for sampling waste with properties similar to the indicated materials, will be considered by the Division to be representative of the waste; unless another equivalent method is approved by the Administrator.

1. Extremely viscous liquid--ASTM Standard D140-70, Crushed or powdered material--ASTM Standard D346-75, Soil or rock-like material--ASTM Standard D420-69, Soil-like material--ASTM Standard D1452-65.

2. Fly Ash-like material--ASTM Standard D2234-76 [ASTM Standards are available from ASTM, 1916 Race St., Philadelphia, PA 19103].

3. Containerized liquid wastes--"COLIWASA" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," U.S. Environmental Protection Agency, Office of Solid Waste, Washington, D.C. 20460. [Copies may be obtained from Solid Waste Information, U.S. Environmental Protection Agency, 26 W. St. Clair St., Cincinnati, Ohio 45268.]

4. Liquid waste in pits, ponds, lagoons, and similar reservoirs.--"Pond Sampler" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods. [a]

B. The test methods described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (see Part I, 104 References) shall be used in determining whether a waste in question contains a given hazardous constituent, or any other equivalent analytical method as approved by the Administrator.

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[a] These methods are also described in "Samplers and Sampling Procedures for Hazardous Waste Streams" EPA 600/2-80-018, January 1980.

APPENDIX II - EP TOXICITY TEST PROCEDURES [5]

A. Extraction Procedure (EP).

Step 1. A representative sample of the waste to be tested (minimum size 100 grams) shall be obtained using the methods specified in Appendix I or any other method capable of yielding a representative sample within the meaning of 102 [For detailed guidance on conducting the various aspects of the EP see "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see 104.E. of these regulations).]

Step 2. The sample shall be separated into its component liquid and solid phases using the method described in "Separation Procedure" below. If the solid residue [a] obtained using this method totals less than 0.5% of the original weight of the waste, the residue can be discarded and the operator shall treat the liquid phase as the extract and proceed immediately to Step 8.

Step 3. The solid material obtained from the Separation Procedure shall be evaluated for its particle size. If the solid material has a surface area per gram of material equal to, or greater than, 3.1 cm^2/gr passes through a 9.5 mm (0.375 inch) standard sieve, the operator shall proceed to Step 4. If the surface area is smaller or the particle size larger than specified above, the solid material shall be prepared for extraction by crushing, cutting or grinding the material so that it passes through a 9.5 mm (0.375 inch) sieve or, if the material is in a single piece, by subjecting the material to the "Structural Integrity Procedure" described below.

Step 4. The solid material obtained in Step 3 shall be weighed and placed in an extractor with 16 times its weight of deionized water. Do not allow the material to dry prior to weighing. For purposes of this test, an acceptable extractor is one which will impart sufficient agitation to the mixture to not only prevent stratification of the sample and extraction fluid but also insure that all sample surfaces are continuously brought into contact with well mixed extraction fluid.

Step 5. After the solid material and deionized water are placed in the extractor, the operator shall begin agitation and measure of pH of the solution in the extractor. If the pH is greater than 5.0, the pH of the solution shall be decreased to 5.0 ± 0.2 by adding 0.5 N acetic acid. If the pH is equal to or less than 5.0, no acetic acid should be added. The pH of the solution shall be monitored, as described below, during the course of the extraction and if the pH rises above 5.2, 0.5N acetic acid shall be added to bring the pH down to 5.0 ± 0.2. However, in no event shall the aggregrate amount of acid added to the solution exceed 4 ml of acid per gram of solid. The mixture shall be agitated for 24 hours and maintained at 20°-40°C (68°-104°F) during this time. It is recommended that the operator monitor and adjust the pH during the course of the extraction with a device such as the Type 45-A pH Controller manufactured by Chemtrix, Inc., Hillsboro, Oregon 97123 or its equivalent, in conjunction with a metering pump and reservoir of 0.5N acetic acid. If such a system is not available, the following manual procedure shall be employed:

a. A pH meter shall be calibrated in accordance with the manufacturer's specifications.

b. The pH of the solution shall be checked and, if necessary, 0.5N acetic acid shall be manually added to the extractor until the pH reaches 5.0 ± 0.2. The pH of the solution shall be adjusted at 15, 30 and 60 minute intervals, moving to the next longer interval if the pH does not have to be adjusted more than 0.5N pH units.

c. The adjustment procedure shall be continued for at least 6 hours.

d. If at the end of the 24-hour extraction period, the pH of the solution is not below 5.2 and the maximum amount of acid (4 ml per gram of solids) has not been added, the pH shall be adjusted to 5.0 ± 0.2 and the extraction continued for an additional four hours, during which the pH shall be adjusted at one hour intervals.

(a) The percent solids is determined by drying the filter pad at 80°C until it reaches constant weight and then calculating the percent solids using the following equation:

$$\% \text{ solids} = \frac{(\text{weight of pad + solid}) - (\text{tare weight of pad})}{\text{initial weight of sample}} \times 100$$

Step 6. At the end of the 24-hour extraction period, deionized water shall be added to the extractor in an amount determined by the following equation:

$V = (20)(W) - 16(W) - A$

V = ml deionized water to be added

W = weight in grams of solid charged to extractor

A = ml of 0.5N acetic acid added during extraction

Step 7. The material in the extractor shall be separated into its component liquid and solid phases as described under "Separation Procedure."

Step 8. The liquids resulting from Steps 2 and 7 shall be combined. This combined liquid for the waste itself (if it has less than 1/2 percent solids, as noted in step 2) is the extract and shall be analyzed for the presence of any of the contaminants specified in Table I of 201.B.5. using the Analytical Procedures designated below

Separation Procedure:

Equipment: A filter holder, designed for filtration media having a nominal pore size of 0.45 micrometers and capable of applying a 5.3 kg/cm^2(75 psi) hydrostatic pressure to the solution being filtered, shall be used. For mixtures containing nonabsorptive solids, where separation can be effected without imposing a 5.3 kg/cm^2 pressure differential, vacuum filters employing a 0.45 micrometers filter media can be used. (For further guidance on filtration equipment or procedures see "Test Methods for Evaluating Solid Waste, Physical/ Chemical Methods" incorporated by reference, see 104.E.) Procedure:[b]

a. Following manufacturer's directions, the filter unit shall be assembled with a filter bed consisting of a 0.45 micrometer filter membrane. For difficult or slow to filter mixtures a prefilter bed consisting of the following prefilters in increasing pore size (0.65 micrometer membrane, fine glass fiber prefilter, and coarse glass fiber prefilter) can be used.

b The waste shall be poured into the filtration unit.

c. The reservoir shall be slowly pressurized until liquid begins to flow from the filtrate outlet at which point the pressure in the filter shall be immediately lowered to 10-15 psig. Filtration shall be continued until liquid flow ceases.

d. The pressure shall be increased stepwise in 10 psi increments to 75 psig and filtration continued until flow ceases or the pressurizing gas begins to exit from the filtrate outlet.

e. The filter unit shall be depressurized, the solid material removed and weighed and then transferred to the extraction apparatus, or, in the case of final filtration prior to analysis, discarded. Do not allow the material retained on the filter pad to dry prior to weighing.

f. The liquid phase shall be stored at 4°C for subsequent use in Step 8.

B. Structural Integrity Procedure.

Equipment: A Structural Integrity Tester having a 3.18 cm (1.25 in.) diameter hammer weighing 0.33 kg (0.73 lbs.) and having a free fall of 15.24 cm (6 in.) shall be used. Such a device is available from Associated Design and Manufacturing Company, Alexandria, VA 22314, as Part No. 125. Equivalent methods may also be used as approved by the Administrator.

Procedure.

1. The sample holder shall be filled with the material to be tested. If the sample of waste is a large monolithic block, a portion shall be cut from the block having the dimensions of a 3.3 cm (1.3 in.) diameter x 7.1 cm (2.8 in.) cylinder. For a fixated waste, samples may be cast in the form of a 3.3 cm (1.3 in.) diameter x 7.1 cm (2.8 in.) cylinder for purposes of conducting this test. In such cases, the waste may be allowed to cure for 30 days prior to further testing.

2. The sample holder shall be placed into the Structural Integrity Tester, then the hammer shall be raised to its maximum height and dropped. This shall be repeated fifteen times.

3 The material shall be removed from the sample holder, weighed, and transferred to the extraction apparatus for extraction.

Analytical Procedures for Analyzing Extract Contaminants:

The test methods for analyzing the extract are as follows:

1. For arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, endrin, lindane, methoxychlor, toxaphene, 2,4-D(2,4-dichlorophenoxyacetic acid) or 2,4,5-TP (2,4,5- trichlorophenoxypropionic acid): "Test Methods for the Evaluation of Solid Waste Physical/Chemical Methods" (incorporated by reference, see 104.E.).

2. For all analyses, the methods of standard addition shall be used for quantification of species concentration.

(b) This procedure is intended to result in separation of the "free" liquid portion of the waste from any solid matter having a particle size greater than 0.45 micrometer. If the sample will not filter, various other separation techniques can be used to aid in the filtration. As described above, pressure filtration is employed to speed up the filtration process. This does not alter the nature of the separation. If liquid does not separate during filtration, the waste can be centrifuged. If separation occurs during centrifugation, the liquid portion (centrifugate) is filtered through the 0.45 micrometer filter prior to becoming mixed with the liquid portion of the waste obtained from the initial filtration. Any material that will not pass through the filter after centrifugation is considered a solid and is extracted.

APPENDIX III -- HAZARDOUS CONSTITUENTS[b]

Acetonitrile (Ethanenitrile)
Acetophenone (Ethanone, 1-phenyl)
3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
2-Acetylaminofluorene (Acetamide, N-(9H-fluoren-2-yl)-)
Acetyl chloride (Ethanoyl chloride)
1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-)
Acrolein (2-Propenal)
Acrylamide (2-Propenamide)
Acrylonitrile (2-Propenenitrile)
Aflatoxins
Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,8b-hexahydro-endo,exo-1,4:5,8-Dimethanonaphthalene)
Allyl alcohol (2-Propen-1-ol)
Aluminum phosphide
4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl-carbamate azirino [2',3':3,4] pyrrolo [1,2-a]indole-4,7-dione, (ester) (Mitomycin C)(Azirino [2'3':3,4] pyrrolo (1,2-a)indole-4,7-dione, 6-amino-8-[((amino-carbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-)
5-(Aminomethyl)-3-isoxazolol (3(2H)-Isoxa-zolone, 5-(aminomethyl)-) 4-Aminopyri-dine (4-Pyridinamine)
Amitrole (1H-1,2,4-Triazol-3-amine)
Aniline (Benzenamine)
Antimony and compounds, N.O.S.*
Aramite (Sufurous acid, 2-chloroethyl-2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester)
Arsenic and compounds, N.O.S.*
Arsenic acid (Orthoarsenic acid)
Arsenic pentoxide (Arsenic (V) oxide)
Arsenic trioxide (Arsenic (III) oxide)
Auramine (Benzenamine, 4,4'-carbonimidoylbis[N,N-Dimethyl-, mono-hydrochloride)
Azaserine (L-Serine, diazoacetate (ester))
Barium and compounds, N.O.S.*
Barium cyanide
Benz[c]acridine (3,4-Benzacridine)
Benz[a]anthracene (1,2-Benzanthracene)
Benzene (Cyclohexatriene)
Benzenearsonic acid (Arsonic acid, phenyl-)
Benzene, dichloromethyl-(Benzal chloride)
Benzenethiol (Thiophenol)
Benzidine ([1,1'-Biphenyl]-4,4'diamine)
Benzo[b]fluoranthene (2,3-Benzofluoranthene)
Benzo[j]fluoranthene (7,8-Benzofluoranthene)
Benzo[a]pyrene (3,4-Benzopyrene)
p-Benzoquinone (1,4-Cyclohexadienedione)
Benzotrichloride (Benzene, trichloromethyl-)
Benzyl chloride (Benzene,(chloromethyl-)
Beryllium and compounds, N.O.S.*
Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bi[2-chloro-])
Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
N, N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
Bis(chloromethyl) ether (Methane,oxybis[chloro-])
Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethyl-hexyl) ester)
Bromoacetone (2-Propanone, 1-bromo-)
Bromomethane (Methyl bromide)
4-Bromophenyl phenyl ether(Benzene, 1-bromo-4-phenoxy-)
Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
2-Butanone peroxide (Methyl ethyl ketone, peroxide)
Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenyl-methyl ester)
2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
Cadmium and compounds, N.O.S.*
Calcium chromate (Chromic acid, calcium salt)
Calcium cyanide
Carbon disulfide (Carbon bisulfide)
Carbon oxyfluoride (Carbonyl fluoride)
Chloral (Acetaldehyde, trichloro-)
Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8a-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
Chlorinated benzenes, N.O.S.*
Chlorinated ethane, N.O.S.*
Chlorinated fluorocarbons, N.O.S.*
Chlorinated naphthalene, N.O.S.*
Chlorinated phenol, N.O.S.*
Chloroacetaldehyde (Acetaldehyde, chloro-)
Chloroalkyl ethers, N.O.S.*
p-Chloroaniline (Benzenamine, 4-chloro-)
Chlorobenzene (Benzene, chloro-)
Chlorobenzilate (Benzeneacetic acid, 4-chloro-alpha-(4-

*The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this appendix.

chlorophenyl)-alpha-hydroxy-, ethyl ester)
2-Chloro-1,3-butadiene (chloroprene)
p-Chloro-m-cresol (Phenol, 4-chloro-3-methyl)
1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
2-Chloroethyl vinyl ether (Ethene, (2-chlor-oethoxy)-)
Chloroform (Methane, trichloro-)
Chloromethane (Methyl chloride)
Chloromethyl methyl ether (Methane, chloromethoxy-)
2-Chloronaphthalene (Naphthalene, beta-chloro-)
2-Chlorophenol (Phenol, o-chloro-)
1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
3-Chloropropene (allyl chloride)
3-Chloropropionitrile (Propanenitrile, 3-chloro-)
Chromium and compounds, N.O.S.*
Chrysene (1,2-Benzphenanthrene)
Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
Coal tars
Copper cyanide
Creosote (Creosote, wood)
Cresols (Cresylic acid) (Phenol, methyl-)
Crotonaldehyde (2-Butenal)
Cyanides (soluble salts and complexes), N.O.S.*
Cyanogen (Ethanedinitrile)
Cyanogen bromide (Bromine cyanide)
Cyanogen chloride (Chlorine cyanide)
Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
Cyclophosphamide (2H-1,3,2-Oxazaphos-phorine, [bis(2-chloroethyl)amino]-tetra-hydro-,2-oxide)
Daunomycin (5,12, Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
DDD (Dichlorodiphenyldichloroethane)(Ethane, 1,1-dichloro-2,2-bis(p-chloro-phenyl)-)
DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlor-ophenyl)-)
DDT (Dichlorodiphenyltrichloroethane)(Ethane, 1,1,1-trichloro-2,2-bis(p-chloro-phenyl)-)
Diallate (S-(2,3-dichloroallyl)diisopropylthiocarbamate)
Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
1,2-Dibromoethane (Ethylene dibromide)
Dibromomethane (Methylene bromide)
Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
o-Dichlorobenzene (Benzene, 1,2-dichloro-)
m-Dichlorobenzene (Benzene, 1,3-dichloro-)
p-Dichlorobenzene (Benzene, 1,4-dichloro-)
Dichlorobenzene, N.O.S.* (Benzene,dichloro-, N.O.S.*)
3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
1,4-Dichloro-2-butene (2-Butene, 1,4-dich-loro-)
Dichlorodifluoromethane (Methane, dich-lorodifluoro-)
1,1-Dichloroethane (Ethylidene dichloride)
1,2-Dichloroethane (Ethylene dichloride)
trans-1,2-Dichloroethene (1,2-Dichloroethy-lene)
Dichloroethylene, N.O.S.* (Ethene, dich-loro-, N.O.S.*)
1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
Dichloromethane (Methylene chloride)
2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophen-oxy-,salts and esters)
Dichlorophenylarsine (Phenyl dichloroar-sine)
Dichloropropane, N.O.S.* (Propane, dichloro-,N.O.S.*)
1,2-Dichloropropane (Propylene dichloride)
Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
1,3-Dichloropropene (1-Propene, 1,3-dichloro-)
Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo,exo-1,4:5,8-Dimethanonaphthalene)
1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
Diethylarsine (Arsine, diethyl-)
N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)
O,O-Diethyl S-methyl ester of phosphoro-dithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
O,O-Diethylphosphoric acid, O-p-nitro-phenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
O,O-Diethyl O-2-pyrazinyl phosphoroth-ioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
Diethylstilbesterol (4,4'-Stilbenediol, alpha, alpha-diethyl, bis(dihydrogen phosphate, (E)-)
Dihydrosafrole (Benzene, 1,2-methylene-dioxy-4-propyl-)
3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
Diisopropylfluorophosphate (DFP) (Phosphorofluoridic acid, bis(1-methylethyl) ester)
Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-

(methylamino)-2-oxoethyl]ester
3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4' diamine, 3-3'-dimethoxy-)
p-Dimethylaminoazobenzene (Benzenamine,N,N-dimethyl-4-(phenylazo)-)
7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
alpha, alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl-)
2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
Dimethyl sulfate (Sulfuric acid, dimethyl ester)
Dinitrobenzene, N.O.S.* (Benzene, dinitro-N.O.S.*)
4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
1,4-Dioxane (1,4-Diethylene oxide)
Diphenylamine (Benzenamine, N-phenyl-)
1,2-Diphenylhydrazine (Hydrazine, 1,2-di-phenyl-)
Di-n-propylnitrosamine (N-Nitrosos-di-n-propylamine)
Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl]phosphorothioate)
2,4-Dithiobiuret (Thioimidodicarbonic diamide)
Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
Ethyl carbamate (Urethan)(Carbamic acid, ethyl ester)
Ethyl cyanide (propanenitrile)
Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediylbiscarbamodithioic acid, salts and esters)
Ethyleneimine (Aziridine)
Ethylene oxide (Oxirane)
Ethylenethiourea (2-Imidazolidinethione)
Ethyl methacrylate (2-Propenoic acid, 2- methyl-,ethyl ester)
Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
Fluoranthene (Benzo[j,k]fluorene)
Fluorine
2-Fluoroacetamide (Acetamide, 2-fluoro-)
Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
Formaldehyde (Methylene oxide)
Formic acid (Methanoic acid)
Glycidylaldehyde (1-Propanol-2,3-epoxy)
Halomethane, N.O.S.*
Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a- tetrahydro-)
Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7- tetrahydro-, alpha, beta, and gamma isomers)
Hexachlorobenzene (Benzene, hexachloro-)
Hexachlorobutadiene (1,3-Butadiene,1,1,2,3,4,4-hexachloro-)
Hexachlorocyclohexane (all isomers) (Lindane and isomers)
Hexachlorocyclopentadiene (1,3-Cyclopentadene, 1,2,3,4,5,5-hexachloro-)
Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofurans
Hexachloroethane (Ethane, 1,1,1,2,2,2-hexachloro-)
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)
Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
Hydrazine (Diamine)
Hydrocyanic acid (Hydrogen cyanide)
Hydrofluoric acid (Hydrogen fluoride)
Hydrogen sulfide (Sulfur hydride)
Hydroxydimethylarsine oxide (Cacodylic acid)
Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
Iodomethane (Methyl iodide)
Iron dextran (Ferric dextran)
Isocyanic acid, methyl ester (Methyl iso-cyanate)
Isobutyl alcohol (1-Propanol, 2-methyl-)
Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalen-2-one)
Lasiocarpine (2-Butenoic acid, 2-methyl-, 7-[(1,2-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
Lead and compounds, N.O.S.*
Lead acetate (Acetic acid, lead salt)

Lead phosphate (Phosphoric acid, lead salt)
Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
Maleic anhydride (25,5-Furandione)
Maleic hydrazide (1,2-Dihydro-3,6-pyridazine-edione)
Malononitrile (Propanedinitrile)
Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino] phenyl-,L-)
Mercury fulminate (Fulminic acid, mercury salt)
Mercury and compounds, N.O.S.*
Methacrylonitrile (2-Propenenitrile, 2-methyl-)
Methanethiol (Thiomethanol)
Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
Methomyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester
Methoxychlor (Ethane, 1,1,1,-trichloro-2,2'-bis(p-methoxyphenyl)-)
2-Methylaziridine (1,2-Propylenimine)
3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
4,4'-Methylenebis(2-chloroaniline) (Benzen-amine, 4,4'-methylenebis-(2-chloro-)
Methyl ethyl ketone (MEK) (2-Butanone)
Methyl hydrazine (Hydrazine, methyl-)
2-Methyllactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime (Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime)
N-Methyl-N'-nitro-N-nitrosoguanidine (Guanidine, N-nitroso-N-methyl-N'-nitro-)
Methyl parathion (O,O-dimethyl O-(4-nitro-phenyl)phosphorothioate)
Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
Mustard gas (Sulfide, bis(2-chloroethyl)-)
Naphthalene
1,4-Naphthoquinone (1,4-Naphthalene-dione)
1-Naphthylamine (alpha-Naphthylamine)
2-Naphthylamine (beta-Naphthylamine)
1-Naphthyl-2-thiourea (Thiourea, 1-naphth-alenyl-)
Nickel and compounds, N.O.S.*
Nickel carbonyl (Nickel tetracarbonyl)
Nickel cyanide (Nickel (II) cyanide)
Nicotine and salts (Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)
Nitric oxide (Nitrogen (II) oxide)
p-Nitroaniline (Benzenamine, 4-nitro-)
Nitrobenzene (Benzene, nitro-)
Nitrogen dioxide (Nitrogen (IV) oxide)
Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-choroethyl)-N-methyl-, and hydrochloride salt)
Nitroglycerine (1,2,3-Propanetriol, trinitrate)
4-Nitrophenol (Phenol, 4-nitro-)
4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
Nitrosamine, N.O.S.*
N-Nitrosodi-n-butylamine (1-Butanamine,N-butyl-N-nitroso-)
N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino) bis-)
N-Nitrosodiethylamine (Ethanamine N-ethyl-N-nitroso-)
N-Nitrosodimethylamine (Dimethylnitrosamine)
N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
N-Nitrosomethylethylamine (Ethanamine,N-methyl-N-nitroso-)
N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
N-Nitrosomorpholine (Morpholine, N-nitroso-)
N-Nitrosonornicotine (Nornicotine, N-nitroso-)
N-Nitrosopiperidine (Pyridine, hexahydro-,N-Nitroso-)
Nitrosopyrrolidine (Pyrrole, tetrahydro-, N-nitroso-)
N-Nitrososarcosine (Sarcosine, N-nitroso-)
5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
Octamethylpyrophosphoramide (Diphosphoramide, octamethyl-)
Osmium tetroxide (Osmium (VIII) oxide)
7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylicacid (Endothal)
Paraldehyde (1,3,5-Trioxane, 2,4,6-trimethyl-)
Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester
Pentachlorobenzene (Benzene, pentachloro-)
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans
Pentachloroethane (Ethane, pentachloro-)
Pentachloronitrobenzene (PCNB) (Benzene,pentachloronitro-)
Pentachlorophenol (Phenol, pentachloro-)

Phenacetin (Acetamide, N-(4-ethoxy-phenyl)-)
Phenol (Benzene, hydroxy-)
Phenylenediamine (Benzenediamine)
Phenylmercury acetate (Mercury, acetato-phenyl-)
N-Phenylthiourea ((Thiourea, phenyl-)
Phosgene (Carbonyl chloride)
Phosphine (Hydrogen phosphide)
Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester (Phorate)
Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)sulfonyl)phenyl] ester (Famphur)
Phthalic acid esters, N.O.S.* (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.*)
Phthalic anhydride (1,2) Benzenedicarboxylic acid anhydride)
2-Picoline (Pyridine, 2-methyl-)
Polychlorinated biphenyl, N.O.S.*
Potassium cyanide
Potassium silver cyanide (Argentate(1-), di-cyano-, potassium)
Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide)
1,3-Propane sultone (1,2-Oxathiolane, 2,2-dioxide)
n-Propylamine (1-Propanamine)
Propylthiouracil (Undecamethylenediamine, N,N'-bis(2-chlorobenzyl), dihydrochloride)
2-Propyn-1-ol(Propargyl alcohol)
Pyridine
Reserpine (Yohimban-16-carboxylic acid, 11,17-dimethoxy-18[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester)
Resorcinol (1,3-Benzenediol)
Saccharin and salts (1,2-Benzoisothiazolin-3-one, 1,1-dioxide, and salts)
Safrole (Benzene, 1,2-methylenedioxy-4-allyl-)
Selenious acid (Selenium dioxide)
Selenium and compounds, N.O.S.*
Selenium sulfide (Sulfur selenide)
Selenourea (Carbamimidoselenoic acid)
Silver and compounds, N.O.S.*
Silver cyanide
Sodium cyanide
Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)
Strontium sulfide
Strychnine and salts (Strychnidin-10-one, and salts)
1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofurans
2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) (Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
Tetrachloroethane, N.O.S.* (Ethane, tetrachloro-, N.O.S.*)
1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)
1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)
Tetrachloroethane (Ethene, 1,1,2,2-tetrachloro-)
Tetrachloromethane (Carbon tetrachloride)
2,3,4,6,-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)
Tetraethyldithiopyprophosphate (Dithiopyrophosphoric acid, tetraethyl-ester)
Tetraethyl lead (Plumbane, tetraethyl-)
Tetraethylpyrophosphate (Pyrophosphoricacid, tetraethyl ester)
Tetranitromethane (Methane, tetranitro-)
Thallium and compounds, N.O.S.*
Thallic oxide (Thallium (III)oxide)
Thallium (I) acetate (Acetic acid, thallium (I) salt)
Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)
Thallium (I) chloride
Thallium (I) nitrate (Nitric acid, thallium (I) salt)
Thallium selenite
Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
Thioacetamide (Ethanethioamide)
Thiosemicarbazide (Hydrazinecarbothioamide)
Thiourea (Carbamide thio-)
Thiuram (Bis(dimethylthiocarbamoyl) disulfide)
Toluene (Benzene, methyl-)
Toluenediamine (Diaminotoluene)
o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
Tolylene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)
Toxaphene (Camphene, octachloro-)
Tribromomethane (Bromoform)
1,2,4-Trichlorobenzene (Benzene, 1,2,4, trichloro-)
1,1,1-Trichloroethane (Methyl chloroform)
1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
Trichloroethene (Trichloroethylene)
Trichloromethanethiol (Methanethiol, trichloro-)
Trichloromonofluoromethane (Methane, trichlorofluoro-)
2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
2,4,5-Trichlorophenoxyacetic acid (2,4,5-T) (Acetic acid, 2,4,5-trichlorophenoxy-)
2,4,5-Trichlorophenoxypropionic acid (2,4,5-TP) (Silvex) (Propionoic acid, 2-(2,4,5-trichlorophenoxy)-)
Trichloropropane, N.O.S.* (Propane, trichloro-, N.O.S.*)
1,2,3-Trichloropropane (Propane, 1,2,3,-trichloro-)
O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
Tris-(1-azridinyl) phosphine sulfide (Phosphine sulfide, tris(1-

aziridinyl-)

Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)

Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-,tetrasodium salt)

Uracil mustard (Uracil 5-[bis(2-chloroethyl)amino]-)

Vanadic acid, ammonium salt (ammonium vanadate)

Vanadium pentoxide (Vanadium (V) oxide)

Vinyl chloride (Ethene, chloro-)

Zinc cyanide

Zinc phosphide

APPENDIX IV BASIS FOR LISTING HAZARDOUS WASTES

EPA HAZARDOUS WASTE NUMBER	HAZARDOUS CONSTITUENTS FOR WHICH LISTED
F001	tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorinated fluorocarbons, carbon tetrachloride.
F002	tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, o-dichlorobenzene, trichlorofluoromethane.
F003	NA
F004	cresols and cresylic acid, nitrobenzene.
F005	toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine.
F006	cadmium, hexavalent chromium, nickel, cyanide (complexed)
F007	cyanide (salts)
F008	cyanide (salts)
F009	cyanide (salts)
F010	cyanide (salts)
F011	cyanide (salts)
F012	cyanide (complexed)
F019	hexavalent chromium, cyanide (complexed)
F020	Tetra and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodi-benzofurans; tri- and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F021	Penta- and hexachlorodibenzo-p-dioxins, penta- and hexachlorodibenzofurans; pentachlorophenol and its derivatives.
F022	Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans.
F023	Tetra-, and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodibenzofurans; tri- and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F024	chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorbenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.
F026	Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra- penta-, and hexachlorodibenzofurans.
F027	Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.
F028	Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans, tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts.

K001	benz(a)anthracene, benzo(a)pyrene, chrysene, toluene, naphthalene, phenol, 2-chlorophenol, 2,4-dimethylphenol, pentachlorophenol, tetrachlorophenols, p-chloro-m-cresol, 2,4-dinitrophenol, trichlorophenols, creosote, fluoranthene, benzo(b)fluoranthene, indeno(1,2,3-cd)pyrene, dibenz(a)anthracene, acenaphthalene.
K002	hexavalent chromium, lead.
K003	hexavalent chromium, lead.
K004	hexavalent chromium.
K005	hexavalent chromium, lead.
K006	hexavalent chromium.
K007	cyanide (complexed), hexavalent chromium.
K008	hexavalent chromium
K009	chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid.
K010	chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid, chloroacetaldehyde.
K011	acrylonitrile, acetonitrile, hydrocyanic acid.
K013	acrylonitrile, acetonitrile, hydrocyanic acid.
K014	acetonitrile, acrylamide.
K015	benzyl chloride, chlorobenzene, toluene, benzotrichloride.
K016	hexachlorobenzene, hexachlorobutadiene, carbon tetrachloride, hexachloroethane, perchloroethylene.
K017	epichlorohydrin, chloroethers [bis(chloromethyl) ether and bis(2-chloroethyl) ethers], trichloropropane, dichloropropanols.
K018	1,2-dichloroethane, trichloroethylene, hexachlorobutadiene, hexachlorobenzene.
K019	ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
K020	ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
K021	antimony, carbon tetrachloride, chloroform.
K022	phenol, tars (polycyclic aromatic hydrocarbons).
K023	phthalic anhydride, maleic anhydride
K024	phthalic anhydride, 1,4-naphthoquinone
K025	meta-dinitrobenzene, 2,4-dinitrotoluene.
K026	paraldehyde, pyridines, 2-picoline.
K027	toluene diisocyanate, toluene-2,4-diamine.
K028	1,1,1-trichloroethane, vinyl chloride.
K029	1,2-dichloroethane, 1,,1,1-trichloroethane, vinyl chloride, vinylidene chloride, chloroform.
K030	hexachlorobenzene, hexachlorobutadiene, hexachloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, ethylene dichloride.
K031	arsenic.
K032	hexachlorocyclopentadiene.
K033	hexachlorocyclopentadiene.

K034	hexachlorocyclopentadiene.
K035	creosote, benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)pyrene, chrysene, naphthalene, fluoranthene, indeno(1,2,3-cd)pyrene, dibenzo(a)anthracene, acenaphthalene.
K036	toluene, phosphorodithioic and phosphorothioic acid esters.
K037	toluene, phosphorodithioic and phosphorothioic acid esters
K038	phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K039	phosphorodithioic and phosphorothioic acid esters.
K040	phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K041	toxaphene.
K042	hexachlorobenzene, ortho-dichlorobenzene.
K043	2,4-dichlorophenol. 2,6-dichlorophenol, 2,4,6-trichlorophenol.
K044	NA
K045	NA
K046	lead.
K047	NA
K048	hexavalent chromium, lead.
K049	hexavalent chromium, lead.
K050	hexavalent chromium.
K051	hexavalent chromium, lead.
K052	lead.
K060	cyanide, naphthalene, phenolic compounds, arsenic.
K061	hexavalent chromium, lead, cadmium
K062	hexavalent chromium, lead.
K069	hexavalent chromium, lead, cadmium.
K071	mercury.
K073	chloroform, carbon tetrachloride, hexachloroethane, trichloroethane, tetrachloroethylene, dichloroethylene, 1,1,2,2-tetrachloroethane.
K083	aniline, diphenylamine, nitrobenzene, phenylenediamine.
K084	arsenic.
K085	benzene, dichlorobenzenes, trichlorobenzenes, tetrachlorobenzenes, pentachlorobenzene, hexachlorobenzene, benzyl chloride.
K086	hexavalent chromium, lead.
K087	phenol, naphthalene.
K093	phthalic anhydride, maleic anhydride.
K094	phthalic anhydride.
K095	1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane.
K096	1,2-dichloroethane, 1,1,1-trichloroethane, 1,1,2-trichloroethane.
K097	chlordane, heptachlor.
K098	toxaphene.
K099	2,4-dichlorophenol, 2,4,6-trichlorophenol.
K100	hexavalent chromium, lead, cadmium
K101	arsenic.
K102	arsenic.
K103	aniline, nitrobenzene, phenylenediamine

K104	aniline, benzene, diphenylamine, nitrobenzene, phenylenediamine.
K105	benzene, monochlorobenzene, dichlorobenzenes, 2,4,6-trichlorophenol.
K106	mercury.

NA--- Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity, or reactivity.

202. Notification of Hazardous Waste Activities.

A. This regulation applies to any person(s) involved in hazardous waste activities within New Mexico.

B. Notification Requirements for Generators.

1. Every generator, who will begin to produce a hazardous waste within the State, shall file with the Division a completed Notification Form (see E.) for that hazardous waste, and obtain an EPA Identification Number before they perform any activity subject to the requirements of these regulations.

2. Every generator, of a waste within the State which is classified or listed for the first time as a hazardous waste by a revision of 201, shall file a completed Notification Form (see E.) for such waste with the Division within ninety (90) days after a revision becomes effective unless a completed Notification Form has previously been filed with the Division.

C. Notification Requirements for Transporters.

1. Any transporter, who will begin to accept or deliver hazardous waste within the State, must file a completed Notification Form (see E.) with the Division and obtain an EPA Identification Number before they accept hazardous waste for transport.

2. Any transporter who accepts or delivers a waste within the State, which is classified or listed for the first time as a hazardous waste by a revision of 201, shall file a completed Notification Form (see E.) with the Division within ninety (90) days after such revision becomes effective, unless a completed Notification Form has previously been filed with the Division for that hazardous waste.

D. Notification Requirements for Owners and Operators of Treatment, Storage or Disposal Facilities.

1. Any person who owns or will operate a facility within the State, which will begin to treat, store, or dispose of a hazardous waste, shall file a completed Notification Form (see E.) with the Division before they perform any activity subject to the requirements of these regulations.

2. Any person who owns or operates a facility within the State, which treats, stores, or disposes of a solid waste which is classified or listed for the first time as a hazardous waste by a revision of 201, shall file a completed Notification Form (see E.) with the Division within ninety (90) days after such revision becomes effective unless a completed Notification Form has previously been filed with the Division for that facility and that hazardous waste.

E. The Notification Form shall be designated by the Division and shall be completed as required by the instructions supplied with such form.

203. Manifest System, Recordkeeping and Reporting.

A. Generator Requirements.

1. Manifest System.[8]

a. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a manifest (OMB control number 2000-0404) on EPA form 8700-22, and if necessary, EPA form 8700-22A, according to the instructions included in the Appendix to 40 CFR Part 262.

b. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest, and may also designate on the manifest one alternate facility which is permitted to handle the waste in the event an emergency prevents delivery of the waste to the primary designated facility.

c. If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

d. The manifest must consist of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one (1) copy each for their records plus another copy to be returned to the generator.

e. Acquisition of Manifests.

(1) If the State to which the shipment is manifested (consignment State) supplies the Manifest and requires its use, then the generator must use that Manifest.

(2) If the consignment State does not supply the Manifest, but the State in which the generator is located (generator State) supplies the Manifest and requires its use, then the generator must use that State's Manifest.

(3) If neither the generator State nor the consignment State supplies the Manifest, then the generator may obtain the Manifest from any source.

f. The generator must sign the manifest certification by hand and obtain the handwritten signature of the initial transporter along with the date of acceptance and retain one copy in accordance with 203.A.2.a.;

g. The generator must give the transporter the remaining copies of the manifest; except that

h. In case of rail shipments of hazardous waste within the United State which originate at the site of generation, the generator must send at least three (3) copies of the manifest, dated and signed in accordance with 203.A.1., to:

(1) The next non-rail transporter, if any; or

(2) The designated facility if transported solely by rail; or

(3) The last rail transporter to handle the waste in the United States if exported by rail.

i. International shipments.

Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the United States, must comply with the requirements of 203.A., 204 and the following special requirements;

(1) When shipping hazardous waste outside the United States, the generator must:

(a) Notify the U.S. EPA Administrator in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year:

(i) The waste must be identified by its EPA hazardous waste identification number and its DOT shipping description;

(ii) The name and address of the foreign consignee must be included in this notice;

(iii) These notices must be sent to: Office of International Activities (A-106), United States Environmental Protection Agency, Washington, D.C. 20460.

(b) Require that the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose;

(c) Meet the requirements under 203.A.1.a. for the manifest, except that:

(i) In place of the name, address, and EPA identification number of the designated facility, the name and address of the foreign consignee must be used;

(ii) The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.

(d) Obtain the Manifest from the generator's State if that State supplies the Manifest form and requires its use. If the generator's State does not supply the Manifest form, then the generator may obtain the form from any source.

(2) A generator must file an Exception Report, if:

(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter; or

(b) Within 90 days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.

(3) When importing hazardous waste, a person must meet all requirements of 203.A.1.a. for the manifest except that:

(a) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(b) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(4) A person who imports hazardous waste must obtain the Manifest form from the consignment State if that State supplies the Manifest and requires its use. If the consignment State does not supply the Manifest form, then the Manifest form may be obtained from any source.

2. Recordkeeping.[9]

a. A generator must keep a copy of each manifest signed in accordance with 203.A.1. for three (3) years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three (3) years from the date the waste was accepted by the initial transporter.

b. A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three (3) years from the due date of the report.

c. A generator must keep records of any test results, waste analyses, or other determinations made in accordance with 204.A.1. for at least three (3) years from the date that the waste was last sent to an on-site or off-site treatment, storage, or disposal facility.

d. The periods of retention referred to in 203.A.2.a, b., and c. are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director.

3. Reporting.[10]

a. Biennial Report

(1) A generator who ships his hazardous waste off-site must prepare and submit a single

copy of a biennial report to the Director by March 1 of each even numbered year. The biennial report must be submitted on EPA Form 8700-13 A or on forms supplied by the Division, and must cover generator activities during the previous calendar year, and must include the following information:

(a) The EPA identification number, name, and address of the generator;

(b) The calendar year covered by the report;

(c) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility to which waste was shipped during the year; for exported shipments, the report must give the name and address of the foreign facility.

(d) The name and EPA identification number of each transporter used during the reporting year.

(e) A description, EPA hazardous waste number (from 201.B. or 201.C.), DOT hazard class, and quantity of each hazardous waste shipped off-site. This information must be listed by EPA identification number of each facility to which waste was shipped.

(f) The certification signed by the generator or his authorized representative.

(2) Any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of 203.C.3. (Biennial Reports for Treatment, Storage and Disposal Facilities) and 302.

b. Exception Reporting.

(1) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator must submit an Exception Report to the Director if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within forty-five (45) days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(b) A cover letter signed by the generator, or his authorized representative, explaining the efforts taken to locate the hazardous waste and the results of those efforts.

c. Additional Reporting.

(1) The Director, as he deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 201.

B. Transporter Requirements.[11]

1. Manifest System.

a. A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest, signed by the generator in accordance with the provisions of 203.A.1.

b. Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

c. The transporter must ensure that the manifest accompanies the hazardous waste.

d. A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and

(2) Retain one copy of the manifest in accordance with 203.B.2.a.; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

e. For shipments involving rail transportation, the requirements of 203.B.1.c. and d. do not apply and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must:

(a) Sign and date the manifest acknowledging the acceptance of the hazardous waste;

(b) Return a signed copy of the manifest to the non-rail transporter;

(c) Forward at least three (3) copies of the manifest to:

(i) The next non-rail transporter, if any; or,

(ii) The designated facility, if the shipment is delivered to that facility by rail; or,

(iii) The last rail transporter designated to handle the waste in the United States;

(d) Retain one (1) copy of the manifest and rail shipping paper in accordance with 203.B.2.

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) accompanies the hazardous waste at all times.

Note: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

(3) When delivering hazardous waste to the designated facility, a rail transporter must:

(a) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and,

(b) Retain a copy of the manifest or signed shipping paper in accordance with 203.B.2.

(4) When delivering hazardous waste to a non-rail transporter, a rail transporter must:

(a) Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(b) Retain a copy of the manifest in accordance with 203.B.2.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

f. Transporters who transport hazardous waste out of the United States must:

(1) Indicate on the manifest the date the hazardous waste left the United States; and

(2) Sign the manifest and retain one copy in accordance with 203.B.2.; and

(3) Return a signed copy of the manifest to the generator

g. The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(1) The designated facility listed on the manifest; or

(2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(3) The next designated transporter; or

(4) The place outside the United States designated by the generator.

h. If the hazardous waste cannot be delivered in accordance with 203.B.1.g., the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

2. Recordkeeping.[12]

a. A transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

b. For shipments of hazardous waste by rail within the United States:

(1) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in 203.B.1.e.(2) for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter; and

(2) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

Note: Intermediate rail transporters are not required to keep records pursuant to these regulations.

c. A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter

d. The periods of retention referred to in 203.B.2. are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director.

C. Treatment, Storage and Disposal Facility Requirements.

1. Manifest System.[13]

a. These regulations apply to owners and operators of both on-site and off-site facilities, except as 206.A. provides otherwise. 203.C.1. and 203.C.3.b. do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

b. If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

(2) Note any significant discrepancies in the manifest [as described in 203.C.1.d.(1)] on each copy of the manifest;

(3) Immediately give the transporter at least one (1) copy of the signed manifest;

(4) Within thirty (30) days after the delivery, send a copy of the manifest to the generator; and

(5) Retain at the facility a copy of each manifest for at least three (3) years from the date of delivery.

c. If a facility receives, from a rail transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies [as described in 203.C.1.d.(1)] in the manifest or shipping paper (if the manifest has not been received)] on each copy of the manifest or shipping paper;

(3) Immediately give the rail transporter at least one (1) copy of the manifest or shipping paper (if the manifest has not been received);

(4) Within thirty (30) days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper signed and dated to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three (3) years from the date of delivery.

d. Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 203.A.1. and 204.

e. Manifest Discrepancies.

(1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are: (1) for bulk waste, variations greater than 10 percent in weight, and (2) for batch waste, any variation in piece count, such as a discrepancy of one (1) drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constitutents not reported on the manifest or shipping paper.

(2) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

2. Recordkeeping.[14]

a. Owners or operators of treatment, storage, or disposal facilities that accept shipments of hazardous waste from off-site that are accompanied by a manifest must retain at the facility a copy of each manifest as specified in 203.C.1.b.(5) and 203.C.1.c.(5).

b. Owners or operators of treatment, storage, or disposal facilities must maintain at the facility those plans and records as may be specified in 206.B.3., B.5., B.6., B.10, C.1., C.2., C.3., D.1., D.2 and D.3.

c. In addition, every owner or operator of a treatment, storage, or disposal facility must keep a written operating record at his facility with the following information recorded, as it becomes available, and maintained in the operating record until closure of the facility;

(1) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by Appendix I;

(2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(3) Records and results of waste analyses performed as may be specified in:

(a) 206.B.3 and B.7;

(b) 206.C.5.c., 6.d, 7.c, 8.c, 9.g, 10.b, 11.c, and 12.c. or

(c) 206.D.8.b. and 206.D.10.i.

(4) Summary reports and details of all incidents that require implementing the contingency plan as specified in 206.B.10.m.(10).

(5) Records and results of inspections as required by 206.B.5.e. (except these data need be kept only three (3) years).

(6) Monitoring, testing, or analytical data where required by:

(a) 206.C.1.a. and e.;

(b) 206.C.8.a., e., and g.;

(c) 206.C.10.d.;

(d) 206.C.11.d.;

(e) 206.D.1.;

(f) 206.D.6.d.;

(g) 206.D.7.d. and e.;

(h) 206.D.8.g.;

(i) 206.D.9.e., f., and h.; and

(j) 206.D.10.d. and e.

(7) For off-site facilities, notices to generators as specified in 206.B.2.b.

(8) All closure cost estimates under 206.C.3.c. or 206.D.3.c., as applicable, and, for disposal facilities, all post-closure cost estimates under 206.C.3.e. or 206.D.3.e.; as applicable.

d. Availability, retention, and disposition of records.

(1) All records, including plans, required under these regulations must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the Division who is duly designated by the Director.

(2) The retention period for all records required under these regulations is extended automatically during the course of any unresolved enforcement action regarding the facility or as request by the Director.

(3) A copy of records of waste disposal locations and quantities under 203.C.2.c.(2) must be submitted to the Director and local land authority upon closure of the facility (see 206.C.2.i. or 206.D.2.i.).

3. Reporting.[15]

a. Biennial report.

(1) The owner or operator must prepare and submit a single copy of a biennial report to the Director by March 1 of each even numbered year. The biennial report must be submitted on EPA Form 8700-13B or on forms supplied by the Division. The report must cover facility activities during the previous calendar year and must include the following information:

(a) The EPA identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each hazardous waste received during the year. For off-site facilities, this information must be listed by the EPA identification number of each generator;

(e) The method of treatment, storage, or disposal for each hazardous waste;

(f) Monitoring data as may be required by 206.C.1.e.(1)(b)(ii) and (iii), or 206.C.1.e.(2)(b);

(g) The most recent closure cost estimate under 206.C.3.c. or , as applicable, and, for disposal facilities, the most recent post-closure cost estimate under 206.C.3.e. or 206.D.3.e., as applicable; and

(h) The certification signed by the owner or operator of the facility or his authorized representative.

b. Unmanifested waste report.

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in 203.B.1.e.(2), and if the waste is not excluded from the manifest requirement by 201.A.4., then the owner or operator must prepare and submit a single copy of a report to the Director within fifteen (15) days after receiving the waste. The unmanifested waste report must be submitted on EPA Form 8700-13B or on forms supplied by the Division. Such report must be designated "Unmanifested Waste Report" and include the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

c. Additional reports.

In addition to submitting the biennial report and unmanifested waste reports described in 203.C.3.a. and b., the owner or operator must also report to the Director:

(1) Releases, fires, and explosions as specified in 206.B.10.m.(10);

(2) Ground-water contamination and monitoring data as specified in 206.C.1.d. and e., as applicable;

(3) Facility closure as specified in 206.C.2.f. or 206.D.2.f., as applicable; and

(4) As otherwise required by 206.D.1. and 206.D.6.,D.7., D.9., and D.10.

204 GENERATORS OF HAZARDOUS WASTE

A. General [1b]

1. These regulations apply to all generators who generate a hazardous waste as characterized or listed in 201 as follows:

a. A generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following portions of 203 and 204 with respect to that waste:

(1) 204.A.3. for determining whether or not he has a hazardous waste;

(2) 204.A.4. and 5. for obtaining an EPA identification number;

(3) 204.B. for accumulation of hazardous waste;

(4) 203.A.2.c. and d. for recordkeeping;

(5) 203.A.3.c. for additional reporting; and if applicable

(6) 204.H. for farmers.

b. Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in 203.A. and 204.

c. A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of 204.H. is not required to comply with other standards in 203.A., 204, 206, 301 or 302 with respect to such pesticides.

d. An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in 203.A. and 204.

2. Notwithstanding any other provisions of these regulations, a person who generates a hazardous waste as characterized or listed in 201 is subject to the compliance requirements and penalties in Section 74-4-10 to 74-4-12 of the Act if he does not comply with the requirements of 203.A. and 204.

3. A person who generates a solid waste, as characterized in 201.A.2. must determine if that waste is a hazardous waste using the following method:

a. He should first determine if the waste is excluded from regulation under 201.A.4.

b. He must then determine if the waste is listed as a hazardous waste in 201.C.

c. If the waste is not listed as a hazardous waste in 201.C., he must determine whether it is identified as a hazardous waste in 201.B., by either:

(1) Testing the waste according to the methods set forth in 201.B. or according to an equivalent method as approved by the Administrator, or

(2) Applying knowledge of the hazardous characteristic of the waste in light of the materials or processes used.

4. A generator, who generates a hazardous waste, must not treat, store, dispose of, transport, or offer that hazardous waste for transportation without first having received an EPA identification number. A generator who has not received an EPA identification number may do so by filing a Notification Form with the Division as outlined in 202.A.

5. 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.

B. Accumulation Time.[17]

1. A generator may accumulate hazardous waste on site for ninety (90) days or less without a permit or without having interim status provided that:

a. The waste is placed in containers and the generator complies with 206.C.4., or the waste is placed in tanks and the generator complies with 206.C.5., except 206.C.5.c.;

b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and

d. The generator complies with the requirements for owners or operators in 206.B.6., B.9., and B.10.

2. A generator who accumulates hazardous waste for more than ninety (90) days is an operator of a storage facility and is subject to the requirements of 206.B., C., and D., and the permit requirements of Part III, unless he has been granted an extension to the ninety (90) day period. Such an extension may be granted by the Director if hazardous wastes must remain on-site for longer than ninety (90) days due to unforeseen, temporary and uncontrollable circumstances. An extension of up to thirty (30) days may be granted on a case-by-case basis.

3.a. A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 201.C.4.e. in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with 204.B.1. provided he:

(1) Complies with 206.C.4.b., 206.C.4.c., and 206.C.4.d.(1); and

(2) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

b. A generator who accumulates either hazardous waste or acutely hazardous waste listed in 201.C.4.e. in excess amounts listed in 204.B.3.a. at or near any point of generation must, with respect to that amount of excess waste, comply within three days with 204.B.1. or other applicable provisions. During the three day period the generator must continue to comply with 204.B.3.a.(1) and (2). The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

C. Manifest System.

A generator who transports, or offers for transportation, hazardous waste off-site must comply with the manifest requirements of 203.A.1.

D. Recordkeeping.

A generator must keep a copy of all records required by 203.A.2. for the designated time periods.

E. Reporting.

A generator must submit to the Director those reports as required in 203.A.3.

F. Pre-Transport Requirements.[18]

1. Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR Parts 173, 178, and 179.

2. Labeling.

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR Part 172.

3. Marking.

a. Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR Part 172;

b. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

> HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.
>
> Generator's Name and Address_____
> Manifest Document Number_____

4. Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

G. International Shipments.

A person who exports or imports a hazardous waste to or from a foreign country must comply with the requirements of 203.A.1 j.

H. Farmers.[19]

A farmer disposing of waste pesticides from his own use, on his own farm, which are hazardous wastes is not required to comply with the standards in 204 or other standards in 206, 301 and 302 for those wastes provided he triple rinses each emptied pesticide container in accordance with 201 A.7 and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

205. TRANSPORTERS.

A. General.[20]

1. These regulations apply to persons transporting hazardous waste within the United States if that transportation requires a manifest under 203.A.1. and 204.C.

2. A transporter of hazardous waste must also comply with any additional requirements of 204, if he:

a. Transports hazardous waste into the United States from a foreign country; or

b. Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

3. These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

B. EPA Identification Number.[21]

1. A transporter must not transport hazardous wastes without having received an EPA identification number.

2. A transporter who has not received an EPA identification number may obtain one by applying to the Director in accordance with 202.C. of these regulations.

C. Transfer Facility Requirements.[22]

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 204.F.1. at a transfer facility for a period of ten (10) days or less is not subject to regulation under 206.B., C., and D., and Part III, with respect to the storage of those wastes.

D. Manifest System.

A transporter who accepts shipments of hazardous waste for transportation must comply with the manifest requirements of 203.B.1. of these regulations.

E. Recordkeeping.

A transporter of hazardous waste must comply with the recordkeeping requirements of 203.B.2. of these regulations.

F. Hazardous Waste Discharge.[23]

1. Immediate action.

a. In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to protect human health and the environment, (e.g., notify the Environmental Improvement Division and other local authorities and take appropriate remedial action).

b. If a discharge of hazardous waste occurs during transportation and an E.I.D. official determines that immediate removal of the waste is necessary to protect human health and the environment that official may authorize the removal of the waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.

c. An air, rail, or highway transporter who has discharged hazardous waste must:

(1) Give notice, if required by 49 CFR 171.15, to the National Response Center (800-424-8802 or 202-426-2675), and

(2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

2. Discharge clean-up.

A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or

approved by the Environmental Improvement Division so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

206. Standards For Treatment, Storage and Disposal Facilities.

A. Purpose, scope, and applicability.

1. The purpose of these regulations is to establish minimum standards and requirements which define the acceptable management of hazardous waste.[24] For those regulated under 206.C., these regulations apply during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

2. The standards and requirements of 206.B. and 206.C. apply to:[25]

a. Owners and operators of all facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under 3005(e) of RCRA and 302.C. of these regulations, until either a permit is issued under section 3005 of RCRA or until applicable 206.C. closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA, and/or failed to file Part A of the permit application as required by Sections 302.A.1.b. and 302.A.5. of these regulations. These standards apply to all treatment, storage, and disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in 201., and 206.A., B., and C.

b. The aboveground treatment or storage of hazardous waste by a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act, as amended, (42 U.S.C. 2011 et seq.).

3. The standards and requirements of 206.B. and 206.D. apply to:[26]

a. Owners and operators of all facilities, without interim status, which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in 206.A., 206.B., 206.D., or in 201 of these regulations;

b. The aboveground treatment or storage of hazardous waste by a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act, as amended (42 U.S.C. 2011 et seq.) in addition to any additional requirement to the extent they are included in a permit by rule granted to such a person under 302.D.; and

c. The owner or operator of a POTW which treats stores or disposes of hazardous waste only to the extent they are included in a permit by rule granted to such a person under 302.D.

d. Relationship to interim status standards.

A facility owner or operator who has fully complied with the requirements for interim status--as defined in Section 3005(e) of RCRA and 302.C. of these regulations--must comply with the regulations in 206.B. and 206.C. in lieu of the regulations in 206.B. and 206.D. until final administrative disposition of his permit application is made.

4. The standards and requirements of 206.B., 206.C., and 206.D. do not apply to:[27]

a. The owner or operator of a sanitary landfill registered by the Division and approved for the disposal of the quantity and types of hazardous waste as set out in 201.A.5.;

b. The owner or operator of a facility managing recyclable materials described in 201.A.6.a.(2) and (3) (except to the extent that these requirements refer to 206.E.1., 2., and 4. or 5.)

c. A generator accumulating waste on-site in compliance with 204.B., except to the extent the requirements are included in 204.B.;

d. A farmer disposing of waste pesticides from his own use in compliance with 204.H.;

e. The owner or operator of a totally enclosed treatment facility as defined in 102;

f. The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 102;

g. Except as provided in 206.A.4.g.(2),

(1) A person engaged in treatment or containment activities during immediate response to any of the following situations:

(a) A discharge of a hazardous waste;

(b) An imminent and substantial threat of a discharge of hazardous waste;

(c) A discharge of material which, when discharged becomes a hazardous waste.

(2) An owner or operator of a facility otherwise regulated by 206.A., B., C., and D. must comply with all applicable requirements of 206.B.9. and 10.

(3) Any person who is covered by 206.A.4.g.(1) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of 206.A., B., C., and D. and Part III for those activities.

h. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 204.F. at a transfer facility for a period of ten days or less.

5. The following hazardous wastes must not be managed at facilities subject to regulation under 206.A., B., and C.:

a. EPA Hazardous Waste Nos. F020, F021, F022, F023, FO26, or F027 unless:

(1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(2) The waste is stored in tanks or containers;

(3) The waste is stored or treated in waste piles that meet all the requirements of 206.D.7.a.(3) as well as all other applicable requirements of 206.C.7.;

(4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in 206.C.10.f.;

(5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in 206.C.11.g.

B. General Requirements.

1 Identification Number.[28]

Every facility owner or operator must apply for an EPA Identification Number in accordance with 202, unless such a number has already been issued.

2. Required Notices.[29]

a. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Director in writing at least four (4) weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same aste from the same foreign source is not required.

b. Owners or operators of facilities that are subject to the requirements and standards of 206.B. and 206.D. and that receive hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

c. Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of 206.B., and 206.C. or 206.D. as applicable, and 302 of these regulations.

3. General Waste Analysis.[30]

a. Before an owner or operator treats, stores, or disposes of any hazardous waste, he must obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with the requirements of 206.B., and 206.C. or 206.D., as applicable, or with the conditions of a permit issued under Part III of these regulations.

(1) The analysis may include data developed under 201 and existing published or documented data on the hazardous waste or on hazardous waste generated from similar processes.

(2) The analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated:

(a) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed; and

(b) For off-site facilities, when the results of the inspection required in 206.B.3.a.(3) indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.

(3) The owner or operator of an off-site facility must inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

b. The owner or operator must develop and follow a written waste analysis plan which describes the procedures which he will carry out to comply with 206.B.3.a. He must keep this plan at the facility. At a minimum, the plan must specify:

(1) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with 206.B.3.a.

(2) The test methods which will be used to test for these parameters;

(3) The sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

(a) One of the sampling methods described in Appendix I of 201; or

(b) An equivalent sampling method, as approved by the Administrator;

(4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date;

(5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply; and

(6) Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in:

(a) 206.B.7;

(b) 206.C.5.c., 6.d., 7.c., 8.c., 9.g., 10.b., 11.c., 12.c.; or

(c) 206.D.8.b. and 206.D.10.i.

c. For off-site facilities, the waste analysis plan required in 206.B.3.b. must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(1) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and

(2) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

4. Security.[31]

a. The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility unless he can demonstrate to the Director that:

(1) Physical contact with the waste, structures, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(2) Disturbance of the waste or equipment, by unknowing or unauthorized entry of persons or livestock onto the active portion of a facility, will not cause a violation of 206.B., 206.C. or 206.D.

b. Unless the owner or operator can make a successful demonstration under 206.B.4.a.(1) and 206.B.4.a.(2) a facility must have:

(1) A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) which continuously monitors and controls entry onto the active portion of the facility; or

(2) An artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff), which completely surrounds the active portions of a facility with a means to control entry at all times through gates or other entrances to the active portion of the facility (e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

c. Unless the owner or operator has made successful demonstration under 206.B.4.a.(1) and (2), a sign with the legend, "Danger - Unauthorized Personnel Keep Out" must be posted at each entrance to the active portion of a facility and at other locations, in sufficient numbers to be seen from any approach to this active portion. The legend must be written in English and Spanish and must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, that entry onto the active portion can be dangerous, and the legend is indicated in English and Spanish.

5. General Inspection Requirements [32]

a. The owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing - or may lead to - either a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to

identify problems in time to correct them before they harm human health or the environment.

b. The owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards. The schedule must:

(1) Be kept at the facility; and

(2) Identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

c. The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction of any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in:

(1) 206.C.4.e., 5.d., 6.e., 10.d., 11.d., 12.d.; or

(2) 206.D.4.e., 5.d., 6.d., 7.d., 7.e., 8.g., and 10.d. as applicable.

d. The owner or operator must remedy any deterioration or malfunction of equipment or structures, which the inspection reveals, on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

e. The owner or operator must record inspections in an inspection log or summary. He must keep these records for at least three (3) years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

6. Personnel Training.[33]

a. Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 206.B. and 206.C. or 206.D. The owner or operator must ensure that this program includes all the elements described in the document required under 206.B.6.d.(3), and that:

(1) It be directed by a person trained in hazardous waste management procedures;

(2) It includes instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed; and that

(3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency systems, and including, where applicable:

(a) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(b) Key parameters for automatic waste feed cut-off systems;

(c) Communications or alarm systems;

(d) Response to fires or explosions;

(e) Response to ground-water contamination incidents; and

(f) Shutdown of operations.

b. Facility personnel must successfully complete the program required in 206.B.6.a. within six (6) months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. New employees must not work in unsupervised positions until they have completed the training requirements of 206.B.6.a.

c. Facility personnel must take part in an annual review of the initial training required in 206.B.6.a.

d. The owner or operator must maintain the following documents and records at the facility:

(1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(2) A written job description for each position listed under 206.B.6.d.(1). This description may be consistent in its degree of specificity with description for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;

(3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under 206.B.6.d.(1); and

(4) Records that document that the training or job experience required under 206.B.6.a., b., and c. has been given to, and completed by, facility personnel.

e. Training records on current personnel must be kept until closure of the facility; training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

7. General requirements for ignitable, reactive, or incompatible wastes.[34]

a. The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

b. Where specifically required by 206.C. or 206.D. the owner or operator of a facility that treats, stores, or disposes of ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, must take precautions to prevent reactions which:

(1) Generate extreme heat or pressure, fire or explosions, or violent reactions;

(2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(4) Damage the structural integrity of the device or facility;

(5) Through other like means threaten human health or the environment.

c. When required to comply with 206.B.7.a. and b. the owner or operator of a "new facility" must document that compliance. This documentation may be based on references to published scientific or engineering literature, data from trial tests (e.g., bench scale or pilot scale tests), waste analyses (as specified in 206.B.3.), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

8. Location Standards.[35]

Owners and operators of facilities which are subject to regulation under 206.D.4. through 10. must comply with the following:

a. Seismic considerations.

(1) Portions of "new facilities" where treatment, storage, or disposal of hazardous waste will be conducted must not be located within 61 meters (200

feet) of a fault which has had displacement in Holocene time.

(2) As used in the preceding paragraph:

(a) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;

(b) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and

(c) "Holocene" means the most recent epoch of the Quarternary period, extending from the end of the Pleistocene to the present.

(3) Owners or operators of new facilities which are located in any of the following political jurisdictions must demonstrate compliance with 206.B.8.a.(1) in accordance with the requirements of Part III:

(a) Bernalillo County;

(b) Catron County;

(c) Grant County;

(d) Hidalgo County;

(e) Los Alamos County;

(f) Rio Arriba County;

(g) Sandoval County;

(h) Santa Fe County;

(i) Sierra County;

(j) Socorro County;

(k) Taos County;

(l) Torrance County; and

(m) Valencia County.

b. Floodplains.

(1) A facility located in a 100-year floodplain must be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood unless the owner or operator can demonstrate to the Director's satisfaction that:

(a) Procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters; or

(b) For existing surface impoundments, waste piles, land treatment units, and landfills, no adverse effects on human health or the environment will result if washout occurs, considering:

(i) The volume and physical and chemical characteristics of the waste in the facility;

(ii) The concentration of hazardous constituents that would potentially affect surface waters as a result of washout;

(iii) The impact of such concentrations on the current or potential uses of and water quality standards established for the affected surface waters; and

(iv) The impact of hazardous constituents on the sediments of affected surface waters or the soils of the 100-year floodplain that could result from washout.

(2) As used in 206.B.8.b.(1) above:

(a) "100-year floodplain" means any land area which is subject to a one (1) percent, or greater, chance of flooding in any given year from any source;

(b) "Washout" means the movement of hazardous waste from the active portion of a facility as a result of flooding; and

(c) "100-year flood" means a flood that has a one (1) percent chance of being equalled or exceeded in any given year.

9. Preparedness and Prevention.[36]

a. The following regulations apply to owners and operators of all hazardous waste facilities, unless a successful demonstration can be made to the Director, that none of the hazards posed by waste handled at the facility could require any of the conditions found in 206.B.9. and as may be provided otherwise by 206.A.

b. Facilities must be maintained and, in the case of "new facilities," designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

c. All facilities must be equipped with the following:

(1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

d. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

e. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee.

f. If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance.

g. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

h. The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:

(1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers;

(4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the type of injuries or illnesses which could result from fires, explosions, or releases at the facility; and

(5) Where State or local authorities decline to enter into such arrangements, the

owner or operator must document the refusal in the operating record.

10. Contingency Plan and Emergency Procedures.[37]

a. The regulations in this section apply to owners and operators of all hazardous waste facilities except as 206.A. provides otherwise.

b. Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

c. The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

d. The contingency plan must describe the actions facility personnel must take to comply with 206.B.10.b. and m. in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

e. If the owner or operator has already prepared some other emergency or contingency plan (e.g. a Spill Prevention, Control, and Countermeasures [SPCC] Plan), he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of 206.B. and 206.C., or 206.D.

f. The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services (see 206.B.9.h. for details). For New Facilities, this information must be submitted to the Director at the time of certification rather than at the time of permit application.

g. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

h. The plan must include a list of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment], where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

i. The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

j. A copy of this contingency plan and all revisions must be:

(1) Maintained at the facility in accordance with Part 203.C.2.b.; and

(2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

k. The contingency plan must be reviewed, and immediately amended, if necessary,whenever:

(1) The facility permit is revised;

(2) The plan fails in an emergency;

(3) The facility changes - in its design, construction, operation, maintenance, or other circumstances - in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

(4) The list of emergency coordinator changes;

(5) The list of emergency equipment changes; or

(6) Applicable regulations are revised.

l. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

m. Emergency Procedures.

(1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(a) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(b) Notify appropriate State or local agencies with designated response roles if their help is needed.

(2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

(3) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-off from water or chemical agents used to control fire and heat-induced explosions).

(4) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he must report his findings as follows:

(a) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(b) He must immediately notify the Environmental Improvement Division's Emergency Response Office, (505) 827-9329. The report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health, or the environment, outside the facility.

(5) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(6) If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(8) The emergency coordinator must ensure that in the affected area(s) of the facility:

(a) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(b) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(9) The owner or operator must notify the Director and appropriate local authorities, that the facility is in compliance with 206.B.10.m.(8) before operations are resumed in the affected area(s) of the facility.

(10) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Director. The report must include:

(a) Name, address, and telephone number of the owner or operator;

(b) Name, address, and telephone number of the facility;

(c) Date, time, and type of incident (e.g., fire, explosion);

(d) Name and quantity of material(s) involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

C. Standards for Treatment, Storage, and Disposal Facilities with Interim Status.

1. Ground-Water Monitoring.[38]

a. Applicability.

(1) Any owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste must implement a ground-water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility, except as 206.A. and 206.C.1.a.(3) and (5) provide otherwise.

(2) Except as 206.C.1.a.(3) and (4) provide otherwise, the owner or operator must install, operate, and maintain a ground-water monitoring system which meets the requirements of 206.C.1.b. and must comply with 206.C.1.c. through e. This ground-water monitoring program must be carried out during the active life of the facility, and, for disposal facilities, during the post-closure care period as well.

(3) All or part of the ground-water monitoring requirements of 206.C.1. may be waived if the owner or operator can demonstrate that there is a low potential for migration of hazardous waste or hazardous waste constituents from the facility via the uppermost aquifer to water supply wells (domestic, industrial, or agricultural) or to surface water. This demonstration must be in writing, and must be kept at the facility. This demonstration must be certified by a qualified geologist or geotechnical engineer and must establish the following:

(a) The potential for migration of hazardous waste or hazardous waste constitutents from the facility to the uppermost aquifer, by an evaluation of:

(i) A water balance of precipitation, evapotranspiration, runoff, and infiltration; and

(ii) Unsaturated zone characteristics (i.e., geologic materials, physical properties, and depth to ground water); and

(b) The potential for hazardous waste or hazardous waste constituents which enter the uppermost aquifer to migrate to a water supply well or surface water, by an evaluation of:

(i) Saturated zone characteristics (i.e., geologic materials, physical properties, and rate of ground-water flow); and

(ii) The proximity of the facility to water supply wells or surface water.

(4) If an owner or operator assumes (or knows) that ground-water monitoring of indicator parameters in accordance with 206.C.1.b. and 206.C.1.c. would show statistically significant increases (or decreases in the case of pH) when evaluated under 206.C.1.d.(2), he may install, operate, and maintain an alternate ground-water monitoring system (other than the one described in 206.C.1.b. and 206.C.1.c.). If the owner or operator decides to use an alternate ground-water monitoring system he must:

(a) Submit to the Director a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of 206.C.1.d.(6)(a) through (d), for an alternate ground-water monitoring system;

(b) Initiate the determinations specified in 206.C.1.d.(7);

(c) Prepare and submit a written report in accordance with 206.C.1.d.(8);

(d) Continue to make the determinations specified in 206.C.1.d.(7) on a quarterly basis until final closure of the facility; and

(e) Comply with the recordkeeping and reporting requirements in 206.C.1.e.(2).

(5) The ground-water monitoring requirements of 206.C.1. may be waived with respect to any surface impoundment that:

(a) is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristic under 201.B.3. or are listed as hazardous wastes in 201.C. only for this reason; and

(b) Contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristics before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional.

b. Ground-water monitoring system.

(1) A ground-water monitoring system must be capable of yielding ground-water samples for analysis and must consist of:

(a) Monitoring wells (at least one) installed hydraulically upgradient (i.e., in the direction of increasing static head) from the limit of the waste management area. Their number, locations, and depths must be sufficient to yield ground-water samples that are:

(i) Representative of background ground-water quality in the uppermost aquifer near the facility; and

(ii) Not affected by the facility.

(b) Monitoring wells (at least three) installed hydraulically downgradient (i.e., in the direction of decreasing static head) at the limit of the waste management area. Their number, locations, and depths must ensure that they immediately detect any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.

(2) Separate monitoring systems for each waste management component of a facility are not required provided that provisions for sampling upgradient and downgradient water quality will detect any discharge from the waste management area.

(a) In the case of a facility consisting of only one surface impoundment, landfill, or land treatment area, the waste management area is described by the waste boundary (perimeter).

(b) In the case of a facility consisting of more than one surface impoundment, landfill, or land treatment area, the waste management area is described by an imaginary boundary line which circumscribes the several waste management components.

(3) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated, and packed with gravel or sand where necessary, to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed with a suitable material (e.g., cement grout or bentonite slurry) to prevent contamination of samples and the ground water.

c. Sampling and analysis.

(1) The owner or operator must obtain and analyze samples from the installed ground-water monitoring system. The owner or operator must develop and follow a ground-water sampling and analysis plan. He must keep this plan at the facility. The plan must include procedures and techniques for:

(a) Sample collection;

(b) Sample preservation and shipment;

(c) Analytical procedures; and

(d) Chain of custody control.

(2) The owner or operator must determine the concentration or value of the following parameters in ground-water samples in accordance with 206.C.1.c.(3) and (4):

(a) Parameters characterizing the suitability of the ground water as a drinking water supply, as specified in 206.C.-Appendix II;

(b) Parameters establishing ground-water quality. (These parameters are to be used as a basis for comparison in the event a ground-water quality assessment is required under 206.C.1.d.(4).)

(i) Chloride;

(ii) Iron;

(iii) Manganese;

(iv) Phenols;

(v) Sodium; and

(vi) Sulfate.

(c) Parameters used as indicators of ground-water contamination:

(i) pH;

(ii) Specific Conductance;

(iii) Total Organic Carbon; and

(iv) Total Organic Halogen.

(3) For all monitoring wells, the owner or operator must establish initial background concentrations or values of all parameters specified in 206.C.1.c.(2). He must do this quarterly for one year.

(4) For each of the indicator parameters specified in 206.C.1.c.(2)(c), at least four (4) replicate measurements must be obtained for each sample and the initial background arithmetic mean and variance must be determined by pooling the replicate measurements for the respective parameter concentrations or values in samples obtained from upgradient wells during the first year.

(5) After the first year, all monitoring wells must be sampled and the samples analyzed with the following frequencies:

(a) Samples collected to establish ground-water quality must be obtained and analyzed for the parameters specified in 206.C.1.c.(2)(b) at least annually.

(b) Samples collected to indicate ground-water contamination must be obtained and analyzed for the parameters specified in 206.C.1.c.(2)(c) at least semi-annually.

(6) Elevation of the ground-water surface at each monitoring well must be determined each time a sample is obtained.

d. Preparation, evaluation and response.

(1) The owner or operator must prepare an outline of a ground-water quality assessment program. The outline must describe a more comprehensive ground-water monitoring program (than that described in 206.C.1.b. and 206.C.1.c.) capable of determining:

(a) Whether hazardous waste or hazardous waste constituents have entered the ground water;

(b) The rate and extent of migration of hazardous waste or hazardous waste constituents in the ground water; and

(c) The concentration of hazardous waste or hazardous waste constituents in the ground water.

(2) For each indicator parameter specified in 206.C.1.c.(2)(c), the owner or operator must calculate the arithmetic mean and variance, based on at least four (4) replicate measurements on each sample, for each well monitored in accordance with 206.C.1.c.(5)(b), and compare these results with its initial background arithmetic mean. The comparison must consider individually each of the wells in the monitoring system, and must use the Student's t-test at the 0.01 level of significance (see 206.C.-Appendix III) to determine statistically significant increases (and decreases, in the case of pH) over initial background.

(3) If the comparison for the upgradient wells made under 206.C.1.d.(2) show a significant increase (or pH decrease), the owner or operator must submit this information in accordance with 206.C.1.e.(1)(b)(ii).

(4) If the comparisons for downgradient wells made under 206.C.1.d.(2) show a

significant increase (or pH decrease), the owner or operator must then immediately obtain additional ground- water samples from those downgradient wells where a significant difference was detected, split the samples in two, and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.

(5) If the analyses performed under 206.C.1.d.(4) confirm the significant increase (or pH decrease), the owner or operator must provide written notice to the Director - within seven (7) days of the date of such confirmation - that the facility may be affecting ground-water quality.

(6) Within 15 days after the notification under 206.C.1.d.(5), the owner or operator must develop and submit to the Director a specific plan, based on the outline required under 206.C.1.d.(1) and certified by a qualified geologist or geotechnical engineer, for a ground-water quality assessment program at the facility. The plan to be submitted under 206.C.1.a.(4)(a) or 206.C.1.d.(6) must specify:

(a) The number, location and depth of wells;

(b) Sampling and analytical methods for those hazardous wastes or hazardous waste constituents in the facility;

(c) Evaluation procedures, including any use of previously gathered ground-water quality information; and

(d) A schedule of implementation.

(7) The owner or operator must implement the ground-water quality assessment plan which satisfies the requirements of 206.C.1.d.(6) and, at a minimum, determine:

(a) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the ground water; and

(b) The concentrations of the hazardous waste or hazardous waste constituents in the ground water.

(8) The owner or operator must make his first determination under 206.C.1.d.(7) as soon as technically feasible and, within 15 days after that determination, submit to the Director a written report containing an assessment of the ground-water quality.

(9) If the owner or operator determines, based on the results of the first determination under 206.C.1.d.(7), that no hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he may reinstate the indicator evaluation program described in 206.C.1.c. and 206.C.1.d.(2). If the owner or operator reinstates the indicator evaluation program, he must so notify the Director in the report submitted under 206.C.1.d.(8).

(10) If the owner or operator determines, based on the first determination under 206.C.1.d.(7), that hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he:

(a) Must continue to make the determination required under 206.C.1.d.(7) on a quarterly basis until final closure of the facility, if the ground-water quality assessment plan was implemented prior to final closure of the facility; or

(b) May cease to make the determinations required under 206.C.1.d.(7), if the ground-water quality assessment plan was implemented during the post-closure care period.

(11) Notwithstanding any other provision of these regulations, any ground-water quality assessment to satisfy the requirements of 206.C.1.d.(7) which is initiated prior to final closure of the facility must be completed and reported in accordance with 206.C.1.d.(8).

(12) Unless the ground water is monitored to satisfy the requirements of 206.C.1.d.(7), at least annually the owner or operator must evaluate the data on ground-water surface elevations obtained under 206.C.1.c.(6) to determine whether the requirements under 206.C.1.b.(1) for locating the monitoring wells continues to be satisfied. If the evaluation shows that 206.C.1.b.(1) is no longer satisfied, the owner or operator must immediately modify the number, location, or depth of the monitoring wells to bring the ground-water monitoring system into compliance with this requirement.

e. Recordkeeping and reporting.

(1) Unless the ground water is monitored to satisfy the requirements of 206.C.1.d.(7), the owner or operator must:

(a) Keep records of the analyses required in 206.C.1.c.(3), (4) and (5), the associated ground-water surface elevations required in 206.C.1.c.(6), and the evaluations required in 206.C.1.d.(2) throughout the active life of the facility and, for disposal facilities, throughout the post-closure care period as well; and

(b) Report the following ground-water monitoring information to the Director:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in 206.C.1.c.(2)(a) for each ground-water monitoring well within 15 days after completing each quarterly analysis. The owner or operator must separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels listed in Appendix II;

(ii) Annually: concentrations or values of the parameters listed in 206.C.1.c.(2)(c) for each ground-water monitoring well, along with the required evaluations for these parameters under 206.C.1.d.(2). The owner or operator must separately identify any significant differences from initial background found in the upgradient wells, in accordance with 206.C.1.d.(3). During the active life of the facility, this information must be submitted no later than March 1 following each calendar year; and

(iii) No later than March 1 following each calendar year: results of the evaluation of ground-water surface elevations under 206.C.1.d.(12), and a description of the response to that evaluation, where applicable.

(2) If the ground water is monitored to satisfy the requirements of 206.C.1.d.(7), the owner or operator must:

(a) Keep records of the analyses and evaluations specified in the plan, which satisfies the requirements of 206.C.1.d.(6)(a) through (d), throughout the active life of the facility and, for disposal facilities, throughout the post-closure care period as well, and

(b) Annually, until final closure of the facility, submit to the Director a report containing the results of his ground-water quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the ground water during the reporting period. This information must be submitted no later than March 1 following each calendar year.

2. Closure and post-closure.[39]

a. Applicability.

Except as 206.A provides otherwise:

(1) 206.C.2.b. through 206.C.2.f. (which concern closure) apply to the owners and operators of all hazardous waste management facilities.

(2) 206.C.2.g. through 206.C.2.j (which concern post-closure care) apply to the owners and operators of all hazardous waste disposal facilities and waste piles and surface impoundments for which the owner or operator intends to remove the wastes at closure.

b. Closure performance standard.

The owner or operator must close his facility in a manner that:

(1) Minimizes the need for further maintenance; and

(2) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated run-off or waste decomposition products to the ground or surface waters or to the atmosphere.

(3) Complies with the closure requirements of this Section including, but not limited to, the requirements of 206.C.5.e., 206.C.6.f., 206.C.7.g., 206.C.8.g., 206.C.9.d.,206.C.10.e., 206.C.11.e. 206.C.12.e.

c. Closure plan; amendment of plan.

(1) The owner or operator must have a written closure plan. He must keep a copy of the closure plan and all revisions to the plan at the facility until closure is completed and certified in accordance with 206.C.2.f. a copy of the most current plan must be furnished to the Director upon request, including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Division who is duly designated by the Director. This plan must identify the steps necessary to completely or partially close the facility at any point during its active life and to completely close the facility at the end of its active life. The closure plan must include, at least:

(a) A description of how and when the facility will be partially closed, if applicable, and finally closed.

(b) The description must identify the maximum extent of the operation which will be unclosed during the life of the facility, and how the requirements of 206.C.2.b., d., e., and f., and the applicable closure requirements of 206.C.5.e., 6.f., 8.g., 9.d., 10.e., 11.e. and 12.e. will be met;

(c) An estimate of the maximum inventory of wastes on site at any time during the life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing or disposing of all hazardous waste, identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and,;

(d) A description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and,

(e) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control; and,

(f) An estimate of the expected year of closure and a schedule for final closure of each hazardous waste management unit. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure

activities which will allow tracking of the progress of closure and partial closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.); and,

(g) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance and whose remaining operating life is less than twenty years, and for facilities without approved closure plans.

(2) The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.) An owner or operator with an approved closure plan must submit a written request to the Director to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the Director.

(a) The owner or operator must amend the plan whenever:

(i) Changes in operating plans or facility design affect the closure plan; or,

(ii) Whenever there is a change in the expected year of closure of the facility; and,

(iii) In conducting partial or final closure activities, unexpected events require a modification of the closure plan; and,

(b) The owner or operator must amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure periods, the owner or operator must amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoudments and waste piles who intend to remove all hazardous wastes at closure, but are required to close as landfills.

(c) An owner or operator with an approved closure plan must submit the modified plan to the Director at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills.

(d) The Director may request modifications to the plan. An owner or operator with and approved closure plan must submit the modified plan within 60 days of the request from the Director, or within 30 days if the unexpected event occurs during partial or final closure. If the plan amendment is a major modification(s) according to Part III of these regulations, the modification(s) will be approved under the applicable procedures.

(3) The owner or operator must submit his closure plan to the Director at least 180 days before the date he expects to begin closure of the first surface impoundment,waste pile, land treatment or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the Director at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the Director in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or a land treatment unit, or final closure of a facility involving such a unit. Owners and operators with approved closure plans must notify the Director in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage or incinerator units. The date when he "expects to begin closure" must be either within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the Director that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all

interim status requirements, the Director may approve an extension to this one-year limit. The owner or operator must submit his closure plan to the Director no later than 15 days after:

(a) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(b) Issuance of a judicial decree or compliance order under § 74-4-10 NMSA 1978 to cease receiving wastes or close.

(4) The Director will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan within 30 days of the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Director will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The Director will approve, modify, or disapprove the plan within 90 days of its receipt. If the Director does not approve the plan, he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Director will approve or modify this plan in writing within 60 days. If the Director modifies the plan, this modified plan becomes the approved closure plan. The Director's decision must assure that the approved closure plan is consistent with 206.C.2.b., d., e., and f., and the applicable requirements of 206.C.5.e., 6.f., 8.g., 9.d., 10.e., 11.e., and 12.e. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

(5) Nothing in this section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

d. Closure; time allowed for closure.

(1) Within 90 days after receiving the final volume of hazardous wastes, or 90 days after approval of the closure plan, if that is later, the owner or operator must treat, remove from the site, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Director may approve a longer period using the procedures under 206.C.2.c.(4) if the owner or operator demonstrates that:

(a) He has taken and will continue to take all steps to prevent threats to human health and the environment including compliance with all applicable interim status requirements; and

(b) either:

(i) The activities required to comply with 206.C.1.d.(1) will of necessity, take him longer than 90 days to complete; or

(ii) All of the following:

A. The facility has the capacity to receive additional wastes;

B. There is reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

C. Closure of the facility would be incompatible with continued operation of the site.

(2) The owner or operator must complete partial or final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes at the hazardous waste management unit or facility or 180 days after approval of the closure plan, if that is later. The Director may approve a longer closure period using the procedures under 206.C.2.c.(3) if the owner or operator demonstrates that:

(a) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility; and

(b) either:

(i) The partial or final closure activities will of necessity, take him longer than 180 days to complete; or

(ii) All of the following:

A. The facility has the capacity to receive additional wastes;

B. There is reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

C. Closure of the facility would be incompatible with continued operation of the site

(3) The demonstrations referred to in (1) and (2) must be made as follows: (a) The demonstrations in paragraph (1) must be made at least 30 days prior to the expiration of the 90 day period in paragraph (1); and (b) The demonstrations in paragraph (2) must be made at least 30 days prior to the expiration of the 180 day period in paragraph (2) ; and,

e. Disposal or decontamination of equipment.

When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all hazardous waste and residues including soils. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of Section 204.

f. Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit , and within 60 days of completion of final closure, the owner or operator must submit to the Director by registered mail certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan. Documentation supporting the independent registered professional engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for closure.

g. Post-closure care and use of property.

(1) Post-closure care must continue for 30 years after the date of completing closure and must consist of at least the following:

(a) Ground-water monitoring and reporting in accordance with the requirements of 206.C.1.; and

(b) Maintenance of monitoring and waste containment systems as specified in 206.C.1.b., C.6.c. and f., C.8.g. and C.9.d. where applicable.

(2) The Director may require continuation of any of the security requirements of 206.B.4. for 30 years after the date closure has been completed when:

(a) Wastes may remain exposed after completion of closure; or

(b) Access by the public or domestic livestock may pose a hazard to human health. In extending any of these requirements, the Director will use the procedures of 206.C.2.h.(3).

(3) Post-closure use of property on or in which hazardous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the owner or operator can demonstrate to the Director, either in the post-closure plan or by petition, through the procedures in 206.C.2.h.(3) or (6), as appropriate, that the disturbance:

(a) Is necessary to the proposed use of the property and will not increase the potential hazard to human health or the environment; or

(b) Is necessary to reduce a threat to human health or the environment.

(4) All post-closure care activities must be performed in accordance with the provisions of the approved post-closure plan as specified in 206.C.2.h.

h Post-closure plan; amendment of plan

(1) The owner or operator of a disposal facility must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Director within 90 days of the date that the owner or operator or Director determines that the hazardous waste management unit or facility must be closed as a landfill. Until final closure of the facility, a copy of the most current post-closure plan must be furnished to the Director upon request, including request by mail. In addition, for facilities without approved post-closure plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Division. After final closure has been certified, the person or office specified in 206.C.2.h.(1) must keep the approved post-closure plan during the post-closure plan. The post-closure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(a) A description of the planned ground- water monitoring activities and frequencies at which they will be performed to comply with 206.C.1. during the post-closure period;

(b) A description of the planned maintenance activities and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment structures as specified in 206.C.6.c. and f., C.8.g., and C.9.d., where applicable; and

(ii) The function of the facility monitoring equipment as specified in 206.C.1.b.; and

(c) The name, address, and phone number of the person or office to contact about the disposal facility during the post-closure care period. This person or office must keep an updated post-closure plan during the post-closure care period.

(2) The owner or operator may amend his post- closure plan at any time during the active life of the disposal facility. The owner or operator must amend his plan any time changes in operating plans or facility design, or events which occur during the active life of the facility, affect his post-closure plan. The plan must be amended within 60 days after the changes or events occur.

(3) The owner or operator of a disposal facility must submit his post-closure plan to the Director at least 180 days before the date he expects to begin closure or partial closure. The date when he "expects to begin closure" should be immediately after the date on which he expects to receive the final volume of wastes. The owner or operator must submit his closure plan to the Director no later than 15 days after:

(a) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(b) Issuance of a judicial decree or compliance order under § 74-4-10 NMSA 1978 to cease receiving wastes or close.

(4) The Director will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan, including modification of the 30 year post-closure period required in 206.C.2.g., within 30 days of the date of the notice. He may also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Director will give the public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the notices may be combined. The Director will approve, modify, or disapprove the plan within 90 days of its receipt. If the Director does not approve the plan, he shall provide the owner or opeator with a detailed written statement of reasons for the refusal, and the owner or operator must modify the plan or submit a new plan for approval within 30 days. The Director will approve or modify

this plan in writing within 60 days. If the Director modifies the plan, this modified plan becomes the approved post-closure plan. The Director must base his decision upon the criteria required of petitions under 206.C.2.h.(6)(a)(i). A copy of this modified plan must be mailed to the owner or operator.

(5) The owner or operator may amend his post-closure plan during the post-closure care period. The owner or operator must amend his plan any time changes in monitoring or maintenance plans or events which occur during the post-closure care period affect the post-closure plan. The owner or operator must petition the Director within 60 days of the changes or events, under the procedures of 206.C.2.h.(6), to allow the plan to be modified.

(6) The post-closure plan (or period) may be modified during the post-closure care period or at the end of the post-closure care period in either of the following two ways:

(a) The owner or operator or any member of the public may petition the Director to extend or reduce the post-closure care period based on cause, or alter the requirements of the post-closure care period based on cause.

(i) The petition must include evidence demonstrating that:

A. The secure nature of the facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure); or

B. The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health or the environment.

(ii) These petitions will be considered by the Director only when they present new and relevant information not previously considered by the Director. Whenever the Director is considering a petition, he will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Director will give the public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined.) After considering the comments, he will issue a final determination, based upon the criteria set forth in 206.C.2.h.(6)(a)(i).

(iii) If the Director denies the petition, he will send the petitioner a brief written response giving a reason for the denial.

(b) The Director may tentatively decide to modify the post-closure plan if he deems it necessary to prevent threats to human health and the environment. He may propose to extend or reduce the post-closure care period based on cause or alter the requirements of the post-closure care period based on cause.

(i) The Director will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in 206.C.2.h.(6)(a)(ii). After considering the comments, he will issue a final determination.

(ii) The Director will base his final determination upon the same criteria as required for petitions under 206.C.2.h.(6)(a)(i). A modification of the post-closure plan may include, where appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the Director would then determine whether the requirement(s) should be permanently discontinued or reinstated to prevent threats to human health and the environment.

i. Notice to local land authority.

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the local land authority and the Director a survey

plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. The plat must be prepared and certified by a professional land surveyor. The plat filed with the local land authority must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in 206.C.2.g.(3). In addition, the owner or operator must submit to the Director and to the local land authority a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. The owner or operator must identify the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept.

j. Notice in deed to property.

The owner of the property on which a disposal facility is located must record, in accordance with State law, a notation on the deed to the facility property - or on some other instrument which is normally examined during title search - that will, in perpetuity, notify any potential purchaser of the property that the land has been used to manage hazardous waste, and its use is restricted under 206.C.2.g.(3).

(1) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by §206.C.2.i. have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Director; and,

(2) Submit a certification signed by the owner or operator that he has recorded the notation specified above and a copy of the document in which the notation has been placed, to the Director;

(3) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he must request a modification to the approved post-closure plan in accordance with the requirements of §206.C.2.h.(6). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of §206.C.2.g.(3)(a)&(b). By removing hazardous wastes, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of the Section. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Director approve either:

(a) The removal of the notation on the deed to the facility property or other instrument normally examined during title search, or

(b) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

k. No later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Director by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under §206.C.3.f.(5)(b).

3. Financial Requirements.[40]

a. Applicability.

(1) The requirements of 206.C.3.c. and d., and 206.C.3.h. and i. apply to owners and operators of all hazardous waste facilities, except as provided otherwise in these regulations or in 206.A..

(2) The requirements of 206.C.3.e., f., and g. apply only to owners and operators of disposal facilities.

(3) States and the Federal government are exempt from these financial requirements.

b. Definitions of terms as used in the financial requirements.

(1) "Closure plan" means the plan for closure prepared in accordance with the requirements of 206.C.2.c.

(2) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with 206.C.3.c.(1), (2) and (3).

(3) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with 206.C.3.e.(1), (2) and (3).

(4) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator, the latter corporation is deemed a "subsidiary" of the parent corporation.

(5) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of 206.C.2.g. through j.

(6) The following terms are used in the specifications for the financial tests for closure, post-closure care and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity;

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business;

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with § 144.62(a), (b), and (c) of 40 CFR

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities;

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards;

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events;

"Net working capital" means current assets minus current liabilities;

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity; and

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(7) In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable State law. However, these terms do not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The Division intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings

within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage:

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which result in bodily injury or property damage neither expected nor intended from the standpoint of the insured;

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy;

"Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure; and

"Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

c. Cost estimate for closure.

(1) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the closure plan as specified in 206.C.2.c.

(a) The closure cost estimate must equal the cost of final closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan; and

(b) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in § 206.C.3.a (4).) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(c) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closures.

(d) The owner or operator may not incorporate a zero cost for hazardous wastes that might have economic value.

(2) The owner or operator must adjust the closure cost estimate for inflation within 30 days after each anniversary of the date on which the first closure cost estimate was prepared. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Director as specified in § 206.C.3.d.(5). The adjustment must be made as specified in 206.C.3.c.(2)(a) and (b), using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(3) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan which increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate must be revised no later than 30 days after the Director has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in §206.C.3.c.(2).

(4) The owner or operator must keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with 206.C.3.c.(1) and (3), and, when this estimate has been adjusted in accordance with 206.C.3.c.(2), the latest adjusted closure cost estimate.

d. Financial assurance for closure.

An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in 206.C.3.d.(1) through (5) as follows:

(1) Closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for closure by establishing a closure trust fund which conforms to the requirements of 206.C.3.d.(1)(a) through (k), and submitting an originally signed duplicate of the trust agreement to the Director. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(b) The wording of the trust agreement must be identical to the wording specified in 206.D.3.j.(1)(a) and the trust agreement must be accompanied by a formal certification of acknowledgement [for example, see 206.D.3.j.(1)(b)]. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of current closure cost estimate covered by the agreement.

(c) Payments into the trust fund must be made annually by the owner or operator over a period of 20 years or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(i) The first payment must be at least equal to the current closure cost estimate, except as provided in 206.C.3.d.(1)(e) and 206.C.3.d.(6), divided by the number of years in the pay-in period.

(ii) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(d) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in 206.C.3.d.(1)(c).

(e) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in 206.C.3.d.(2) through (5), his first payment must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in 206.C.3.d.(1)(c).

(f) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in 206.C.3.d.(2), (3), (4) or (5), to cover the difference.

(g) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Director for release of the amount in excess of the current closure cost estimate.

(h) If an owner or operator substitutes other financial assurance as specified in 206.C.3.d.(2), (3), (4), or (5) for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in 206.C.3.d.(1)(g) or (h), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

(j) After beginning partial or final closure, an owner or operator or any other person authorized to perform partial or final closure may request reimbursement for partial, or final closure by submitting itemized bills to the Director. Within 60 days after receiving bills for partial or final closure activities, the Director will determine whether the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified and, if so, he will instruct the trustee to make reimbursement in such amounts as the Director specifies in writing. If the Director has reason to believe that the cost of the partial or final closure will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with 206.C.3.d.(8), that the owner or operator is no longer required to maintain financial assurance for final closure. If the Director does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

(k) The Director will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.d.(2), (3), (4) or (5); or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.d. in accordance with 206.C.3.d.(8).

(2) Surety bond guaranteeing payment into a closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining a surety bond which conforms to the requirements of 206.C.3.d.(2)(a) through (i), and submitting the bond to the Director. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(b) The wording of the surety bond must be identical to the wording specified in 206.D.3.j.(2).

(c) The owner or operator who uses a surety bond to satisfy the requirements of 206.C.3.d. must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements specified in 206.C.3.d.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the surety bond.

(d) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Director or a court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in 206.C.3.d.(1), (3), (4) or (5), and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(f) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in 206.C.3.d.(6).

(g) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.C.3.d.(1), (3), (4) or (5) to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of

cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in 206.C.3 d.(1), (3), (4) or (5).

(3) Closure letter of credit.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining an irrevocable standby letter of credit which conforms to the requirements of 206.C.3.d.(3), and submitting the letter to the Director. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(b) The wording of the letter of credit must be identical to the wording specified in 206.D.3.j.(4)

(c) An owner or operator who uses a letter of credit to satisfy the requirements of 206.C.3.d. must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements of the trust fund specified in 206.C.3.d.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the letter of credit.

(d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

(e) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Director have received the notice, as evidenced by the return receipts.

(f) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in 206.C.3.d.(6).

(g) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.C.3.d.(1), (2), (4), or (5) to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(h) Following a determination pursuant to § 74-4-10 NMSA 1978, that the owner or operator has failed to perform final closure, in accordance with the aproved closure plan and other interim status requirements when required to do so, the Director may draw on the letter of credit.

(i) If the owner or operator does not establish alternate financial assurance as specified in 206.C.3.d. and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Director will draw on the letter of credit. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 206.C.3.d. and obtain written approval of such assurance from the Director.

(j) The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.d. in accordance with 206.C.3.d.(8).

(4) Closure insurance.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining closure insurance which conforms to the requirements of 206.C.3.d.(4) and submitting a certificate of such insurance to the Director. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(5).

(c) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in 206.C.3.d.(6). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(d) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Director to such party or parties as the Director specifies.

(e) After beginning partial or final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Director will determine whether the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified and, if so, he will instruct the insurer to make reimbursement in such amounts as the Director specifies in writing. If the Director has reason to believe that the cost of closure will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with 206.C.3.d.(8), that the owner or operator is no longer required to maintain financial assurance for closure of the facility. If the Director does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

(f) The owner or operator must maintain the policy in full force and effect until the Director consents to termination of the policy by the owner or operator as specified in 206.C.3.d.(4)(j). Failure to pay the premium, without substitution of alternate financial assurance as specified in 206.C.3.d., will constitute a significant violation of these regulations, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(g) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the

policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Director deems the facility abandoned; or

(ii) Interim status is terminated or revoked; or

(iii) Closure is ordered by the Director or a court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(i) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.C.3.d. to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(j) The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.d. in accordance with 206.C.3.d.(8).

(5) Financial test and corporate guarantee for closure.

(a) An owner or operator may satisfy the financial assurance requirements for closure by demonstrating that he passes a financial test as specified in 206.C.3.d.(5). To pass this test the owner or operator must meet the criteria of either 206.C.3.d.(5)(a)(i) or (ii) below:

(i) The owner or operator must have:

A. Two of the following three ratios:

A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

B. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment costsestimates; and

C. Tangible net worth of at least $10 million; and

D. Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current

closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(b) The phrase "current closure and post-closure cost estimates" as used in 206.C.3.d.(5)(a) refers to the cost estimates required to be shown in paragraph 1-3 of the letter from the owner's or operator's chief financial officer [see 206.D.3.j.(6)]. The phrase "current plugging and abandonment cost estimates" refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer.

(c) To demonstrate that he meets this test, the owner or operator must submit the following items to the Director;

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in 206.D.3.j.(6); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

A. He has compared the data which the letter from the chief financial officer specified as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B. In connection with the procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) After the initial submission of items specified in 206.C.3.d.(5)(c) the owner or operator must send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in 206.C.3.d.(5)(c).

(e) If the owner or operator no longer meets the requirements of 206.C.3.d.(5)(a) he must send notice to the Director of intent to establish alternate financial assurance as specified in 206.C.3.d. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(f) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of 206.C.3.d.(5)(a), require reports of financial condition at any time from the owner or operator in addition to those specified in 206.C.3.d.(5)(c). If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of 206.C.3.d.(5)(a) the owner or operator must provide alternate financial assurance as specified in 206.C.3.d. within 30 days after notification of such a finding.

(g) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements [see 206.C.3.d.(5)(c)(ii)]. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in 206.C.3.d. within 30 days after notification of the disallowance.

(h) The owner or operator is no longer required to submit the items specified in 206.C.3.d.(5)(c) when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.d. in accordance with 206.C.3.d.(8).

(i) An owner or operator may meet the requirements of 206.C.3.d. by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for

owners or operators in 206.C.3.d.(5)(a) through (g) and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 206.D.3.j.(8). The corporate guarantee must accompany the items sent to the Director as specified in 206.C.3.d.(5)(c). The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in 206.C.3.d.(1) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in 206.C.3.d. and obtain the written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(6) Use of multiple financial mechanisms.

An owner or operator may satisfy the financial assurance requirements for closure by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in 206.C.3.d.(1) through (4) respectively, except that it is the combination of mechanisms rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for closure of the facility.

(7) Use of a financial mechanism for multiple facilities.

An owner or operator may use a financial assurance mechanism specified in 206.C.3.d. to meet the requirements of 206.C.3.d. for more than one facility. Evidence of financial assurance submitted to the Director must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to, and maintained with, the Director of all such facilities located in New Mexico. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(8) Release of the owner or operator from the requirements of 206.C.3.d.

Within 60 days after receiving certification from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by 206.C.3.d. to maintain financial assurance for closure of the particular facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

e. Cost estimate for post-closure care

(1) The owner or operator of a disposal facility must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance

with the applicable post-closure regulations in 206.C.2.g. through j. The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor subsidary of the owner or operator. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post- closure care required under 206.C.2.

(2) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to each anniversary of the date on which the first post-closure cost estimate was prepared. For owners or operators using the financial test or corporate guarantee, the post-closure care cost estimate must be updated for inflation no later than 30 days after the close of the firm's fiscal year and before submission of updated information to the Director. The adjustment must be made as specified in 206.C.3.e.(2)(a) and (b) using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(3) During the active life of the facility the owner or operator must revise the post-closure cost estimate no later than 30 days after a revision to the post-closure plan which increases the cost of post-closure care. If the owner or operator has an approved post-closure plan, the post-closure cost estimate must be revised no later than 30 days after the Director has approved the request to modify the plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in 206.C.3.e.(2).

(4) The owner or operator must keep the following at the facility during the operating life of the facility: the latest post-closure cost estimate prepared in accordance with 206.C.3.e.(1) and (3) and, when this estimate has been adjusted in accordance with 206.C.3.e.(2), the latest adjusted post-closure cost estimate.

f. Financial assurance for post-closure care.

An owner or operator of each disposal facility must establish financial assurance for post-closure care of the disposal unit(s). He must choose from the options as specified in 206.C.3.f.(1) through (5) as follows:

(1) Post-closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by establishing a post-closure trust fund, which conforms to the requirements of 206.C.3.f.(1)(a) through (l), and submitting an originally signed duplicate of the trust agreement to the Director. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(b) The wording of the trust agreement must be identical to the wording specified in 206.D.3.j.(1)(a) and the trust agreement must be accompanied by a formal certification of acknowledgement [for example, see 206.D.3.j.(1)(b)]. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of current post-closure cost estimate covered by the agreement.

(c) Payments into the trust fund must be made annually by the owner or operator over a period of 20 years or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter: this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

(i) The first payment must be at least equal to the current post-closure cost estimate, except as provided in 206.C.3.f.(1)(e) and 206.C.3.f.(6), divided by the number of years in the pay-in period.

(ii) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(d) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in 206.C.3.f.(1)(c).

(e) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in 206.C.3.f., his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in 206.C.3.f.(1)(c).

(f) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in 206.C.3.f. to cover the difference.

(g) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Director for release of the amount in excess of the current post-closure cost estimate.

(h) If an owner or operator substitutes other financial assurance as specified in 206.C.3.f. for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

(i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in 206.C.3.f.(1)(g) or (h), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

(j) During the period of post-closure care, the Director may approve a release of funds if the owner or operator demonstrates to the Director that the value of the trust fund exceeds the remaining cost of post-closure care.

(k) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for post-closure activities, the Director will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Director specifies in writing. If the Director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(l) The Director will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.f. in accordance with 206.C.3.f.(8).

(2) Surety bond guaranteeing payment into a post-closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining a surety bond which conforms to the requirements of 206.C.3.f.(2)(a) through (i), and submitting the bond to the Director. The surety company issuing the bond must, at a minimum, be among those listed as

acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(b) The wording of the surety bond must be identical to the wording specified in 206.D.3.j.(2).

(c) The owner or operator who uses a surety bond to satisfy the requirements of 206.C.3.f., must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements specified in 206.C.3.f.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the surety bond.

(d) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Director or a court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in 206.C.3.f., and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(f) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in 206.C.3.f.(6).

(g) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.C.3.f. to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in 206.C.3.f.

(3) Post-closure letter of credit.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining an irrevocable standby letter of credit which conforms to the requirements of 206.C.3.f.(3), and submitting the letter to the Director. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(b) The wording of the letter of credit must be identical to the wording specified in 206.D.3.j.(4).

(c) An owner or operator who uses a letter of credit to satisfy the requirements of 206.C.3.f. must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements of the trust fund specified in 206.C.3.f.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the letter of credit.

(d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for post- closure care of the facility by the letter of credit.

(e) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Director have received the notice, as evidenced by the return receipts.

(f) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in 206.C.3.f.(6).

(g) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post- closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.C.3.f. to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(h) During the period of post-closure care, the Director may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Director that the amount exceeds the remaining cost of post-closure care.

(i) Following a determination pursuant to § 74-4-10 NMSA 1978 that the owner or operator has failed to perform post- closure care in accordance with the approved post-closure plan and other interim status requirements, the Director may draw on the letter of credit.

(j) If the owner or operator does not establish alternate financial assurance as specified in 206.C.3.f. and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Director will draw on the letter of credit. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 206.C.3.f. and obtain written approval of such assurance from the Director.

(k) The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.f. in accordance with 206.C.3.f.(8).

(4) Post-closure insurance.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining post-closure insurance which conforms to the requirements of 206.C.3.f.(4) and submitting a certificate of such insurance to the Director. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(5).

(c) The post-closure insurance policy must be issued for a face amount at least equal to the current post- closure cost estimate, except as provided in 206.C.3.f.(6). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face

amount, although the insurer's future liability will be lowered by the amount of the payments.

(d) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of the facility whenever the post-closure care period begins. The policy must also guarantee that once post-closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Director to such party or parties as the Director specifies.

(e) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for post-closure activities, the Director will determine whether the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the Director specifies in writing.

(f) The owner or operator must maintain the policy in full force and effect until the Director consents to termination of the policy by the owner or operator as specified in 206.C.3.f.(4)(k). Failure to pay the premium, without substitution of alternate financial assurance as specified in 206.C.3.f., will constitute a significant violation of these regulations, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(g) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Director deems the facility abandoned; or

(ii) Interim status is terminated or revoked; or

(iii) Closure is ordered by the Director or a court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(i) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.C.3.f. to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(j) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(k) The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.f. in accordance with 206.C.3.f.(8).

(5) Financial test and corporate guarantee for post-closure care.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by demonstrating that he passes a financial test as specified in 206.C.3.f.(5). To pass this test the owner or operator must meet the criteria of either 206.C.3.f.(5)(a)(i) or (ii) below:

(i) The owner or operator must have:

A. Two of the following three ratios:

A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

B. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(b) The phrase "current closure and post-closure cost estimates" as used in 206.C.3.f.(5)(a) refers to the cost estimates required to be shown in paragraph 1-3 of the letter from the owner's or operator's chief financial officer [see 206.D.3.j.(6)]. The phrase "current plugging and abandonment cost estimates" refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer.

(c) To demonstrate that he meets this test, the owner or operator must submit the following items to the Director;

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in 206.D.3.j.(6); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

A. He has compared the data which the letter from the chief financial

officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B In connection with the procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) After the initial submission of items specified in 206.C.3.f.(5)(c) the owner or operator must send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in 206.C.3.f.(5)(c).

(e) If the owner or operator no longer meets the requirements of 206.C.3.f.(5)(a) he must send notice to the Director of intent to establish alternate financial assurance as specified in 206.C.3.f. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(f) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of 206.C.3.f.(5)(a), require reports of financial condition at any time from the owner or operator in addition to those specified in 206.C.3.f.(5)(c). If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of 206.C.3.f.(5)(a) the owner or operator must provide alternate financial assurance as specified in 206.C.3.f. within 30 days after notification of such a finding.

(g) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements [see 206.C.3.f.(5)(c)(ii)]. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in 206.C.3.f. within 30 days after notification of the disallowance.

(h) During the period of post-closure care, the Director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Director that the amount of the cost estimate exceeds the remaining cost of post-closure care.

(i) The owner or operator is no longer required to submit the items specified in 206.C.3.f.(5)(c) when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.C.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.C.3.f. in accordance with 206.C.3.f.(8).

(j) An owner or operator may meet the requirements of 206.C.3.f. by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in 206.C.3.f.(5)(a) through (i) and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 206.D.3.j.(8). The corporate guarantee must accompany the items sent to the Director as specified in 206.C.3.f.(5)(c). The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordnce with the post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in 206.C.3.f.(1) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in 206.C.3.f. and obtain the written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(6) Use of multiple financial mechanisms.

An owner or operator may satisfy the financial assurance requirements for post-closure care by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in 206.C.3.f.(1) through (4) respectively, except that it is the combination of mechanisms rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for post-closure care of the facility.

(7) Use of a financial mechanism for multiple facilities.

An owner or operator may use a financial assurance mechanism specified in 206.C.3.f. to meet the requirements of 206.C.3.f. for more than one facility. Evidence of financial assurance submitted to the Director must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to, and maintained with, the Director of all such facilities located in New Mexico. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(8) Release of the owner or operator from the requirements of 206.C.3.f.

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that the post-closure care period has been completed in accordance with the approved post-closure plan, the Director will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for post-closure care of that unit, unless the Director has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Director will provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

g. Use of a mechanism for financial assurance of both closure and post-closure care.

An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 206.C.3.d. and f. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

h. Liability requirements.

(1) Coverage for sudden accidental occurrences.

An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense

costs. This liability coverage may be demonstrated in one of three ways, as specified in 206.C.3.h.(1)(a), (b) and (c).

(a) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in 206.C.3.h.(1)(a)(i) and (ii).

(i) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in 206.D.3.j.(9). The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(10). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Director.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) An owner or operator may meet the requirements of 206.C.3.h. by passing a financial test for liability coverage as specified in 206.C.3.h.(6).

(c) An owner or operator may demonstrate the required liability coverage through use of both the financial test and insurance as these mechanisms are specified in 206.C.3.h.(1)(a) and (b). The amounts of coverage demonstrated must total at least the minimum amounts required by 206.C.3.h.(1).

(2) Coverage for nonsudden accidental occurrences.

An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily damage and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. This liability coverage may be demonstrated in one of three ways, as specified in 206.C.3.h.(2)(a), (b) and (c).

(a) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in 206.C.3.h.(2)(a)(i) and (ii) below:

(i) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in 206.D.3.j.(9). The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(10). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Director. If requested by the Director, the owner or operator must provide a signed duplicate original of the insurance policy; and

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) An owner or operator may meet the requirements of 206.C.3.h. by passing a financial test for liability coverage as specified in 206.C.3.h.(6).

(c) An owner or operator may demonstrate the required liability coverage through use of both the financial test and insurance as these mechanisms are specified in 206.C.3.h.(2)(a) and (b). The amount of coverage must total at least the minimum amounts required by 206.C.3.h.(2).

(d) The required liability coverage for nonsudden accidental occurrences must be demonstrated by the dates listed below. The total sales or revenues of the owner or operator in all lines of business, in the fiscal year preceding July 15, 1982, will determine which of the dates applies. If the owner and operator of a facility are two different parties, or if there is more than one owner or operator, the sales or revenues of the owner or operator with the largest sales or revenues will determine the date by which the coverage must be demonstrated. The dates are as follows:

(i) For an owner or operator with sales or revenues totalling $10 million or more, 6 months after July 15, 1982;

(ii) For an owner or operator with sales or revenues greater than $5 million but less than $10 million, 18 months after July 15, 1982; and

(iii) All other owners or operators, 30 months after July 15, 1982.

(e) By the date 6 months after July 15, 1982, an owner or operator who is within either of the last two categories [206.C.3.h.(2)(d)(ii) or (iii)] must, unless he has demonstrated liability coverage for nonsudden accidental occurrences, send a letter to the Director stating the date by which he plans to establish such coverage.

(3) Request for variance.

If an owner or operator can demonstrate to the satisfaction of the Director that the levels of financial responsibility required by 206.C.3.h.(1) and (2) are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the Director. The request for a variance must be submitted in writing to the Director. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Director may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the Director to determine a level of financial responsibility other than that required by 206.C.3.h.(1) or (2). The Director will process a variance request as if it were a permit modification request under 302.M.1.e.(3) and subject to the procedures of 303.B. Notwithstanding any other provision, the Director may hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to grant a variance.

(4) Adjustments by the Director.

If the Director determines that the levels of financial responsibility required by 206.C.3.h.(1) or (2) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Director may adjust the level of financial responsibility required under 206.C.3.h.(1) or (2) as may be necessary to protect human health and the environment. This adjusted level will be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Director determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with 206.C.3.h.(2). An owner or operator must furnish to the Director, within a reasonable time, any information which the Director requests to determine whether cause exists for such adjustments of level or type of coverage. The Director will process an adjustment of the level of required coverage as if it were a permit modification under 302.M.1.e.(3) and subject to the procedures of 303.B. Notwithstanding any other provision, the Director may hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to adjust the level or type of required coverage.

(5) Period of coverage.

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this Section to maintain liability coverage for that facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan.

(6) Financial test for liability coverage.

(a) An owner or operator may satisfy the requirements of 206.C.3.h. by demonstrating that he passes a financial test as specified in 206.C.3.h.(6). To pass this test, the owner or operator must meet the criteria of (i) or (ii) below:

(i) The owner or operator must have:

A. Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and

B. Tangible net worth of at least $10 million; and

C. Assets in the United States amounting to either:

1. At least 90 percent of his total assets; or

2. At least six times the amount of liability coverage to be demonstrated by this test.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth of at least $10 million; and

C. Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

D. Assets in the United States amounting to either

1. At least 90 percent of his total assets; or

2. At least six times the amount of liability coverage to be demonstrated by this test.

(b) The phrase "amount of liability coverage" as used in 206.C.3.h.(6)(a) refers to the annual aggregate amounts for which coverage is required under 206.C.3.h.(1) and (2).

(c) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the Director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in 206.D.3.j.(7). If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 206.D.3.d.(6), 206.D.3.f.(6), 206.C.3.d.(5), and 206.C.3.f.(5) and liability coverage, he must submit the letter specified in 206.D.3.j.(7) to cover both forms of financial responsibility; a separate letter as specified in 206.D.3.j.(6) is not required;

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

A. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently, audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) After the initial submission of items specified in 206.C.3.h.(6)(c) the owner or operator must send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in 206.C.3.h.(6)(c).

(e) If the owner or operator no longer meets the requirements of 206.C.3.h.(6)(a), he must obtain insurance for the entire amount of required liability coverage as specified in 206.C.3.h. Evidence of insurance must be submitted to the Director within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

(f) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statement [see 206.C.3.h.(6)(c)(ii)]. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator must provide

evidence of insurance for the entire amount of required liability coverage as specified in 206.C.3.h within 30 days after notification of disallowance.

i. Incapacity of owners or operators, guarantors, or financial institutions.

(1) An owner or operator must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 206.C.3.d.(5) and 206.C.3.f.(5) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee. [See 206.D.3.j.(8).]

(2) An owner or operator who fulfills the requirements of 206.C.3.d., f., or h. by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

4 Use and Management of Containers.[4]

a. Applicability

These regulations apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste except as 206 A. provides otherwise.

b. Condition of containers

If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of these regulations.

c. Compatibility of waste with container.

The owner or operator must use a container made of, or lined with, materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

d. Management of containers.

(1) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

(2) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

e. Inspections.

The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. [See 206.C.4.b. for remedial action required if deterioration or leaks are detected.]

f. Special requirements for ignitable or reactive waste.

Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facilities property line (see 206.B.7.a for additional requirements).

g. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same container, unless 206.B.7.b. is complied with.

(2) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material, see 206.C.-Appendix IV for examples, unless 206.B.7.b. is complied with.

(3) A storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

5. Tanks.[42]

a. Applicability.

These regulations apply to owners and operators of facilities that use tanks to treat or store hazardous waste except as 206.A. provides otherwise.

b. General operating requirements.

(1) Treatment or storage of hazardous waste in tanks must comply with 206.B.7.b.

(2) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(3) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

(4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., a waste feed cutoff system or by-pass system to a stand-by tank).

c. Waste analysis and trial tests.

(1) In addition to the waste analysis required by 206.B.3., whenever a tank is to be used to:

(a) Chemically treat or store a hazardous waste which is substantially different from waste previously treated or stored in that tank; or

(b) Chemically treat hazardous waste with a substantially different process than any previously used in that tank; the owner or operator must, before treating or storing the different waste or using the different process:

(i) Conduct waste analyses and trial treatment or storage tests (e.g., bench scale or pilot plant scale tests); or

(ii) Obtain written, documented information on similar storage or treatment of similar waste under similar operating conditions; to show that this proposed treatment or storage will meet all applicable requirements of 206.C.5.b.(1) and (2).

d. Inspections.

(1) The owner or operator of a tank must inspect, where present:

(a) Discharge control equipment (e.g., waste feed cut-off systems, bypass systems, and drainage systems), at least once each operating day to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges), at least once each operating day, to ensure that the tank is being operated according to its design;

(c) The level of waste in the tank, at least once each operating day, to ensure compliance with 206.C.5.b.(3);

(d) The construction materials of the tank, at least weekly, to detect corrosion or leaking of fixtures or seams; and

(e) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). As required by 206.B.5.c. the owner or operator must remedy any deterioration or malfunction he finds.

e. Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures.

f. Special requirements for ignitable or reactive waste.

(1) Ignitable or reactive waste must not be placed in a tank, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. and 201.B.4., and 206.B.7.b. is complied with; or

(b) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(c) The tank is used solely for emergencies.

(2) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Table 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981), (incorporated by reference, see 104.C.).

g. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same tank, unless 206.B.7.b. is complied with.

(2) Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless 206.B.7.b. is complied with.

6. Surface Impoundments.[43]

a. Applicability.

These regulations apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as 206.A. provides otherwise.

b. General operating requirements.

(1) A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. Except as provided by 206.C.6.b.(2), there must be at least 60 centimeters (2 feet) of freeboard.

(2) A freeboard level less than 60 centimeters (two feet) may be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of his knowledge and opinion, prevent overtopping of the dike. The certification along with a written identification of alternate design features or operating plans preventing overtopping must be maintained at the facility.

c. Containment system.

All earthen dikes must have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve their structural integrity.

d. Waste analysis and trial tests.

(1) In addition to the waste analyses required by 206.B.3., whenever a surface impoundment is to be used to:

(a) Chemically treat a hazardous waste which is substantially different from waste previously treated in that impoundment; or

(b) Chemically treat hazardous waste with a substantially different process than any previously used in the impoundment; the owner or operator must, before treating the different waste or using the different process:

(i) Conduct waste analyses and trial treatment tests (e.g., bench scale or pilot plant scale tests); or

(ii) Obtain written, documented information on similar treatment of similar waste under similar operating conditions; to show that this treatment will comply with 206.B.7.b.

e. Inspections.

(1) The owner or operator must inspect:

(a) The freeboard level at least once each operating day to ensure compliance with 206.C.6.b.; and

(b) The surface impoundment including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failure in the impoundment. As required by 206.B.5.c., the owner or operator must remedy any deterioration or malfunction he finds.

f. Closure and post-closure.

(1) At closure, the owner or operator may elect to remove from the impoundment:

(a) Standing liquids;

(b) Waste and waste residues;

(c) The liner, if any; and

(d) Underlying and surrounding contaminated soil.

(2) If the owner or operator removes all the impoundment materials in 206.C.6.f.(1), or can demonstrate under 201.A.3.c. and d. that none of the material listed in 206.C.6.f.(1) remaining at any stage of removal are hazardous wastes, the impoundment is not further subject to the requirements of 206.B. and 206.C.

(3) If the owner or operator does not remove all the impoundment materials in 206.C.6.f.(1),

or does not make the demonstration in 206.C.6.f.(2), he must close the impoundment and provide post-closure care as for a landfill under 206.C.2. and 206.C.9.d. If necessary to support the final cover specified in the approved closure plan, the owner or operator must treat remaining liquids, residues, and soils by removal of liquids, drying, or other means.

g. Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. and 201.B.4;

(b) 206.B.7.b. is complied with; or

(2) (a) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(b) The owner or operator obtains a certification from a qualified chemist or engineer that, to the best of his knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction; and

(c) The certification and the basis for it are maintained at the facility; or

(3) The surface impoundment is used solely for emergencies.

h. Special requirements for incompatible wastes

Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same surface impoundment, unless 206.B.7.b. is complied with.

7 Waste Piles.[14]

a. Applicability.

These regulations apply to owners and operators of facilities that treat or store hazardous waste in piles except as 206.A. provides otherwise. Alternatively, a pile of hazardous waste may be managed as a landfill under 206.C.9.

b. Protection from wind.

The owner or operator of a pile containing hazardous waste which could be subject to dispersal by wind must cover or otherwise manage the pile so that wind dispersal is controlled.

c. Waste analyses.

In addition to the waste analyses required by 206.B.3., the owner or operator must analyze a representative sample of waste from each incoming movement before adding the waste to any existing pile, unless:

(1) The only wastes the facility receives which are amenable to piling are compatible with each other; or

(2) The waste received is compatible with the waste in the pile to which it is to be added. The analysis conducted must be capable of differentiating between the types of hazardous waste the owner or operator places in piles, so that mixing of incompatible waste does not inadvertently occur. The analysis must include a visual comparison of color and texture.

d. Containment.

If leachate or run-off from a pile is a hazardous waste, then either:

(1) The following conditions must be met:

(a) The pile must be placed on an impermeable base that is compatible with the waste under the conditions of treatment or storage;

(b) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm;

(c) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm; and

(d) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously to maintain design capacity of the system; or

(2) The pile must be protected from precipitation and run-on by some other means and no liquids or wastes containing free liquids may be placed in the pile.

e. Special requirements for ignitable or reactive waste.

Ignitable or reactive wastes must not be placed in a pile, unless:

(1) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under 201.B.2. and 4. and complies with 206.B.7.b.; or

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

f. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same pile, unless 206.B.7.b. is complied with.

(2) A pile of hazardous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device.

(3) Hazardous waste must not be piled on the same area where incompatible wastes or materials were previously piled, unless that area has been decontaminated sufficiently to ensure compliance with 206.B.7.b.

g. Closure and post-closure care.

(1) At closure, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with wastes and leachate, and manage them as a hazardous waste unless 201.A.~~2~~.(3).d. applies; or

(2) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in 206.C.7.g.(1) the owner or operator finds that not all contaminated subsoils can be practically removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (206.C.9.d.).

8. Land Treatment.[45]

a. Applicability.

These regulations apply to owners and operators of hazardous waste land treatment facilities except as 206.A. provides otherwise.

b. General operating requirements.

(1) Hazardous waste must not be placed in or on a land treatment facility unless the waste can be made less hazardous or non-hazardous by degradation, transformation, or immobilization processes occurring in or on the soil.

(2) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the facility during peak discharge from at least a 25-year storm.

(3) The owner or operator must design, construct, operate, and maintain a run-off management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm.

(4) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(5) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must manage the unit to control wind dispersal.

c. Waste analyses.

In addition to the waste analyses required by 206.B.3., before placing a hazardous waste in or on a land treatment facility, the owner or operator must:

(1) Determine the concentrations in the waste of any substances which exceed the maximum concentrations contained in Table 1 of 201.B.5. that cause a waste to exhibit the EP toxicity characteristic;

(2) For any waste listed in 201.C., determine the concentrations of any substances which caused the waste to be listed as a hazardous waste; and

(3) If food chain crops are grown, determine the concentrations in the waste of each of the following constituents: arsenic, cadmium, lead, and mercury, unless the owner or operator has written, documented data that show that the constituent is not present.

d. Food chain crops.

(1) An owner or operator of a hazardous waste land treatment facility on which food chain crops are being grown, or have been grown and will be grown in the future, must notify the Director.

(2) Food chain crops must not be grown on the treated area of a hazardous waste land treatment facility unless the owner or operator can demonstrate, based on field testing, that any arsenic, lead, mercury, or other constitutents identified under 206.C.8.c.(2);

(a) Will not be transferred to the food portion of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(b) Will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils under similar conditions.

(3) The information necessary to make the demonstration required by 206.C.8.d.(2) must be kept at the facility and must, at a minimum:

(a) Be based on tests for the specific waste and application rates being used at the facility; and

(b) Include descriptions of crop and soil characteristics, sample selection criteria, sample size determination, analytical methods, and statistical procedures.

(4) Food chain crops must not be grown on a land treatment facility receiving waste that contains cadmium unless all of the following requirements are met except as 206.C.8.d.(5) may provide otherwise:

(a) The pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(b) The annual application of cadmium from waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate does not exceed:

Time Period	Annual Cd Application Rate (kg/ha)
Present to June 30, 1984	2.00
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.50

(c) The cumulative application of cadmium from waste does not exceed the levels in either TABLE A following; or

TABLE A

Soil cation exchange capacity (meq/100g)	Maximum cumulative application (kg/ha) Background soil pH less than 6.5	Background soil pH greater than 6.5
Less than 5	5	5
5 to 15	5	10
Greater than 15	5	20

(d) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels in Table B following: provided that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown.

TABLE B

Soil cation exchange capacity (meq/100g)	Maximum cumulative application (kg/ha)
Less than 5	5
5 to 15	10
Greater than 15	20

(5) If the only food chain crop produced is animal feed, the owner or operator of a land treatment facility will be in compliance with these regulations if all of the following requirements are met:

(a) The pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food chain crops are grown.

(b) There is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses.

(c) Future property owners are notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with 206.C.8.d.(5).

e. Unsaturated zone (zone of aeration) monitoring.

(1) The owner or operator must have in writing, and must implement, an unsaturated zone monitoring plan which is designed to:

(a) Detect the vertical migration of hazardous waste and hazardous waste constitutents under the active portion of the land treatment facility; and

(b) Provide information on the background concentrations of the hazardous waste and hazardous waste constituents in similar but untreated soils nearby; this background monitoring must be conducted before or in conjunction with the monitoring required under 206.C.8.e.(1)(a).

(2) The unsaturated zone monitoring plan must include, at a minimum:

(a) Soil monitoring using soil cores; and

(b) Soil-pore water monitoring using devices such as lysimeters.

(3) To comply with 206.C.8.e.(1)(a), the owner or operator must demonstrate in his unsaturated zone monitoring plan that:

(a) The depth at which soil and soil-pore water samples are to be taken is below the depth to which the waste is incorporated into the soil;

(b) The number of soil and soil-pore water samples to be taken is based on the variability of:

(i) The hazardous waste constituents as identified in 206.C.8.c.(1) and (2) in the waste and in the soil; and

(ii) The soil type(s); and

(c) The frequency and timing of soil and soil-pore water sampling is based on the frequency, time, and rate of waste application, proximity to ground water, and soil permeability.

(4) The owner or operator must keep at the facility his unsaturated zone monitoring plan, and the rationale used in developing this plan.

(5) The owner or operator must analyze the soil and soil-pore water samples for the hazardous waste constituents that were found in the waste during the waste analysis under 206.C.8.c.(1) and (2).

f. Recordkeeping.

The owner or operator must include hazardous waste application dates and rates in the operating record required under 203.C.2.c.

g. Closure and post-closure.

(1) In the closure plan under 206.C.2.c. and the post-closure plan under 206.C.2.h., the owner or operator must address the following objectives and indicate how they will be achieved:

(a) Control of the migration of hazardous waste and hazardous waste constituents from the treated area into the ground water;

(b) Control of the release of contaminated run-off from the facility into surface water;

(c) Control of the release of airborne particulate contaminants caused by wind erosion; and

(d) Compliance with 206.C.8.d. concerning the growth of food-chain crops.

(2) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of 206.C.8.g.(1):

(a) Type and amount of hazardous waste and hazardous waste constituents applied to the land treatment facility;

(b) The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;

(c) Site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration (e.g., proximity to ground water, surface water and drinking water sources);

(d) Climate, including amount, frequency, and pH of precipitation;

(e) Geological and soil profiles and surface and subsurface hydrology of the site, and soil characteristics, including cation exchange capacity, total organic carbon, and pH;

(f) Unsaturated zone monitoring information obtained under 206.C.8.e.; and

(g) Type, concentration, and depth of migration of hazardous waste constituents in the soil as compared to their background concentrations.

(3) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of 206.C.8.g.(1):

(a) Removal of contaminated soils;

(b) Placement of a final cover, considering:

(i) Functions of the cover (e.g., infiltration control, erosion and run-off control, and wind erosion control); and

(ii) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover;

(c) Monitoring of ground water.

(4) In addition to the requirements of 206.C.2., during the closure period, the owner or operator of a land treatment facility must:

(a) Continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;

(b) Maintain the run-on control system required under 206.C.8.b.(2);

(c) Maintain the run-off management system required under 206.C.8.b.(3); and

(d) Control wind dispersal of particulate matter which may be subject to wind dispersal.

(5) For the purpose of complying with 206.C.2.f., when closure is completed the owner or operator may submit to the Director certification both by the owner or operator and by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(6) In addition to the requirements of 206.C.2.g., during the post-closure care period the owner or operator of a land treatment unit must:

(a) Continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

(b) Restrict access to the unit as appropriate for its post-closure use;

(c) Assure that growth of food chain crops complies with 206.C.8.d.; and

(d) Control wind dispersal of hazardous waste.

h. Special requirements for ignitable or reactive waste.

Ignitable or reactive wastes must not be land treated, unless:

(1) The waste is immediately incorporated into the soil so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(b) 206.B.7.b. is complied with; or

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

i. Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same land treatment area, unless 206.B.7.b. is complied with.

9. Landfills.[46]

a. Applicability.

These regulations apply to owners and operators of facilities that dispose of hazardous waste in landfills except as 206.A. provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by these regulations.

b. General operating requirements.

(1) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the landfill during peak discharge from at least a 25-year storm.

(2) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(3) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(4) The owner or operator of a landfill containing hazardous waste which is subject to dispersal by wind must cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled.

c. Surveying and recordkeeping.

The owner or operator of a landfill must maintain the following items in the operating record required in 203.C.2.:

(1) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(2) The contents of each cell and the approximate location of each hazardous waste type within each cell.

d. Closure and post-closure.

(1) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(a) Provide long-term minimization of migration of liquids through the closed landfill;

(b) Function with minimum maintenance;

(c) Promote drainage and minimize erosion or abrasion of the cover;

(d) Accomodate settling and subsidence so that the cover's integrity is maintained; and

(e) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(2) After final closure, the owner or operator must comply with all post-closure requirements contained in 206.C.2.g., h., i., and j. including maintenance and monitoring throughout the post-closure care period. The owner and operator must:

(a) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;

(b) Maintain and monitor the ground water monitoring system and comply with all other applicable requirements of 206.C.1.;

(c) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(d) Protect and maintain surveyed bench marks used in complying with 206.9.c.

e. Special requirements for ignitable or reactive waste.

(1) Except as provided in 206.C.9.e.(2) and in 206.C.9.i., ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in the landfill so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(b) 206.B.7.b. is complied with.

(2) Ignitable wastes in containers may be landfilled without meeting the requirements of 206.C.9.e.(1) provided that the wastes are disposed in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

f. Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same landfill cell, unless 206.B.7.b. is complied with.

g. Special requirements for bulk and containerized liquids.

(1) Bulk or non-containerized liquid waste or waste containing free liquids must not be placed in a landfill, unless:

(a) The landfill has a liner and leachate collection and removal system that meets the requirements of 206.D.10.b.(1); or

(b) Before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with an absorbent solid), so that free liquids are no longer present.

(2) Containers holding free liquids must not be placed in a landfill, unless:

(a) All free-standing liquid has:

(i) been removed by decanting, or other methods;

(ii) been mixed with absorbent or solidified so that free-standing liquid is no longer observed; or

(iii) been previously otherwise eliminated; or

(b) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(c) The container is very small, such as an ampule; or

(d) The container is a lab pack as defined in 206.C.9.i. and is disposed of in accordance with 206.C.9.i.

(3) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Methods 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods." (EPA Publication No. SW-846.)

h. Special requirements for containers.

Unless they are very small, such as ampule, containers must be either:

(1) At least 90 percent full when placed in the landfill, or

(2) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

i. Disposal of small containers of hazardous waste in overpacked drums (lab packs).

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

(1) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified by the Department of Transportation (DOT) hazardous materials regulatons (49 CFR Parts 173, 178 and 179), if those regulations specify a particular inside container for the waste.

(2) The inside containers must be overpacked in an open head DOT specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material.

(3) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with 206.B.7.b.

(4) Incompatible wastes, as defined in 102, must not be placed in the same outside container.

(5) Reactive waste, other than cyanide- or sulfide-bearing waste as defined in 201.B.4.(1)(e), must be treated or rendered non-reactive prior to packaging in accordance with 206.C.9.i.(1) through (4). Cyanide- and sulfide-bearing reactive waste may be packaged in accordance with 206.C.9.i.(1) through (4) without first being treated or rendered non-reactive.

10. Incinerators.[47]

a. Applicability.

(1) These regulations apply to owners and operators of facilities that incinerate hazardous waste in incinerators, except as 206.A. provides otherwise. The following facility owners or operators are considered to incinerate hazardous waste:

(a) Owners or operators of hazardous waste incinerators (as defined in 102); and

(b) Owners or operators who burn hazardous wastes in boilers or in industrial furnaces in order to destroy the wastes.

(2) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of 206.C.10. except 206.C.10.e.(Closure) provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in 201.C.-Appendix III, and such documention is retained at the facility, if the waste to be burned is:

(a) Listed as a hazardous waste in 201.C. solely because it is ignitable(Hazard Code I), corrosive(Hazard Code C), or both; or

(b) Listed as a hazardous waste in 201.C. solely because it is reactive (Hazard Code R) for characteristics other than those listed in 201.B.4.a.(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(c) A hazardous waste solely because it possesses the characteristics of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under201.B.; or

(d) A hazardous waste solely because it possesses the reactivity characteristics described by 201.B.4.a.(1),(2),(3),(6),(7), or (8), and will not be burned when other hazardous wastes are present in the combustion zone.

b. Waste analyses.

In addition to the waste analyses required by 206.B.3., the owner or operator must sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state (normal) operating conditions (including waste and auxiliary fuel feed and air flow) and to determine the type of pollutants which might be emitted. At a minimum, the analysis must determine:

(1) Heating value of the waste;

(2) Halogen content and sulfur content in the waste; and

(3) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

c. General operating requirements.

During start-up and shut-down of an incinerator, the owner or operator must not feed hazardous waste unless the incinerator is at steady state (normal) conditions of operation, including steady state operating temperature and air flow.

d. Monitoring and inspections.

The owner or operator must conduct, as a minimum, the following monitoring and inspections when incinerating hzardous waste:

(1) Existing instruments which relate to combustion and emission control must be monitored at least every 15 minutes. Appropriate corrections to maintain steady state combustion conditions must be made immediately either automatically or by the operator. Instruments which relate to combustion and emission control would normally include those measuring waste feed, auxiliary fuel feed, air flow, incinerator temperature, scrubber flow, scrubber pH, and relevant level controls.

(2) The complete incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be inspected at least daily for leaks, spills, and fugitive emissions, and all emergency shutdown controls and system alarms must be checked to assure proper operation.

e. Closure.

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator.

f. Interim status incinerators burning particular hazardous wastes.

(1) Owners or operators of incinerators subject to 206.C.10. may burn EPA Hazardous Wastes F020, F021, F022, F023, F026, or F027 if they receive a certification from the Assistant Administrator for Solid Waste and Emergency Response that they can meet the performance standards of 206.D.8. when they burn these wastes.

(2) The following standards and procedures will be used in determining whether to certify an incinerator:

(a) The owner or operator will submit an application to the Assistant Administrator for Solid Waste and Emergency Response containing applicable information in 302.A.4.b.(2)(e) and 302.E.2. demonstrating that the incinerator can meet the performance standard in 206.D.8. when they burn wastes;

(b) The Assistant Administrator for Solid Waste and Emergency Response will issue a tentative decision as to whether the incinerator can meet the performance standards in 206.D.8. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the jurisdiction where the incinerator is located. The Assistant Administrator for Solid Waste and Emergency Response will accept comment for 60 days. The Assistant Administrator for Solid Waste and Emergency Response also may hold a public hearing upon request or at his discretion;

(c) After the close of the public comment period, the Assistant Administrator for Solid Waste and Emergency Response will issue a decision whether or not to certify the incinerator.

11. Other Thermal Treatment.[48]

a. Applicability.

These regulations apply to owners or operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion except as 206.A provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of 206.C.10. if the unit is an incinerator.

b. General operating requirements.

Before adding hazardous waste, the owner or operator must bring his thermal treatment process to steady state (normal) conditions of operation - including steady state operating temperature - using auxiliary fuel or other means, unless the process is a non-continuous (batch) thermal treatment process which requires a complete thermal cycle to treat a discrete quantity of hazardous waste.

c. Waste analyses.

In addition to the waste analyses required by 206.B.3., the owner or operator must sufficiently analyze any waste which he has not previously treated in his thermal process to enable him to establish steady state (normal) or other appropriate (for a non- continuous process) operating conditions (including waste and auxiliary fuel feed) and to determine the type of pollutants which might be emitted. At a minimum, the analysis must determine:

(1) Heating value of the waste;

(2) Halogen content and sulfur content in the waste; and

(3) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

d. Monitoring and inspections

The owner or operator must conduct, as a minimum, the following monitoring and inspections when thermally treating hazardous waste:

(1) Existing instruments which relate to temperature and emission control (if an emission control device is present) must be monitored at least every 15 minutes. Appropriate corrections to maintain steady state or other appropriate thermal treatment conditions must be made immediately either automatically or by the operator. Instruments which relate to temperature and emission control would normally include those measuring waste feed, auxiliary fuel feed, treatment process temperature, and relevant process flow and level controls.

(2) The stack plume (emissions), where present, must be observed visually at least hourly for normal appearance (color and opacity). The operator must immediately make any indicated operating corrections necessary to return any visible emissions to their normal appearance.

(3) The complete thermal treatment process and associated equipment (pumps, valves, conveyors, pipes, etc.) must be inspected at least daily for leaks, spills, and fugitive emissions, and all emergency shutdown controls and system alarms must be checked to assure proper operation.

e. Closure.

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash) from the thermal treatment process or equipment

f. Open burning; waste explosives.

Open burning of hazardous waste is prohibited except for the open burning and detonation of waste explosives. Waste explosives include waste which has the potential to detonate and bulk military propellants which cannot safely be disposed of through other modes of treatment. Detonation is an explosion in which chemical transformation passes through the material faster than the speed of sound (0.33 kilometers/second at sea level). Owners or operators choosing to open burn or detonate waste explosives must do so in accordance with the following table and in a manner that does not threaten human health or the environment.

Pounds of waste explosives or propellants	Minimum distance from open burning or detonation to the property of others
0 to 100	204 meters (670 feet)
101 to 1,000	380 meters (1,250 feet)
1,001 to 10,000	530 meters (1,730 feet)
10,001 to 30,000	690 meters (2,260 feet)

g. Interim status thermal treatment devices burning particular hazardous waste.

(1) Owners or operators of thermal treatment devices subject to 206.C.11. may burn EPA Hazardous Wastes F020, F021, F022, F023, F026 or F027 if they receive certification from the Assistant Administrator for Solid Waste and Emergency Response that they can meet the performance standards of 206.D.8. when they burn these wastes.

(2) The following standards and procedures will be used in determining whether to certify a thermal treatment unit:

(a) The owner or operator will submit an application to the Assistant Administrator for Solid Waste and Emergency Response containing the applicable information in 302.A.4.b.(2)(e) and 302.E.2 demonstrating that the thermal treatment unit can meet the performance standard in 206.D.8. when they burn these wastes;

(b) The Assistant Administrator for Solid Waste and Emergency Response will issue a tentative decision as to whether the thermal treatment unit can meet the performance standards in 206.D.8. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the jurisdiction where the thermal treatment device is located. The Assistant Administrator for Solid Waste and Emergency Response will accept comment on the tentative decision for 60 days. The Assistant Administrator for Solid Waste and Emergency Response also may hold a public hearing upon request or at his discretion;

(c) After the close of the public comment period, the Assistant Administrator for Solid Waste and Emergency Response will issue a decision whether or not to certify the thermal treatment unit.

12. Chemical, Physical, and Biological Treatment.[49]

a. Applicability.

These regulations apply to owners and operators of facilities which treat hazardous wastes by chemical, physical, or biological methods in other than tanks, surface impoundments, and land treatment facilities except as 206.A. provides otherwise. Chemical, physical, and biological treatment of hazardous waste in tanks, surface impoundments, and land treatment facilities must be conducted in accordance with 206.C.5., C.6., and C.8.

b. General operating requirements.

(1) Chemical, physical, or biological treatment of hazardous waste must comply with 206.B.7.b.

(2) Hazardous wastes or treatment reagents must not be placed in the treatment process or equipment if they could cause the treatment process or equipment to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(3) Where hazardous waste is continuously fed into a treatment process or equipment, the process or equipment must be equipped with a means to stop this inflow (e.g., a waste feed cut-off system or by-pass system to a standby containment device).

c. Waste analysis and trial tests.

(1) In addition to the waste analysis required by 206.B.3., whenever:

(a) A hazardous waste which is substantially different from waste previously treated in a treatment process or equipment at the facility is to be treated in that process or equipment; or

(b) A substantially different process than any previously used at the facility is to be used to chemically treat hazardous waste; the owner or operator must, before treating the different waste or using the different process or equipment:

(i) Conduct waste analyses and trial treatment tests (e.g., bench scale or pilot plant scale tests); or

(ii) Obtain written, documented information on similar treatment of similar waste under similar operating conditions to show that this proposed treatment will meet all applicable requirements of 206.C.12.b.(1) and (2).

d. Inspections.

The owner or operator of a treatment facility must inspect, where present:

(1) Discharge control and safety equipment (e.g., waste feed cut-off systems, by-pass systems, drainage systems, and pressure relief systems) at least once each operating day, to ensure that it is in good working order;

(2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges), at least once each operating day, to ensure that the treatment process or equipment is being operated according to its design;

(3) The construction materials of the treatment process or equipment, at least weekly, to detect corrosion or leaking of fixtures or seams; and

(4) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

e. Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from treatment processes or equipment, discharge control equipment, and discharge confinement structures.

f. Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a treatment process or equipment unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4., and 206.B.7.b. is complied with; or

(2) The waste is treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react.

g. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, see 206.C., Appendix IV for examples, must not be placed in the same treatment process or equipment, unless 206.B.7.b. is complied with.

(2) Hazardous waste must not be placed in unwashed treatment equipment which previously held an incompatible waste or material, unless 206.B.7.b. is complied with.

APPENDIX I - RECORDKEEPING INSTRUCTIONS.[50]

The recordkeeping provisions of 203.C.2. specify that an owner or operator must keep a written operating record at his facility. This appendix provides additional instructions for keeping portions of the operating record. See 203.C.2.c. for additional recordkeeping requirements.

The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility in the following manner.

Records of each hazardous waste received, treated, stored, or disposed of at the facility which include the following:

(1) A description by its common name and the EPA Hazardous Waste Number(s) from 201 which applies to the waste. The waste description also must include the waste's physical form, i.e., liquid, sludge, solid, or contained gas. If the waste is not listed in 201, the description also must include the process that produced it (for example, solid filter cake from production of ---, EPA Hazardous Waste Number W051). Each hazardous waste listed in 201.C., and each hazardous waste characteristic defined in 201.B., has a four digit EPA Hazardous Waste Number assigned to it. This number must be used for recordkeeping and reporting purposes. Where a hazardous waste contains more than one listed hazardous waste, or where more than one hazardous waste characteristic applies to the waste, the waste description must include all applicable EPA Hazardous Waste Numbers.

(2) The estimated or manifested reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1; and

(3) The method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal.

TABLE 1

Unit of measure	Symbol [1]	Density
Pounds	P	
Short ton (2000 lbs)	T	
Gallons (U.S.)	G	P/G
Cubic yards	Y	T/Y
Kilograms	K	
Tonnes (1000 kg)	M	
Liters	L	K/L
Cubic meters	C	M/C

"[1] Single digit symbols are used here for data processing purposes."

TABLE 2

HANDLING CODES FOR TREATMENT, STORAGE, AND DISPOSAL METHODS

Enter the handling code(s) listed below that most closely represent the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.

1. Storage

S01 Container (barrel, drum, etc.)
S02 Tank
S03 Waste pile
S04 Surface impoundment
S05 Other (specify)

2. Treatment

(a) Thermal Treatment:

T06 Liquid injection incinerator
T07 Rotary kiln incinerator
T08 Fluidized bed incinerator
T09 Multiple hearth incinerator
T10 Infrared furnace incinerator
T11 Molten salt destructor
T12 Pyrolysis
T13 Wet air oxidation
T14 Calcination
T15 Microwave discharge
T16 Cement kiln
T17 Lime kiln
T18 Other (specify)

(b) Chemical Treatment

T19 Absorption mound
T20 Absorption field
T21 Chemical fixation
T22 Chemical oxidation
T23 Chemical precipitation
T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction
T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)

(c) Physical Treatment:

(1) Separation of components

T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)

(2) Removal of Specific Components

T48 Absorption - molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation
T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping
T65 Sand filter
T66 Other (specify)

(d) Biological Treatment

T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic lagoon
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Trickling filter
T76 Waste stabilization pond
T77 Other (specify)

3. Disposal

D80 Underground injection
D81 Landfill
D82 Land treatment
D83 Ocean disposal
D84 Surface impoundment (to be closed as a landfill)
D85 Other (specify)

APPENDIX II - EPA INTERIM PRIMARY DRINKING WATER STANDARDS[51]

PARAMETER	MAXIMUM LEVEL (Mg/l)
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Fluoride	1.4-2.4
Lead	0.05
Mercury	0.002
Nitrate (as N)	10
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1
2,4,5-TP Silvex	0.01
Radium	5 pCi/l
Gross Alpha	15 pCi/l
Gross Beta	4 millirem/yr
Turbidity[a]	1/TU
Coliform Bacteria	1/100ml

Comment: Turbidity is applicable only to surface water supplies.

APPENDIX III - TESTS FOR SIGNIFICANCE[52]

As required in 206.C.1.d. the owner or operator must use the Student's t-test to determine statistically significant changes in the concentration or value of an indicator parameter in periodic ground- water samples when compared to the initial background concentration or value of that indicator parameter. The comparison must consider individually each of the wells in the monitoring system. For three of the indicator parameters (specific conductance, total organic carbon, and total organic halogen) a single-tailed Student's t-test must be used to test at the 0.01 level of significance for significant increases over background. The difference test for pH must be a two-tailed Student's t-test at the overall 0.01 level of significance.

The Student's t-test involves calculation of the value of a t-statistic for each comparison of the mean (average) concentration or value (based on a minimum of four replicate measurements) of an indicator parameter with its initial background concentration or value. The calculated value of the t-statistic must then be compared to the value of the t-statistic found in a table for t-test of significance at the specified level of significance. A calculated value of t which exceeds the value of t found in the table indicates a statistically significant change in the concentration or value of the indicator parameter.

Formulae for calculation of the t-statistic and tables for t-test of significance can be found in most introductory statistics texts.

APPENDIX IV - EXAMPLES OF POTENTIALLY INCOMPATIBLE WASTE[53]

Many hazardous wastes, when mixed with other waste or materials at a hazardous waste facility, can produce effects which are harmful to human health and the environment such as (1) heat or pressure, (2) fire or explosion, (3) violent reaction, (4) toxic dusts, mists, fumes, or gases, or (5) flammable fumes or gases.

This table lists examples of potentially incompatible wastes, waste components, and materials, along with the harmful consequences which result from mixing materials in one group with materials in another group. The list is intended as a guide to owners or operators of treatment, storage, and disposal facilities, to indicate the need for special precautions when managing these potentially incompatible waste materials or components.

The list is not intended to be exhaustive. An owner or operator must, as the regulations require, adequately analyze his wastes so that he can avoid creating uncontrolled substances or reactions of the type listed below, whether they are listed below or not.

It is possible for potentially incompatible wastes to be mixed in a way that precludes a reaction (e.g., adding acid to water rather than water to acid) or that neutralizes them (e.g., a strong acid mixed with a strong base), or that controls substances produces (e.g., by generating flammable gases in a closed tank equipped so that ignition cannot occur, and burning the gases in an incinerator).

APPENDIX IV: CONTINUED NEXT PAGE

In the lists below, the mixing of a Group A material with a Group B material may have the potential consequences as noted.

1. Potential consequences: Heat generation; violent reaction

Group 1-A	Group 1-B
Acetylene sludge	Acid sludge
Alkaline caustic liquids	Acid and water
Alkaline cleaner	Battery acid
Alkaline corrosive liquids	Chemical cleaners
Alkaline corrosive battery fluid	Electrolyte, acid
Caustic wastewater	Etching acid liquid or solvent
Lime sludge and other corrosive alkalies	
Lime wastewater	Pickling liquor and other corrosive acids
Lime and water	Spent acid
Spent caustic	Spent mixed acid
	Spent sulfuric acid

2. Potential consequences: Fire or explosion; generation of flammable hydrogen gas.

Group 2-A	Group 2-B
Aluminum	Any waste in Group 1-A or Group 1-B
Beryllium	
Calcium	
Lithium	
Magnesium	
Potassium	
Sodium	
Zinc powder	
Other reactive metals and metal hydrides	

3. Potential consequences: Fire, explosion, or heat generation; generation of flammable or toxic gases.

Group 3-A	Group 3-B
Alcohols	Any concentrated waste in Groups 1-A or 1-B
Water	Calcium
	Lithium
	Metal hydrides
	Potassium
	SO_2Cl_2, $SOCl_2$, PCl_3, CH_3SiCl_3
	Other water-reactive waste

4. Potential consequences: Fire, explosion, or violent reaction.

Group 4-A	Group 4-B
Alcohols	Concentrated Group 1-A or 1-B wastes
Aldehydes	Group 2-A wastes
Halogenated hydrocarbons	
Nitrated hydrocarbons	
Unsaturated hydrocarbons	
Other reactive organic compounds and solvent	

5 Potential consequences: Generation of toxic hydrogen cyanide or hydrogen sulfide gas.

Group 5-A	Group 5-B
Spent cyanide and sulfide solutions	Group 1-B wastes

6 Potential consequences: Fire, explosion, or violent reaction.

Group 6-A	Group 6-B
Chlorates	Acetic acid and other organic acids
Chlorine	Concentrated mineral acids
Chlorites	Group 2-A wastes
Chromic acid	Group 4-A wastes
Hypochlorites	Other flammable and combustible wastes
Nitrates	
Nitric acid, fuming	
Perchlorates	
Permanganates	
Peroxides	
Other strong oxidizers	

Source: "Law, Regulations, and Guidelines for Handling of Hazardous Waste." California Department of Health, February 1975.

D. Standards for Treatment, Storage, and Disposal Facilities Without Interim Status.

1. Ground-water Protection.[54]

a. Applicability.

(1) Except as provided in 206.D.1.a.(2), the regulations in 206.D.1. apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills. The owner or operator must satisfy the requirements of 206.D.1. for all wastes (or constituents thereof) contained in any such waste management unit at the facility that receives hazardous waste after January 26,1983 (hereinafter referred to as a "regulated unit"). Any waste or waste constituent migrating beyond the waste management area under 206.D.1.f.(2) is assumed to originate from a regulated unit unless the Director finds that such waste or waste constituent originated from another source.

(2) The owner or operator is not subject to regulation under 206.D.1. if:

(a) He is exempted under 206.A.;

(b) He designs and operates a surface impoundment in compliance with 206.D.6.c., a pile in compliance with 206.D.7.a.(3), 206.D.7.c., or 206.D.7.d., or a landfill in compliance with 206.D.10.c.;

(c) The Director finds, pursuant to 206.D.9.h.(4), that the treatment zone of a land treatment unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of 206.D.9.f. has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption under 206.D.1.a.(2) can only relieve an owner or operator of responsibility to meet the requirements of 206.D.1. during the post-closure care period; or

(d) The Director finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period specified under 206.D.2.h. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under 206.D.1.a.(2) on assumptions that maximize the rate of liquid migration.

(3) The regulations under 206.D.1. apply during the active life of the regulated unit (including the closure period.) After closure of the regulated unit, the regulations in 206.D.1.:

(a) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure;

(b) Apply during the post-closure care period under 206.D.2.h. if the owner or operator is conducting a detection monitoring program under 206.D.1.i.; or

(c) Apply during the compliance period under 206.D.1.g. if the owner or operator is conducting a compliance monitoring program under 206.D.1.j. or a corrective action program under 206.D.1.k.

b. Required programs.

(1) Owners and operators subject to 206.D.1. must conduct a monitoring and response program as follows:

(a) Whenever hazardous constituents under 206.D.1.d. from a regulated unit are detected at the compliance point under 206.D.1.f. the owner or operator must institute a compliance monitoring program under 206.D.1.j.;

(b) Whenever the ground-water protection standard under 206.D.1.c. is exceeded, the owner or operator must institute a corrective action program under 206.D.1.k.;

(c) Whenever hazardous constituents under 206.D.1.d. from a regulated unit exceed concentration limits under 206.D.1.e. in ground water between the compliance point under 206.D.1.f. and the downgradient facility property boundary, the owner or operator must institute a corrective action program under 206.D.1.k., or

(d) In all other cases, the owner or operator must institute a detection monitoring program under 206.D.1.i.

(2) The Director will specify in the facility permit the specific elements of the monitoring and response program. The Director may include one or more of the programs identified in 206.D.1.b.(1) in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the Director will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

c. Ground-water protection standard.

The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that hazardous constituents under 206.D.1.d. entering the ground water from a regulated unit do not exceed the concentration limits under 206.D.1.e. in the uppermost aquifer underlying the waste management area beyond the point of compliance under 206.D.1.f. during the compliance period under 206.D.1.g. The Director will establish this ground-water protection standard in the facility permit when hazardous constituents have entered the ground water from a regulated unit.

d. Hazardous constituents.

(1) The Director will specify in the facility permit the hazardous constituents to which the ground-water protection standard of 206.D.1.c. applies. Hazardous constituents are constituents identified in Appendix III of 201 that have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the Director has excluded them under 206.D.1.d.(2).

(2) The Director will exclude an Appendix III constituent from the list of hazardous constituents specified in the facility permit if he finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the Director will consider the following:

(a) Potential adverse effects on ground-water quality, considering:

(i) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quality of ground water and the direction of ground-water flow;

(iv) The proximity and withdrawal rates of ground-water users;

(v) The current and future uses of ground water in the area;

(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(vii) The potential for health risks caused by human exposure to waste constituents;

(viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(ix) The persistence and permanence of the potential adverse effects; and

(b) Potential adverse effects on hydraulically-connected surface water quality, considering;

(i) The volume and physical and chemical characteristics of the waste in the regulated unit,

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity and quality of ground water, and the direction of ground-water flow;

(iv) The pattern of rainfall in the region;

(v) The proximity of the regulated unit to surface waters;

(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(vii) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(viii) The potential for health risks caused by human exposure to waste constituents;

(xi) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(x) The persistence and permanence of the potential adverse effects

(3) In making any determination under 206.D.1.d.(2) about the use of ground water in the area around the facility, the Director will consider any identification of underground sources of drinking water and exempted aquifers made under Section 5-103 of the Water Quality Control Commission Regulations

e. Concentration limits.

(1) The Director will specify in the facility permit concentration limits in the ground water for hazardous constituents estalished under 206.D.1.d. The concentration of a hazardous constituent:

(a) Must not exceed the background level of the constituent in the ground water at the time that limit is specified in the permit; or

(b) For any of the constituents listed in Table 1, must not exceed the respective value given in that Table if the background level of the constituent is below the value given in Table 1; or

Table 1.
MAXIMUM CONCENTRATION OF CONSTITUENTS FOR GROUND-WATER PROTECTION

Constituent	Maximum Concentration (milligrams per liter)
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1, 2, 3, 4, 10, 10-hexachloro-1, 7-epoxy-1, 4, 4a.5, 6, 7, 8, 9a-octahydro-1, 4-endo, endo-5, 8-dimethano naphthalene)	0.0002
Lindane (1, 2, 3, 4, 5, 6-hexachlorocyclo-hexane,gamma isomer)	0.004
Methoxychlor (1, 1, 1-Trichloro-2, 2-bis (p-methoxyphenyl ethane)	0.1
Toxaphene ($C_{10}H_{10}Cl_6$, Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2, 4-D, (2, 4-Dichlorophenoxyacetic acid)	0.1
2, 4, 5-TP Silvex (2, 4, 5-Trichlorophenoxy propionic acid)	0.01

(c) Must not exceed an alternate limit established by the Director under 206.D.1.e.(2)

(2) The Director will establish an alternate concentration limit for a hazardous constituent if he finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the Director will consider the following factors:

(a) Potential adverse effects on ground-water quality, considering:

(i) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity of ground water and the direction of ground-water flow;

(iv) The proximity and withdrawal rates of ground-water users;

(v) The current and future uses of ground water in the area;

(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(vii) The potential for health risks caused by human exposure to waste constituents;

(viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(ix) The persistence and permanence of the potential adverse effects; and

(b) Potential adverse effects on hydraulically-connected surface water quality, considering;

(i) The volume and physical and chemical charcteristics of the waste in the regulated unit;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity and quality of ground water, and the direction of ground-water flow;

(iv) The patterns of rainfall in the region;

(v) The proximity of the regulated unit to surface waters;

(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(vii) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(viii) The potential for health risks caused by human exposure to waste constituents;

(ix) The potential damage to wildlife, crops, vegetation and physical structures caused by exposure to waste constituents and

(x) The persistence and permanence of the potential adverse effects.

(3) In making any determination under 206 D.1 e.(2) about the use of ground water in the area around the facility the Director will consider any identification of underground sources of drinking water and exempted aquifers made under Section 5-103 of the Water Quality Control Commission Regulations.

f. Point of compliance.

(1) The Director will specify in the facility permit the point of compliance at which the ground-water protection standard of 206.D.1.c., applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units.

(2) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit.

(a) The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit.

(b) If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

g. Compliance period.

(1) The Director will specify in the facility permit the compliance period during which the ground-water protection standard of 206.D.1.c. applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period.)

(2) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of 206.D.1.j.

(3) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in 206.D.1.g.(1), the compliance period is extended until the owner or operator can demonstrate that the ground-water protection standard of 206.D.1.c. has not been exceeded for a period of three consecutive years.

h. General ground-water monitoring requirements.

The owner or operator must comply with the following requirements for any ground-water monitoring program developed to satisfy 206.D.1.i., 206.D.1.j., or 206.D.1.k.

(1) The ground-water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground-water samples from the uppermost aquifer that:

(a) Represent the quality of background ground water that has not been affected by leakage from a regulated unit; and

(b) Represent the quality of ground water passing the point of compliance.

(2) If a facility contains more than one regulated unit, separate ground-water monitoring systems are not required for each regulated unit provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of hazardous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(3) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of ground-water samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the ground water.

(4) The ground-water monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of ground-water quality below the waste management area. At a minimum the program must include procedures and techniques for:

(a) Sample collection;

(b) Sample preservation and shipment;

(c) Analytical procedures; and

(d) Chain of custody control.

(5) The ground-water monitoring program must include sampling and analytical methods that are appropriate for ground-water sampling and that accurately measure hazardous constituents in ground-water samples.

(6) The ground-water monitoring program must include a determination of the ground-water surface elevation each time ground water is sampled.

(7) Where appropriate, the ground-water monitoring program must establish background ground-water quality for each of the hazardous constituents or monitoring parameters or constituents specified in the permit.

(a) In the detection monitoring program under 206.D.1.i., background ground-water quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste mangement area for one year.

(b) In the compliance monitoring program under 206.D.1.j. background ground-water quality for a hazardous constituent must be based on data from upgradient wells that:

(i) Is available before the permit is issued;

(ii) Accounts for measurement errors in sampling and analysis; and

(iii) Accounts, to the extent feasible, for seasonal fluctuations in background ground-water quality if such fluctuations are expected to affect the concentration of the hazardous constituent.

(c) Background quality may be based on sampling of wells that are not upgradient from the waste management area where:

(i) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

(ii) Sampling at other wells will provide an indication of background ground-water quality that is as representative or more representative than that provided by the upgradient wells.

(d) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of one sample from each well and a minimum of four samples from the entire system used to determine background ground-water quality, each time the system is sampled.

(8) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

(a) If, in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and the background value has a sample coefficient of variation less than 1.00:

(i) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's t-test as described in 206.D - Appendix II. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

(ii) The owner or operator may use an equivalent statistical procedure of determining whether a statistically significant change has occurred. The Director will specify such a procedure in the facility permit if he finds that the alternative procedure reasonably balances the probability of falsely identifying a non-contaminating regulated unit and the probability of failing to identify a contaminating regulated unit in a manner that is comparable to that of the statistical procedure described in 206.D.1.h.(8)(a)(i).

(b) In all other situations in a detection monitoring program and in a compliance monitoring program, the owner or operator must use a statistical procedure providing reasonable confidence that the migration of hazardous constituents from a regulated unit into and through the aquifer will be indicated. The Director will specify a statistical procedure in the facility permit that he finds;

(i) Is appropriate for the distribution of the data used to establish background values or concentration limits; and

(ii) Provides a reasonable balance between the probability of falsely identifying a non-contaminating regulated unit and the probability of failing to identify a contaminating regulated unit.

i. Detection monitoring program

An owner or opeator required to establish a detection monitoring program under 206.D.1. must, at a minimum, discharge the following responsibilities:.

(1) The owner or operator must monitor for indicator parameters (e.g., specific conductance, total organic carbon, or total organic halogen), waste constituents, or reaction products that provide a reliable indication of the presence of hazardous constituents in ground water. The Director will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(a) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(b) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(c) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(d) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground-water background.

(2) The owner or operator must install a ground-water monitoring system at the compliance point as specified under 206.D.1.f. The ground-water monitoring system must comply with 206.D.1.h.(1)(b), (2) and (3).

(3) The owner or operator must establish a background value for each monitoring parameter or constituent specified in the permit pursuant to 206.D.1.i.(1). The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values.

(a) The owner or operator must comply with 206.D.1.h.(7) in developing the data base used to determine background values.

(b) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under 206.D.1.h.(8).

(c) In taking samples used in the determination of background values, the owner or operator must use a ground-water monitoring system that complies with 206.D.1.h.(1)(a), (2) and (3).

(4) The owner or operator must determine ground-water quality at each monitoring well at the compliance point at least semi-annually during the active life of a regulated unit (including the closure period) and the post-closure care period. The owner or operator must express the ground-water quality at each monitoring well in a form necessary for the determination of statistically significant increases under 206.D.1.h.(8).

(5) The owner or operator must determine the ground-water flow rate and direction in the uppermost aquifer at least annually.

(6) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of 206.D.1.h.(4) and (5).

(7) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to 206.D.1.i. (1) each time he determines ground-water quality at the compliance point under 206.D.1.i.(4).

(a) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground-water quality at each monitoring well at the compliance point for each parameter or constituent to the background value for that parameter or constituent, according to the statistical procedure specifed in the permit under 206.D.1.h.(8).

(b) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The Director will specify that time period in the facility permit, after considering the

complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(8) If the owner or operator determines, pursuant to 206.D.1.i.(7) that there is a statistically significant increase for parameters or constituents specified pursuant to 206.D.1.i.(1) at any monitoring well at the compliance point, he must:

(a) Notify the Director of this finding in writing within seven days. The notification must indicate what parameters or constituents have shown statistically significant increases;

(b) Immediately sample the ground water in all monitoring wells and determine the concentration of all constituents identified in Appendix III of 201 that are present in ground water;

(c) Establish a background value for each Appendix III constituent that has been found at the compliance point under 206.D.1.i.(8)(b) as follows:

(i) The owner or operator must comply with 206.D.1.h.(7) in developing the data base used to determine background values;

(ii) The owner or operator must express background values in a form necessary for the detemination of statistically significant increases under 206.D.1.h.(8); and

(iii) In taking samples used in the determination of background values, the owner or operator must use a ground-water monitoring system that complies with 206.D.1.h.(1)(a), (b) and (c);

(d) Within 90 days, submit to the Director an application for a permit modification to establish a compliance monitoring program meeting the requirements of 206.D.1.j. The application must include the following information:

(i) An identification of the concentration of any Appendix III constituents found in the ground water at each monitoring well at the compliance point;

(ii) Any proposed changes to the ground-water monitoring system at the facility necessary to meet the requirements of 206.D.1.j.;

(iii) Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical procedures used at the facility necessary to meet the requirements of 206.D.1.j.;

(iv) For each hazardous constituent found at the compliance point, a proposed concentration limit under 206.D.1.e.(1)(a) or (b), or a notice of intent to seek a variance under 206.D.1.e.(2).; and

(e) Within 180 days, submit to the Director

(i) All data necessary to justify any variance sought under 206.D.1.e.(2); and

(ii) An engineering feasibility plan for a corrective action program necessary to meet the requirements of 206.D.1.k. unless:

A. All hazardous constituents identified under 206.D.1.i.(8)(b) are listed in Table 1 of 206.D.1.e. and their concentrations do not exceed the respective values given in that Table; or

B. The owner or operator has sought a variance under 206.D.1.e.(2) for every hazardous constituent identified under 206.D.1.i.(8)(b).

(9) If the owner or operator determines, pursuant to 206.D.1.i.(7) that there is a statistically significant increase of parameters or constituents specified pursuant to 206.D.1.i.(1) at any monitoring well at the compliance point, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation. While the owner or operator may make a demonstration under 206.D.1.i.(9) in addition to, or in lieu of, submitting a permit modification application under 206.D.1.i.(8)(d) he is not relieved of the requirement to submit a permit modification application within the time specified in 206.D.1.i.(8)(d), unless the demonstration made under 206.D.1.i.(9) successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling,

analysis, or evaluation. In making a demonstration under 206.D.1.i.(9), the owner or operator must:

(a) Notify the Director in writing within seven days of determining a statistically significant increase at the compliance point that he intends to make a demonstration under 206.D.1.i.(9);

(b) Within 90 days, submit a report to the Director which demonstrates that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation;

(c) Within 90 days, submit to the Director an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and

(d) Continue to monitor in accordance with the detection monitoring program established under 206.D.1.i.

(10) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of 206.D.1.i. he must, within 90 days submit an application for a permit modification to make any appropriate changes to the program.

(11) The owner or operator must assure that monitoring and corrective aciton measures necessary to achieve compliance with the ground-water protection standard under 206.D.1.c. are taken during the term of the permit.

j. Compliance monitoring program.

An owner or operator required to establish a compliance monitoring program under 206.D.1. must, at a minimum, discharge the following responsibilities:

(1) The owner or operator must monitor the ground-water to determine whether regulated units are in compliance with the ground-water protection standard under 206.D.1.c. The Director will specify the ground-water protection standard in the facility permit, including:

(a) A list of the hazardous constituents identified under 206.D.1.d.;

(b) Concentration limits under 206.D.1.e. for each of those hazardous constituents;

(c) The compliance point under 206.D.1.f.; and

(d) The compliance period under 206.D.1.g.

(2) The owner or operator must install a ground-water monitoring system at the compliance point as specified under 206.D.1.f. The ground-water monitoring system must comply with 206.D.1.h.(1)(a), (2) and (3).

(3) Where a concentration limit established under 206.D.1.j.(1)(b) is based on background ground-water quality, the Director will specify the concentration limit in the permit as follows:

(a) If there is a high temporal correlation between upgradient and compliance point concentrations of the hazardous constituents, the owner or operator may establish the concentration limit through sampling at upgradient wells each time ground water is sampled at the compliance point. The Director will specify the procedures used for determining the concentration limit in this manner in the permit. In all other cases, the concentration limit will be the mean of the pooled data on the concentration of the hazardous constituent.

(b) If a hazardous constituent is identified on Table 1 under 206.D.1.e. and the difference between the respective concentration limit in Table 1 and the background value of that constituent under 206.D.1.e.(7) is not statistically significant, the owner or operator must use the background value of the constituent as the concentration limit. In determining whether this difference is statistically significant, the owner or operator must use a statistical procedure providing reasonable confidence that a real difference will be indicated. The statistical procedure must:

(i) Be appropriate for the distribution of the data used to establish background values; and

(ii) Provide a reasonable balance between the probability of falsely identifying a significant difference and the probability of failing to identify a significant difference.

(c) The owner or operator must:

(i) Comply with 206.D.1.h.(7) in developing the data base used to determine background values;

(ii) Express background values in a form necessary for the determination of statistically significant increases under 206.D.1.h.(8); and

(iii) Use a ground-water monitoring system that complies with 206.D.1.h.(1)(a), (2) and (3).

(4) The owner or operator must determine the concentration of hazardous constituents in ground water at each monitoring well at the compliance point at least quarterly during the compliance period. The owner or operator must express the concentration at each monitoring well in a form necessary for the determination of statistically significant increases under 206.D.1.h.(8).

(5) The owner or operator must determine the ground-water flow rate and direction in the uppermost aquifer at least annually.

(6) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix III of 201 at least annually to determine whether additional hazardous constituents are present in the uppermost aquifer. If the owner or operator finds Appendix III constituents in the ground water that are not identified in the permit as hazardous constituents, the owner or operator must report the concentrations of these additional constituents to the Director within seven days after completion of the analysis.

(7) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of 206.D.1.h.(4) and (5).

(8) The owner or operator must determine whether there is a statistically significant increase over the concentration limits for any hazardous constituents specified in the permit pursuant to 206.D.1.j.(1) each time he determines the concentration of hazardous constituents in ground water at the compliance point.

(a) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground-water quality at each monitoring well at the compliance point for each hazardous constituent to the concentration limit for that constituent according to the statistical procedures specified in the permit under 206.D.1.h.(8).

(b) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point, within a reasonable time period after completion of sampling. The Director will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(9) If the owner or operator determines, pursuant to 206.D.1.j.(8), that the ground-water protection standard is being exceeded at any monitoring well at the point of compliance, he must:

(a) Notify the Director of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded.

(b) Submit to the Director an application for a permit modification to establish a corrective action program meeting the requirements of

206.D.1.k. within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the Director under 206.D.1.i.(8)(e). The application must at a minimum include the following information:

(i) A detailed description of corrective actions that will achieve compliance with the ground-water protection standard specified in the permit under 206.D.1.j.(1); and

(ii) A plan for a ground-water monitoring program that will demonstrate the effectiveness of the corrective action. Such a ground-water monitoring program may be based on a compliance monitoring program developed to meet the requirements of 206.D.1.j.

(10) If the owner or operator determines, pursuant to 206.D.1.j.(8), that the ground-water protection standard is being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation. While the owner or operator may make a demonstration under 206.D.1.j.(10) in addition to, or in lieu of, submitting a permit modification application under 206.D.1.j.(9)(b), he is not relieved of the requirement to submit a permit modificaton application within the time specified in 206.D.1.j.(9)(b) unless the demonstration made under 206.D.1.j.(10) successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluaton. In making a demonstration under 206.D.1.j.(10), the owner or operator must:

(a) Notify the Director in writing within seven days that he intends to make a demonstraton under 206.D.1.j.(10);

(b) Within 90 days, submit a report to the Director which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(c) Within 90 days, submit to the Director an applicaton for a permit modificaton to make any appropriate changes to the compliance monitoring program at the facility; and

(d) Continue to monitor in accordance with the compliance monitoring program established under 206.D.1.j.

(11) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of 206.D.1.j., he must, within 90 days, submit an application for a permit modificaton to make any appropriate changes to the program.

(12) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground-water protection standard under 206.D.1.c. are taken during the term of the permit.

k. Corrective action program.

An owner or operator required to establish a corrective action program under 206.D.1., must at a minimum, discharge the following responsibilities:

(1) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground-water protection standard under 206.D.1.c.. The Director will specify the ground-water protecton standard in the facility permit, including:

(a) A list of the hazardous constituents identified under 206.D.1.d.;

(b) Concentration limits under 206.D.1.e. for each of those hazardous constituents;

(c) The compliance point under 206.D.1.f.; and

(d) The compliance period under 206.D.1.g.

(2) The owner or operator must implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place. The permit will specify the specific measures that will be taken.

(3) The owner or operator must begin corrective action within a reasonable time period after the ground-water protection standard is exceeded. The Director will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of 206.D.1.j.(9)(b).

(4) In conjunction with a corrective action program, the owner or operator must establish and implement a ground-water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under 206.D.1.j and must be as effective as that program in determining compliance with the ground-water protection standard under 206.D.1.c. and in determining the success of a corrective action program under 206.D.1.k.(5), where appropriate.

(5) In addition to the other requirements of 206.D.1.k. the owner or operator must conduct a corrective action program to remove or treat in place any hazardous constituents under 206.D.1.d. that exceed concentration limits under 206.D.1.e. in ground water between the compliance point under 206.D.1.f. and the downgradient facility property boundary. The permit will specify the measures to be taken.

(a) Corrective action measures under 206.D.1.k.(5) must be initiated and completed within a reasonable period of time considering the extent of contamination.

(b) Corrective action measures under 206.D.1.k.(5) may be terminated once the concentration of hazardous constituents under 206.D.1.d. is reduced to levels below their respective concentration limits under 206.D.1.e.

(6) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground-water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period he must continue that corrective action for as long as necessary to achieve compliance with the groundwater protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground-water monitoring program under 206.D.1.k.(4) that the ground-water protection standard of 206.D.1.c. has not been exceeded for a period of three consecutive years.

(7) The owner or operator must report in writing to the Director on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

(8) If the owner or operator determines that the corrective action program no longer satisfies the requirements of 206.D.1.k. he must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program

2. Closure and post-closure.[55]

a. Applicability.

Except as 206.A. provides otherwise:

(1) 206.D.2.b. through 206.D.2.f. (which concern closure) apply to the owners and operators of all hazardous waste management facilities.

(2) 206.D.2.g. through 206.D.2.j. (which concern post-closure care) apply to owners and operators of:

(a) All hazardous waste disposal facilities; and

(b) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that 206.D.2.g. through 206.D.2.j. are made applicable to such facilities in 206.D.6.f. and 206.D.7.h.

b. Closure performance standard.

The owner or operator must close the facility in a manner that:

(1) Minimizes the need for further maintenance, and

(2) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post- closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated run-off or waste decomposition products to the ground or surface waters or to the atmosphere.

(3) Complies with the closure requirements of this Section including, but not limited to, the requirements of 206.D.5.e., 206.D.6.f., 206.D.7.g., 206.D.8.g., 206.D.9.d., 206.D.10.e., 206.D.11.e. 206.D.12.e.

c. Closure plan; amendment of plan.

(1) The owner or operator of a hazardous waste management facility must have a written closure plan. The plan must be submitted with the permit application, in accordance with 302.A.4.b.(1)(m) and approved by the Director as part of the permit issuance proceeding under 303.A. In accordance with 302.G. the approved closure plan will become a condition of any hazardous waste permit. The Director's decision must assure that that approved closure plan is consistent with 206.D.2.b., d., e. and f., and the applicable requirements of 206.D.4.i., 5.e., 6.f., 7.h., 8.h., 9.h., and 10.f. A copy of the approved plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with 206.D.2.f., a copy of the approved plan and all approved revisions must be furnished to the Director upon request, including request by mail. The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan or partial closure plan must include, at least:

(a) A description of how each hazardous waste management unit at the facility will be closed in accordance with §206.D.2.a.

(b) A description of how and when the facility will be partially closed, if applicable, and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility, and how the requirements of 206.D.2.b., d., e., and f., and the applicable closure requirements of 206.D.4.i., 5.e., 6.f., 7.h., 8.h., 9.h., and 10.f. will be met;

(c) An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing or disposing of all hazardous waste, identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and,

(d) A description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and

(e) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control; and,

(f) An estimate of the expected year of closure and a schedule for final closure. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure activities which will allow tracking of the progress of closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.)

(g) For facilities that use trust funds to establish financial assurance under §§206.D.3.d. and 206.D.3.f. and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(2) The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.) The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure of the facility. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time (see 303.B.).

(a) The owner or operator may submit a written request to the Director for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(b) The owner or operator must submit a written request for a permit modification to authorize a change in the approved closure plan whenever:

(i) Changes in operating plans or facility design affect the closure plan, or

(ii) There is a change in the expected year of closure, if applicable, or

(iii) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(c) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period the owner or operator must request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan, must submit an amended closure plan to the Director no later than 60 days from the date that the owner or operator or Director determines that the hazardous waste management unit must be closed as a landfill, or no later than 30 days from that date if the determination is made during partial or final closure. The Director will approve, disapprove, or modify this amended plan. The approved closure plan will become a condition of any Hazardous Waste permit issued.

(d) The Director may request modifications to the plan under the conditions described in §206.D.2.a. The owner or operator must submit the modified plan within 60 days of the Director's request, or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by Director will be approved in accordance with the procedures set out in these regulations.

(3) The owner or operator must notify the Director:

(a) In writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Director in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or staorage tanks, container storage, or incineraotor units to be closed.

(b) The date when he "expects to begin closure" must be either no later than 30 days after the date on which any hazardous waste

management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the Director that the hazardous waste management unit or facility has the capability to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including conpliance with all applicable permit requriements, the Director may approve an extension to this one-year limit.

(c) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order , to cease receiving hazardous wastes or to close, then therequirements of this paragraph do not apply. However, the owner or operator must close the facility in accordance with the d3adlines established in §206.D2.d.

(d) Nothing in this Section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

d. Closure; time allowed for closure.

(1) Within 90 days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility the owner or operator must treat, remove from the site, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Director may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(a) He has taken and will continue to take all steps to prevent threats to human health and the environment including compliance with all applicable permit requirements; and,

(b) either:

(i) The activities required to comply with 206.D.2.d.(1) will of necessity, take him longer than 90 days to complete; or

(ii) All of the following:

A. The hazardous waste management unit has the capacity to receive additional wastes;

B. There is reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management unit within one year; and,

C. Closure of the facility would be incompatible with continued operation of the site.

(2) The owner or operator must complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes. The Director may approve a longer closure period if the owner or operator complies with all applicable requiremnets for requesting a modification to tne permit and demonstrates that:

(a) He has taken and will continue to take all steps to prevent threats to human health and the environment, inclucing compliance with all applicable permit requirements, from the unclosed but inactive facility; and

(b) either:

(i) The partial or final closure activities will of necessity, take him longer than 180 days to complete; or

(ii) All of the following:

A. The hazardous waste management unit or facility has the capacity to receive additional wastes;

B. There is reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management ;unit or the facility within one year; and,

C. Closure of the hazardous waste management unit would be incompatible with continued operation of the site.

e. Disposal or decontamination of equipment.

When closure or partial closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all hazardous waste and residues including soils. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirementrs of of §204 of HWMR-4.

f. Certification of closure.

Within 60 days of completion of closure or closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit via registered or certified mail to the Director certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan. Documentation supporting the independent registered professional engineer's certification must be furnished to the Directior upon request until he releases the owner or operator from the financial assurance requirements for closure under §206.D.3.d.(9).

g. Post-closure care and use of property

(1) Except as otherwise provided in 206.D.2.g.(1)**(b)** or 206.D.2.g.(1)(c) below, post-closure care must:

(a) Continue for 30 years after the date of completing closure and must consist of at least the following:

(i) Monitoring and reporting in accordance with the requirements of 206.D.1.,D.6., D.7., D.9., and D.10.: and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of 206.D.1.,D.6., D.7., D.9., and D.10..

(b) During the 180-day period preceding closure (see 206.D.2.c.(3)) or at any time thereafter, the Director may , in accordance with permit mocification procedures, reduce the post-closure care period to less than 30 years if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure).

(c) Prior to the time that the post-closure care period is due to expire, the Director may, in accordance with permit modification proccedures, extend the post-closure care period if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of waste at levels which may be harmful to human health and the environment).

(2) The Director may require, at closure or partial closure, continuation of any of the security requirements of 206.B.4. during part or all of the post-closure period after the date closure has been completed when:

(a) Wastes may remain exposed after completion of closure; or

(b) Access by the public or domestic livestock may pose a hazard to human health

(3) Post-closure use of property on or in which hazardous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the Director finds that the disturbance:

(a) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(b) Is necessary to reduce a threat to human health or the environment.

(4) All post-closure care activities must be performed in accordance with the provisions of the approved post-closure plan as specified in 206.D.2.h.

h. Post-closure plan; amendment of plan.

(1) The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain waste piles and certain surface impoundments from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by 206.D.6.f. and 206.D.7.h. to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans must submit a post-closure plan to the Director within 90 days from the date that the owner or operator or Director determines that the hazardous waste management unit must be closed as a landfill. The plan must be submitted with the permit application in accordance with 302.A.4.b.(1)(m), and approved by the Director as part of the permit issuance proceeding under 303.A. In accordance with 302.G. the approved post-closure plan will become a condition of any permit issued. A copy of the approved plan and all revisions to the plan must be kept at the facility until the post-closure care period begins. This plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(a) A description of the planned monitoring activities and frequencies at which they will be performed to comply with 206.D.1., D.6., D.7., D.9., and D.10. during the post-closure care period;

(b) A description of the planned maintenance activities and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of 206.D.6., D.7., D.9., and D.10.; and

(ii) The function of the facility monitoring equipment in accordance with the requirements of 206.D.1., D.6., D.7., D.9., and D.10.;

(c) The name, address, and phone number of the person or office to contact about the disposal facility during the post-closure care period. This person or office must keep an updated post-closure plan during the post-closure care period; and,

(d) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the Director upon request, including request by mail. After final closure has been certified, the perosn or office specified in the plan must keep the approved post-closure plan during the remainder of the post-closure period.

(2) The owner or operator may amend his post- closure plan at any time during the active life of the disposal facility or during the post-closure care period. The owner or operator must amend his plan any time changes in operating plans or facility design, or events which occur during the active life of the facility or during the post-closure care period, affect his post-closure plan. He must also amend his plan whenever there is a change in the expected year of closure.

(3) When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design, modification of the post-closure plan must be requested at the same time (see 303.B.). In all other cases, the request for modification of the post-closure plan must be made within 60 days after the change in operating plans or facility design or the events which affect his post-closure plan occur. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to submit a contingent post-closure plan, must submit to the Director a post-closure plan no later than 90 days after the date that the owner or operator

or Director determines that the hazardous waste management unit must be closed as a landfill. The Director will approve, disappprove or modify this plan in accordance with the procedures in these regulations. The approved post-closure plan will become a permit condition.

(4) The Director may request modifications to the plan under the conditions described in §206.D.2.h.(1). The owner or operator must submit the modified plan no later than 60 days after the Director's request, or no later than 90 days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent post-closure plan. Any modifications requested by the Director will be approved, disapproved, or modified in accordance with the procedures in these regulations.

i. Notice to local land authority.

Within 60 days after closure or partial closure is completed, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the Director a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. The plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in 206.D.2.g.(3). In addition, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the Director a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept. Any changes in the type, location, or quantity of hazardous wastes disposed of within each cell or area of the facility that occur after the survey plan and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the Director.

j. Notice in deed to property

(1) The owner of the property on which a disposal facility is located must record within 60 days of closure or post-closure, in accordance with State law, a notation on the deed to the facility property - or on some other instrument which is normally examined during title search - that will, in perpetuity, notify any potential purchaser of the property that:

(a) The land has been used to manage hazardous wastes;

(b) Its use is restricted under 206.D.2.g.(3) and

(c) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility required in 206.D.2.i have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Director of the New Mexico Environmental Improvement Division.

(2) If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search, or he may add a notation to the deed or instrument indicating the removal of the waste.

k. No later than 60 days after conmpletion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Director, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the appproved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for post-closure care.

3. Financial Requirements.[56]

a. Applicability.

(1) The requirements of 206.D.3.c. and d., and 206.D.3.h. through j. apply to owners and operators of all hazardous waste facilities, except as provided otherwise in 206.A. or in 206.D.3.a.(2) and (3).

(2) The requirements of 206.D.3.e. and f. apply only to owners and operators of:

(a) Disposal facilities, and

(b) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that 206.D.3.e. and f. are made applicable to such facilities in 206.D.6.f. and 206.D.7.h.

(3) States and the Federal government are exempt from these financial requirements.

b. Definitions of terms as used in the financial requirements.

(1) "Closure plan" means the plan for closure prepared in accordance with the requirements of 206.D.2.c.

(2) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with 206.D.3.c.(1), (2) and (3).

(3) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with 206.D.3.e.(1), (2) and (3).

(4) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(5) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of 206.D.2.g. through j.

(6) The following terms are used in the specifications for the financial tests for closure, post-closure care and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity;

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business;

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities;

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with §144.62(a), (b), and (c) of 40 CFR.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards;

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events;

"Net working capital" means current assets minus current liabilities;

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity; and

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(7) In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable State law. However, these terms do not include

those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The Division intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage:

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which result in bodily injury or property damage neither expected nor intended from the standpoint of the insured;

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy;

"Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure; and

"Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

c. Cost estimate for closure.

(1) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in 206.D.2.b. through 206.D.2.f., and applicable closure requirements in 206.D.4.i., D.5.e., D.6.f., D.7.h., D.8.h., D.9.h., and D.10.f.. The estimate must equal the cost of final closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see 206.D.2.c.(1)).

(a) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(b) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

(c) The owner or operator may not incorporate a zero cost for hazardous wastes that might have economic value.

(2) The owner or operator must adjust the closure cost estimate for inflation within 60 days after each anniversary of the date on which the first closure cost estimate was prepared. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Director as specified in 206.D.3.d.(6)(c). The adjustment must be made as specified in 206.D.3.c.(2)(a) and (b), using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(3) During the active life of th facility, the owner or operator must revise the closure cost estimate no later than 30 days after the Director has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified 206.D.3.c.(2).

(4) The owner or operator must keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with 206.D.3.c.(1) and (3), and, when this estimate has been adjusted in accordance with 206.D.3.c.(2), the latest adjusted closure cost estimate.

d. Financial assurance for closure.

An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in 206.D.3.d.(1) through (6) as follows:

(1) Closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for closure by establishing a closure trust fund which conforms to the requirements of 206.D.3.d.(1)(a) through (k), and submitting an originally signed duplicate of the trust agreement to the Director. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(b) The wording of the trust agreement must be identical to the wording specified in 206.D.3.j.(1)(a) and the trust agreement must be accompanied by a formal certification of acknowledgement [see 206.D.3.j.(1)(b)]. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

(c) Payments into the trust fund must be made annually by the owner or operator over the term of the initial hazardous waste permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(i) For a new facility, the first payment must be made before the initial receipt of hazardous waste for treatment, storage, or disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Director before this initial receipt of hazardous waste. The first payment must be at least equal to the current closure cost estimate, except as provided in 206.D.3.d.(7), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) If an owner or operator establishes a trust fund as specified in 206.C.3.d.(1) [Interim Status Standards], and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in 206.D.3.d.(1)(c). Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to 206.C.3. [Interim Status Standards]. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(d) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in 206.D.3.d.(1)(c).

(e) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in 206.D.3.d. or in 206.C.3.d., his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of 206.D.3.d.(1) and 206.C.3.d.(1), as applicable.

(f) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new

estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in 206.D.3.d. to cover the difference.

(g) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Director for release of the amount in excess of the current closure cost estimate.

(h) If an owner or operator substitutes other financial assurance as specified in 206.D.3.d. for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in 206.D.3.d.(1)(g) or (h), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

(j) After beginning partial or final closure, an owner or operator or any other person authorized to perform partial or final closure may request reimbursement for closure expenditures by submitting itemized bills to the Director. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Director will determine whether the partial or final closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Director specifies in writing. If the Director has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with 206.D.3.d.(9), that the owner or operator is no longer required to maintain financial assurance for closure. If the Director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(k) The Director will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.d. in accordance with 206.D.3.d.(9).

(2) Surety bond guaranteeing payment into a closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining a surety bond which conforms to the requirements of 206.D.3.d.(2)(a) through (i), and submitting the bond to the Director. An owner or operator of a new facility must submit the bond to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(b) The wording of the surety bond must be identical to the wording specified in 206.D.3.j.(2).

(c) The owner or operator who uses a surety bond to satisfy the requirements of 206.D.3.d. must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements specified in 206.D.3.d.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the surety bond.

(d) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Director or a court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in 206.D.3.d. and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(f) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in 206.D.3.d.(7).

(g) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.d. to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in 206.D.3.d.

(3) Surety bond guaranteeing performance of closure.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining a surety bond which conforms to the requirements of 206.D.3.d.(3) and submitting the bond to the Director. An owner or operator of a new facility must submit the bond to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(b) The wording of the surety bond must be identical to the wording specified in 206.D.3.j.(3).

(c) The owner or operator who uses a surety bond to satisfy the requirements of 206.D.3.d. must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust must meet the requirements specified in 206.D.3.d.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the surety bond.

(d) The bond must guarantee that the owner or operator will:

(i) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

(ii) Provide alternate financial assurance as specified in 206.D.3.d. and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination pursuant to the § 74-4-10 NMSA 1978 that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final

closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

(f) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate.

(g) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.d. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the Director has given prior written consent. The Director will provide such written consent when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.d. in accordance with 206.D.3.d.(9).

(j) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Director releases the owner or operator from the requirements of 206.D.3.d. in accordance with 206.D.3.d.(9).

(4) Closure letter of credit.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining an irrevocable standby letter of credit which conforms to the requirements of 206.D.3.d.(4), and submitting the letter to the Director. An owner or operator of a new facility must submit the letter of credit to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(b) The wording of the letter of credit must be identical to the wording specified in 206.D.3.j.(4).

(c) An owner or operator who uses a letter of credit to satisfy the requirements of 206.D.3.d. must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements of the trust fund specified in 206.D.3.d.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the letter of credit.

(d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

(e) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Director have received the notice, as evidenced by the return receipts.

(f) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in 206.D.3.d.(7).

(g) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.d. to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(h) Following a determination pursuant to § 74-4-10 NMSA 1978 that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the Director may draw on the letter of credit.

(i) If the owner or operator does not establish alternate financial assurance as specified in 206.D.3.d. and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Director will draw on the letter of credit. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 206.D.3.d. and obtain written approval of such assurance from the Director.

(j) The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.d. in accordance with 206.D.3.d.(9).

(5) Closure insurance.

(a) An owner or operator may satisfy the financial assurance requirements for closure by obtaining closure insurance which conforms to the requirements of 206.D.3.d.(5) and submitting a certificate of such insurance to the Director. An owner or operator of a new facility must submit the certificate of insurance to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(5).

(c) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in 206.D.3.d.(7). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(d) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the fact amount of the policy, upon the direction of the Director to such party or parties as the Director specifies.

(e) After beginning partial or final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Director will determine whether the partial or final closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the insurer to

make reimbursement in such amounts as the Director specifies in writing. If the Director has reason to believe that the cost of closure will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with 206.D.3.d.(9), that the owner or operator is no longer required to maintain financial assurance for closure of the facility. If the Director does not instruct the insurer to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(f) The owner or operator must maintain the policy in full force and effect until the Director consents to termination of the policy by the owner or operator as specified in 206.D.3.d.(5)(j). Failure to pay the premium, without substitution of alternate financial assurance as specified in 206.D.3.d., will constitute a significant violation of these regulations, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(g) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Director deems the facility abandoned; or

(ii) The permit is terminated or revoked or a new permit is denied; or

(iii) Closure is ordered by the Director or a court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(i) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.d. to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(j) The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.d. in accordance with 206.D.3.d.(9).

(6) Financial test and corporate guarantee for closure.

(a) An owner or operator may satisfy the financial assurance requirements for closure by demonstrating that he passes a financial test as specified in 206.D.3.d.(6). To pass this test the owner or operator must meet the criteria of either 206.D.3.d.(6)(a)(i) or (ii) below:

(i) The owner or operator must have:

A. Two of the following three ratios:

A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

B. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(b) The phrase "current closure and post-closure cost estimates" as used in 206.D.3.d.(6)(a) refers to the cost estimates required to be shown in paragraph 1-3 of the letter from the owner's or operator's chief financial officer [see 206.D.3.j.(6)]. The phrase "current plugging and abandonment cost estimates" refers to a the cost estimates required to be shown in paragraphs 1-3 of the letter from the owner's or operator's chief financial officer.

(c) To demonstrate that he meets this test, the owner or operator must submit the following items to the Director;

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in 206.D.3.j.(6); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

A. He has compared the data which the letter from the chief financial officer specified as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) An owner or operator of a new facility must submit the items specified in 206.D.3.d.(6)(c) to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

(e) After the initial submission of items specified in 206.D.3.d.(6)(c) the owner or operator must send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in 206.D.3.d.(6)(c).

(f) If the owner or operator no longer meets the requirements of 206.D.3.d.(6)(a) he must send notice to the Director of intent to establish alternate financial assurance as specified in 206.D.3.d. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(g) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of 206.D.3.d.(6)(a), require reports of financial condition at any time from the owner or operator in addition to those specified in 206.D.3.d.(6)(c). If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of 206.D.3.d.(6)(a) the owner or operator must provide alternate financial assurance as specified in 206.D.3.d. within 30 days after notification of such a finding.

(h) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements [see 206.D.3.d.(6)(c)(ii)]. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in 206.D.3.d. within 30 days after notification of the disallowance.

(i) The owner or operator is no longer required to submit the items specified in 206.D.3.d.(6)(c) when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.d.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.d. in accordance with 206.D.3.d.(9).

(j) An owner or operator may meet the requirements of 206.D.3.d. by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in 206.D.3.d.(6)(a) through (h) and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 206.D.3.1.(8). The corporate guarantee must accompany the items sent to the Director as specified in 206.D.3.d.(6)(c). The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in 206.D.3.d.(1) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in 206.D.3.d. and obtain the written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(7) Use of multiple financial mechanisms.

An owner or operator may satisfy the financial assurance requirements for closure by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit and insurance. The mechanisms must be as specified in 206.D.3.d.(1), (2), (4) and (5) respectively, except that it is the combination of mechanisms rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single

standby trust fund may be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for closure of the facility.

(8) Use of a financial mechanism for multiple facilities.

An owner or operator may use a financial assurance mechanism specified in 206.D.3.d. to meet the requirements of 206.D.3.d. for more than one facility. Evidence of financial assurance submitted to the Director must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the Director for all such facilities located in New Mexico. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(9) Release of the owner or operator from the requirements of 206.D.3.d.

Within 60 days after receiving certification from the owner or operator and an independent registered professional engineer that final closure has been accomplished in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by 206 D 3 d. to maintain financial assurance for closure of the particular facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan

e. Cost estimate for post-closure care.

(1) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in 206.D.2.g. through j., 206.D.6.f., 7.h., 9.h., and 10.f.. The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post- closure care required under 206.D.2.

(2) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to anniversary of the date on which the first post-closure cost estimate was prepared. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before the submission of updated information to the Director as specified in 206.D.3.f.(6). The adjustment must be made as specified in 206.D.3.e.(2)(a) and (b) using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(3) During the active life of the facility, the owner or operator must revise the post-closure cost estimate within 30 days after the Director has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in 206.D.3.e.(2).

(4) The owner or operator must keep the following at the facility during the operating life of the facility: the lastest post-closure cost estimate prepared in accordance with 206.D.3.e.(1) and (3) and, when this estimate has been adjusted in accordance with 206.D.3.e.(2), the latest adjusted post-closure cost estimate.

f. Financial assurance for post-closure care.

The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. He must choose from the following options:

(1) Post-closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by establishing a post-closure trust fund which conforms to the requirements of 206.D.3.f.(1)(a) through (l), and submitting an originally signed duplicate of the trust agreement to the Director. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the Director at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(b) The wording of the trust agreement must be identical to the wording specified in 206.D.3.j.(1)(a) and the trust agreement must be accompanied by a formal certification of acknowledgement [see 206.D.3.j.(1)(b)]. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

(c) Payments into the trust fund must be made annually by the owner or operator over the term of the initial hazardous waste permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(i) For a new facility, the first payment must be made before the initial receipt of hazardous waste for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Director before this initial receipt of hazardous waste. The first payment must be at least equal to the current post-closure cost estimate, except as provided in 206.C.3.f.(7), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) If an owner or operator establishes a trust fund as specified in 206.C.3.f.(1) [Interim Status Standards], and the value of that trust fund is less than the current post-closure cost estimate when a permit is awarded for the facility, the amount of the current post-closure cost estimate still to be paid into the fund must be paid in over the pay-in period as defined in 206.D.3.f.(1)(c). Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to 206.C.3. [Interim Status Standards]. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(d) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in 206.D.3.f.(1)(c).

(e) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in 206.D.3.f. or 206.C.3.f., his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications in 206.D.3.f.(1) and 206.C.3.f.(1), as applicable.

(f) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in 206.D.3.f. to cover the difference.

(g) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Director for release of the amount in excess of the current post-closure cost estimate.

(h) If an owner or operator substitutes other financial assurance as specified in 206.D.3.f. for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

(i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in 206.D.3.f.(1)(g) or (h), the Director will instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

(j) During the period of post-closure care, the Director may approve a release of funds if the owner or operator demonstrates to the Director that the value of the trust fund exceeds the remaining cost of post-closure care.

(k) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for post-closure activities, the Director will determine whether the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Director specifies in writing. If the Director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(l) The Director will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.f. in accordance with 206.D.3.f.(9).

(2) Surety bond guaranteeing payment into a post-closure trust fund.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining a surety bond which conforms to the requirements of 206.D.3.f.(2)(a) through (i), and submitting the bond to the Director. An owner or operator of a new facility must submit the bond to the Director at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(b) The wording of the surety bond must be identical to the wording specified in 206.D.3.j.(2).

(c) The owner or operator who uses a surety bond to satisfy the requirements of 206.D.3.f. must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements specified in 206.D.3.f.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the surety bond;

(d) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Director or a court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in 206.D.3.f., and obtain the Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(f) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in 206.D.3.f.(7).

(g) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.f. to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in 206.D.3.f.

(3) Surety bond guaranteeing performance of post-closure care.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining a surety bond which conforms to the requirements of 206.D.3.f.(3) and submitting the bond to the Director. An owner or operator of a new facility must submit the bond to the Director at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(b) The wording of the surety bond must be identical to the wording specified in 206.D.3.j.(3).

(c) The owner or operator who uses a surety bond to satisfy the requirements of 206.D.3.f. must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements specified in 206.D.3.f.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the surety bond; and

(d) The bond must guarantee that the owner or operator will:

(i) Perform post-closure care in accordance with the post-closure plan and other requirements of the permit for the facility; or

(ii) Provide alternate financial assurance as specified in 206.D.3.f. and obtain the Director's written approval of the assurance provided, within 90 days of receipt by both the owner or operator and the Director of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination pursuant to § 74-4-10 NMSA 1978 that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, under the

terms of the bond the surety will perform post-closure care in accordance with the post- closure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund.

(f) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate.

(g) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in 206.D.3.f. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(h) During the period of post-closure care, the Director may approve a decrease in the penal sum if the owner or operator demonstrates to the Director that the amount exceeds the remaining cost of post-closure care.

(i) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(j) The owner or operator may cancel the bond if the Director has given prior written consent. The Director will provide such written consent when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.f. in accordance with 206.D.3.f.(9).

(k) The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the Director releases the owner or operator from the requirements of 206.D.3.f. in accordance with 206.D.3.f.(9).

(4) Post-closure letter of credit.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining an irrevocable standby letter of credit which conforms to the requirements of 206.D.3.f.(4), and submitting the letter to the Director. An owner or operator of a new facility must submit the letter of credit to the Director at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(b) The wording of the letter of credit must be identical to the wording specified in 206.D.3.j.(4).

(c) An owner or operator who uses a letter of credit to satisfy the requirements of 206.D.3.f. must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director. This standby trust fund must meet the requirements of the trust fund specified in 206.D.3.f.(1) and an originally signed duplicate of the trust agreement must be submitted to the Director with the letter of credit;

(d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

(e) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or

operator and the Director have received the notice, as evidenced by the return receipts.

(f) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in 206.D.3.f.(7).

(g) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post- closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.f. to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(h) During the period of post-closure care, the Director may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Director that the amount exceeds the remaining cost of post-closure care.

(i) Following a determination pursuant to § 74-4-10 NMSA 1978, that owner or operator has failed to perform post- closure care in accordance with the approved post-closure plan and other permit requirements, the Director may draw on the letter of credit.

(j) If the owner or operator does not establish alternate financial assurance as specified in 206.D.3.f. and obtain written approval of such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Director will draw on the letter of credit. The Director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 206.D.3.f. and obtain written approval of such assurance from the Director.

(k) The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.f. in accordance with 206.D.3.f.(9).

(5) Post-closure insurance.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by obtaining post-closure insurance which conforms to the requirements of 206.D.3.f.(5) and submitting a certificate of such insurance to the Director. An owner or operator of a new facility must submit the certificate of insurance at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(5).

(c) The post-closure insurance policy must be issued for a face amount at least equal to the current post- closure cost estimate, except as provided in 206.D.3.f.(7). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(d) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of the facility whenever the post-closure period begins. The policy must also guarantee that once post-closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Director to such party or parties as the Director specifies.

(e) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for post-closure activities, the Director will determine whether the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the Director specifies in writing. If the Director does not instruct the insurer to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(f) The owner or operator must maintain the policy in full force and effect until the Director consents to termination of the policy by the owner or operator as specified in 206.D.3.f.(5)(k). Failure to pay the premium, without substitution of alternate financial assurance as specified in 206.D.3.f., will constitute a significant violation of these regulations, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(g) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Director deems the facility abandoned; or

(ii) The permit is terminated or revoked or a new permit is denied; or

(iii) Closure is ordered by the Director or a court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(i) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Director or obtain other financial assurance as specified in 206.D.3.f. to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Director.

(j) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 28-week Treasury securities.

(k) The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.f. in accordance with 206.D.3.f.(9).

(6) Financial test and corporate guarantee for post-closure care.

(a) An owner or operator may satisfy the financial assurance requirements for post-closure care by demonstrating that he passes a financial test as specified in 206.D.3.f.(6). To pass this test the owner or operator must meet the criteria of either 206.D.3.f.(6)(a)(i) or (ii) below:

(i) The owner or operator must have:

A. Two of the following three ratios:

A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

B. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimatesand the current plugging and abandonment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abanconment cost estimates; and

C. Tangible net worth of at least $10 million; and

D. Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(b) The phrase "current closure and post-closure cost estimates" as used in 206.D.3.f.(6)(a) refers to the cost estimates required to be shown in paragraph 1-3 of the letter from the owner's or operator's chief financial officer [see 206.D.3.j.(6)]. The phrase "current plugging and abandonment cost estimates" refers to the cost estimates required to be shown in paragraphs 1-3 of the letter from the owner's or operator's chief financial officier.

(c) To demonstrate that he meets this test, the owner or operator must submit the following items to the Director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in 206.D.3.j.(6); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

A. He has compared the data which the letter from the chief financial officer specified as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B. In connection with the procedure, no matters came to his attention which

caused him to believe that the specified data should be adjusted.

(d) An owner or operator of a new facility must submit the items specified in 206.D.3.f.(6)(c) to the Director at least 60 days before the date on which hazardous waste is first received for disposal.

(e) After the initial submission of items specified in 206.D.3.f.(6)(c) the owner or operator must send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in 206.D.3.f.(6)(c).

(f) If the owner or operator no longer meets the requirements of 206.D.3.f.(6)(a) he must send notice to the Director of intent to establish alternate financial assurance as specified in 206.D.3.f. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(g) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of 206.D.3.f.(6)(a), require reports of financial condition at any time from the owner or operator in addition to those specified in 206.D.3.f.(6)(c). If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of 206.D.3.f.(6)(a) the owner or operator must provide alternate financial assurance as specified in 206.D.3.f. within 30 days after notification of such a finding.

(h) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements [see 206.D.3.f.(6)(c)(ii)]. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in 206.D.3.f. within 30 days after notification of the disallowance.

(i) During the period of post-closure care, the Director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Director that the amount of the cost estimate exceeds the remaining cost of post-closure care.

(j) The owner or operator is no longer required to submit the items specified in 206.D.3.f.(6)(c) when:

(i) An owner or operator substitutes alternate financial assurance as specified in 206.D.3.f.; or

(ii) The Director releases the owner or operator from the requirements of 206.D.3.f. in accordance with 206.D.3.f.(9).

(k) An owner or operator may meet the requirements of 206.D.3.f. by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in 206.D.3.f.(6)(a) through (i) and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 206.D.3.j.(8). The corporate guarantee must accompany the items sent to the Director as specified in 206.D.3.f.(6)(c). The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in 206.D.3.f.(1) in the name of the owner or operator;

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts; and

(iii) If the owner or operator fails to provide alternate financial assurance as specified in 206.D.3.f. and obtain the written approval of

such alternate assurance from the Director within 90 days after receipt by both the owner or operator and the Director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(7) Use of multiple financial mechanisms.

An owner or operator may satisfy the financial assurance requirements for post-closure care by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in 206.D.3.f.(1), (2), (4) and (5), respectively, except that it is the combination of mechanisms rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for post-closure care of the facility.

(8) Use of a financial mechanism for multiple facilities.

An owner or operator may use a financial assurance mechanism specified in 206.D.3.f. to meet the requirements of 206.D.3.f. for more than one facility. Evidence of financial assurance submitted to the Director must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the Director of all such facilities located in New Mexico. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(9) Release of the owner or operator from the requirements of 206.D.3.f.

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved closure plan, the Director will notify the owner or operator that he is no longer required to maintain financial assurance for post-closure care of that unit, unless the Director has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Director shall provide the owner or operator with a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

g. Use of a mechanism for financial assurance of both closure and post-closure care.

An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 206.D.3.d. and f. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

h. Liability requirements.

(1) Coverage for sudden accidental occurrences.

An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated in one of three ways, as specified in 206.D.3.h.(1)(a), (b) and (c).

(a) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in 206.D.3.h.(1)(a).

(i) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in 206.D.3.j.(9). The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(10). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Director. If requested by the Director, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) An owner or operator may meet the requirements of 206.D.3.h. by passing a financial test for liability coverage as specified in 206.D.3.h.(6).

(c) An owner or operator may demonstrate the required liability coverage through use of both the financial test and insurance as these mechanisms are specified in 206.D.3.h.(1)(a) and (b). The amounts of coverage demonstrated must total at least the minimum amounts required by 206.D.3.h.(1).

(2) Coverage for nonsudden accidental occurrences.

An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily damage and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. This liability coverage may be demonstrated in one of three ways, as specified in 206.D.3.h.(2)(a), (b) and (c).

(a) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in 206.D.3.h.(2) below:

(i) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in 206.D.3.j.(9). The wording of the certificate of insurance must be identical to the wording specified in 206.D.3.j.(10). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Director. If requested by the Director, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(b) An owner or operator may meet the requirements of 206.D.3.h. by passing a financial test for liability coverage as specified in 206.D.3.h.(6).

(c) An owner or operator may demonstrate the required liability coverage through use of both the financial test and insurance as these mechanisms are specified in 206.D.3.h.(2)(a) and (b). The amount of coverage must total at least the minimum amounts required by 206.D.3.h.(2).

(d) For existing facilities, the required liability coverage for nonsudden accidental occurrences must be demonstrated by the dates listed below. The total sales or revenues of the owner or operator in all lines of business, in the fiscal year preceding July 15, 1982, will determine which of the dates applies. If the owner and operator of a facility are two different parties, or if there is more than one owner or operator, the sales or revenues of the owner or operator with the largest sales or revenues will determine the date by which the coverage must be demonstrated. The dates are as follows:

(i) For an owner or operator with sales or revenues totalling $10 million or more, 6 months after July 15, 1982.

(ii) For an owner or operator with sales or revenues greater than $5 million but less than $10 million, 18 months after July 15, 1982.

(iii) All other owners or operators, 30 months after July 15, 1982.

(3) Request for variance.

If an owner or operator can demonstrate to the satisfaction of the Director that the levels of financial responsibility required by 206.D.3.h.(1) and (2) are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the Director. The request for a variance must be submitted to the Director as part of the application under 302.A.4.b. for a facility that does not have a permit, or pursuant to the procedures for permit modification under 303.B. for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Director may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the Director to determine a level of financial responsibility other than that required by 206.D.3.h.(1) or (2). Any request for a variance for a permitted facility will be treated as a request for a permit modification under 302.M.1.e.(3) and 303.B.

(4) Adjustments by the Director.

If the Director determines that the levels of financial responsibility required by 206.D.3.h.(1) or (2) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Director may adjust the level of financial responsibility required under 206.D.3.h.(1) or (2) as may be necessary to protect human health and the environment. This adjusted level will be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Director determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with 206.D.3.h.(2). An owner or operator must furnish to the Director, within a reasonable time, any information which the Director requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under 302.M.1.e.(3) and 303.B.

(5) Period of coverage.

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this

Section to maintain liability coverage for that facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan.

(6) Financial test for liability coverage.

(a) An owner or operator may satisfy the requirements of 206.D.3.h. by demonstrating that he passes a financial test as specified in 206.D.3.h.(6). To pass this test, the owner or operator must meet the criteria of (i) or (ii) below:

(i) The owner or operator must have:

A. Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and

B. Tangible net worth of at least $10 million; and

C. Assets in the United States amounting to either:

1. At least 90 percent of his total assets; or

2. At least six times the amount of liability coverage to be demonstrated by this test.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth of at least $10 million; and

C. Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

D. Assets in the United States amounting to either

1. At least 90 percent of his total assets; or

2. At least six times the amount of liability coverage to be demonstrated by this test.

(b) The phrase "amount of liability coverage" as used in 206.D.3.h.(6)(a) refers to the annual aggregate amounts for which coverage is required under 206.D.3.h.(1) and (2).

(c) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the Director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in 206.D.3.j.(7). If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 206.D.3.d.(6), 206.D.3.f.(6), 206.C.3.d.(5), and 206.C.3.f.(5) and liability coverage, he may submit the letter specified in 206.D.3.j.(7) to cover both forms of financial responsibility; a separate letter as specified in 206.D.3.j.(6) is not required;

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

A. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted

(d) An owner or operator of a new facility must submit the items specified in 206.D.3.h.(6)(c) to the Director at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

(e) After the initial submission of items specified in 206.D.3.h.(6)(c) the owner or operator must send updated information to the Director within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in 206.D.3.h.(6)(c).

(f) If the owner or operator no longer meets the requirements of 206.D.3.h.(6)(a), he must obtain insurance for the entire amount of required liability coverage as specified in 206.D.3.h. Evidence of insurance must be submitted to the Director within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

(g) The Director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statement [see 206.D.3.h.(6)(c)(ii)]. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Director will evaluate other qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage as specified in 206.D.3.h. within 30 days after notification of disallowance.

i. Incapacity of owners or operators, guarantors, or financial institutions.

(1) An owner or operator must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 206.D.3.d.(6) and 206.D.3.f.(6) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee. [See 206.D.3.j.(8).]

(2) An owner or operator who fulfills the requirements of 206.D.3.d., f., or h. by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

j. Wording of the instruments.

(1) A trust agreement for a trust fund as specified in 206.C.3.d.(1), or 206.C.3.f.(1), or 206.D.3.d.(1), or 206.D.3.f.(1) of these regulations, must be worded as specified in 206.D.3.j.(1)(a) below, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement must be accompanied by a certificate of acknowledgment as specified in 206.D.3.j.(1)(b).

TRUST AGREEMENT

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert "corporation", "partnership," "association," or proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of _____" or "a national bank"], the "Trustee."

Whereas, the New Mexico Environmental Improvement Division, "E.I.D." an agency of the State of New Mexico, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [on Schedule A, for each facility, list the EPA Identification Number, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of EID. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibilities for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by EID.

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the Fund as the EID Director shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the EID Director from the Fund for closure and post-closure expenditures in such amounts as the EID Director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the EID Director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time subject, however, to the provisions of this Section, in

investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; *except that*:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the EID Director a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EID Director shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the EID Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the EID Director to the Trustee shall be in writing, signed by the EID Director, or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or EID hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or EID, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the EID Director, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the EID Director, or by the Trustee and the EID Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the EID Director, or by the Trustee and the EID Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EID Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its

official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of New Mexico.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(1)(a), as such regulations were constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:
[Title]

[Seal]

[Signature of Trustee]

Attest:
[Title]

[Seal]

(b) The following is the certification of acknowledgment which must accompany the trust agreement for a trust fund as specified in 206.C.3.d.(1), or 206.C.3.f.(1), or 206.D.3.d.(1) or 206.D.3.f.(1)

State of

_____

County of

_____

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

(2) A surety bond guaranteeing payment into a trust fund, as specified in 206.C.3.d.(2), or 206.C.3.f.(2), or 206.D.3.d.(2), or 206.D.3.f.(2), must be worded as follows except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

FINANCIAL GUARANTEE BOND

Date bond executed: _____
Effective date:

_____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

_____

Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and post-closure amounts separately): _____

Total penal sum of bond:
$ _____

Surety's bond number:

_____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the New Mexico Environmental Improvement Division (hereinafter

called EID), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the New Mexico Hazardous Waste Act, § 74-4-1 et. seq. NMSA 1978, to have a permit or interim status in order to own or operate each hazardous waste management facility identified above, and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit or interim status, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin closure is issued by the EID Director or a court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as specified in 206.C.3. or 206.D.3. of the New Mexico Hazardous Waste Management Regulations, as applicable, and obtain the EID Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the EID Director from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the EID Director that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EID Director.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel this bond by sending notice of cancellation by certified mail to the Principal and to the EID Director provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the EID Director, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EID Director.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the EID Director.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seal on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(2), as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of incorporation: _____

Liability limit: $_____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium:
$_____

(3) A surety bond guaranteeing performance of closure and/or post-closure care, as specified in 206.D.3.d.(3) or 206.D.3.f.(3), must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond executed: _____

Effective date: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)]

_____

EPA Identification Number, name, address, and closure and/or post- closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: _____

Total penal sum of bond: $_____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto, are firmly bound to the New Mexico Environmental Improvement Division (hereinafter called EID), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the New Mexico Hazardous Waste Act, § 74-4-1 et. seq. NMSA 1978, to have a permit in order to own or operate each hazardous waste management facility identified above, and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules and regulations may be amended,

And, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the post-closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3., and obtain the EID Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the EID Director from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the EID Director that the Principal has been found in violation of the closure requirements of the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.2., for a facility for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the EID Director.

Upon notification by the EID Director that the Principal has been found in violation of the post-closure requirements of the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.2., for a facility for which this bond guarantees performance of post-closure care, the Surety(ies) shall either perform post-closure care in accordance with the post-closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the EID Director.

Upon notification by the EID Director that the Principal has failed to provide alternate financial assurance as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3., and obtain written approval of such assurance from the EID Director during the 90 days following receipt by both the Principal and the EID Director of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EID Director.

The surety(ies) hereby waive(s) notification of amendments to closure plan, permits, applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the EID Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the EID Director, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EID Director.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Director.

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(3), as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of Incorporation: _____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
Corporate seal:

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium:
$_____

(4) A letter of credit, as specified in 206.C.3.d.(3), or 206.C.3.f.(3), or 206.D.3.d.(4), or 206.D.3.f.(4), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
New Mexico Environmental Improvement Division

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars $_____, available upon presentation by you of:

(1) your sight draft, bearing reference to this letter of credit No. _____, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the New Mexico Hazardous Waste Act", § 74-4-1 et seq. NMSA 1978.

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's and operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(4), as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practices for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(5) A certificate of insurance, as specified in 206.C.3.d.(4), or 206.C.3.f.(4), or 206.D.3.d.(5), or 206.D.3.f.(5), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATE OF INSURANCE FOR CLOSURE OR POST-CLOSURE CARE

Name and Address of Insurer
[hereinafter called the "Insurer"]: _____

Name and Address of Insured
[hereinafter called the "Insured"]: _____

Facilities Covered: [List for each facility: The EPA Identification Number, name, address, and the amount of insurance for closure and/or the amount for post-closure care (these amounts for all facilities covered must total the face amount shown below)].

Face Amount:$_____

Policy Number: _____

Effective Date: _____

The Insurer hereby certifies that it has issued to the insured the policy of insurance identified above to provide financial assurance for [insert "closure" or "closure and post-closure care" or "post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3.d.(4), 206.C.3.f.(4), 206.D.3.d.(5), or 206.D.3.f.(5), as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provisions of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever required by the Director of the New Mexico Environmental Improvement Division, the insurer agrees to furnish to the EID Director a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(5), as such regulations were constituted on the date shown immediately below.

[Authorized signature for Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

_____

[Date]

(6) A letter from the chief financial officer, as specified in 206.C.3.d.(5), or 206.C.3.f.(5), or 206.D.3.d.(6), or 206.D.3.f.(6), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER

[Address to Director, New Mexico Environmental Improvement Division]

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. and 206.D.3.

[Fill out the following three paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

(1) This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. and 206.D.3. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: _____

(2) This firm guarantees, through the corporate guarantee specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. or 206.D.3., the closure or post-closure care of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility:

_____

(3) This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated to the New Mexico Environmental Improvement Division through the financial test or any other financial assurance mechanism specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. and 206.D.3. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk (*) are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of 206.C.3.d.(5)(a)(i), 206.C.3.f.(5)(a)(i), 206.D.3.d.(6)(a)(i), or 206.D.3.f.(6)(a)(i) are used.

Fill in Alternative II if the criteria of 206.C.3.d.(5)(a)(ii), 206.C.3.f.(5)(a)(ii), 206.D.3.d.(6)(a)(ii), or 206.D.3.f.(6)(a)(ii) are used.]

ALTERNATIVE I

1. Sum of current closure and post-closure cost estimates (total of *all* cost estimates shown in the four paragraphs above) ..... $ _____

*2. Total liabilities [if any portion of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4] ..... $ _____

*3. Tangible net worth ..... $ _____

*4. Net worth ..... $ _____

*5. Current assets ..... $ _____

*6. Current liabilities ..... $ _____

7. Net working capital [line 5 minus line 6]
$ _____

*8. The sum of net income plus depreciation, depletion, and amortization ..... $ _____

*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)
$ _____

	YES	NO
10. Is line 3 at least $10 million?	____	____
11. Is line 3 at least 6 times line 1?	____	____
12. Is line 7 at least 6 times line 1?	____	____
*13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.	____	____
14. Is line 9 at least 6 times line 1?	____	____
15. Is line 2 divided by line 4 less than 2.0?	____	____
16. Is line 8 divided by line 2 greater than 0.1?	____	____
17. Is line 5 divided by line 6 greater than 1.5?	____	____

ALTERNATIVE II

1. Sum of current closure and post-closure cost estimates [total of *all* cost estimates shown in the four paragraphs above] ..... $ _____

2. Current bond rating of most recent issuance of this firm and name of rating service _____

3. Date of issuance of bond _____

4. Date of maturity of bond _____

*5. Tangible net worth [if any portion of the closure and post-closure cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line] ..... $ _____

*6. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) $ _____

	YES	NO
7. Is line 5 at least $10 million?	____	____
8. Is line 5 at least 6 times line 1?	____	____

*9. Are at least 90% of firm's assets located in the U.S.? If not, complete line 10. ____ ____

10. Is line 6 at least 6 times line 1? ____ ____

I hereby certify that the wording of this letter is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(6), as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

(4) This firm is the owner or operator of the following UIC facilities for which financial assurance for the plugging and abandonment is required under Part 144 of 40 CFR. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility.

(7) A letter from the chief financial officer, as specified in 206.C.3.h.(6) and 206.D.3.h.(6), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER
[to demonstrate liability coverage or to demonstrate both liability coverage and assurance of closure or post-closure care].

[Address to Director, New Mexico Environmental Improvement Division]

I am the chief financial officer of [owner's or operator's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post-closure care" if applicable] as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3 and 206.D.3.

[Fill out the following paragraph regarding facilities and liability coverage. For each facility, include its EPA Identification Number, name and address].

The owner or operator identified above is the owner or operator of the following facilities for which liability coverage is being demonstrated through the financial test specified in the New Mexico Hazardous Waste Management Regulations, Part II 206.C.3. and 206.D.3.: _____

[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following three paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

(1) The owner or operator identified above owns or operates the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3 and 206.D.3. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: _____

(2) The owner or operator identified above guarantees, through the corporate guarantee specified in the New Mexico Hazardous Waste Managementt Regulations, Part II, 206.C.3. and 206.D.3., the closure and post-closure care of the following facilities owned or operated by its subsidiaries. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: _____

(3) The owner or operator identified above owns or operates the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated through the financial test or any other financial assurance mechanism specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3 and 206.D.3. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: _____

This owner or operator [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this owner and operator ends on [month, day]. The figures for the following items marked with an asterisk are derived from this owner's or operator's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage *only* for the liability requirements.]

Part A. LIABILITY COVERAGE FOR ACCIDENTAL OCCURENCES

[Fill in Alternative I if the criteria of 206.C.3.h.(6)(a)(i) or 206.D.3.h.(6)(a)(i) are used.

Fill in Alternative II if the criteria of 206.C.3.h.(6)(a)(ii) or 206.D.3.h.(6)(a)(ii) are used.]

ALTERNATIVE I

1 Amount of annual aggregate liability coverage to be demonstrated. . . . . $_____

*2. Current assets. . . . . $_____

*3. Current liabilities. . . . . $_____

4. Net working capital (line 2 minus line 3) $_____

*5. Tangible net worth. . . $_____

*6. If less than 90% of assets are located in the U.S. give total U.S. assets. $_____

	YES	NO
7. Is line 5 at least $10 million?	_____	_____
8. Is line 4 at least 6 times line 1?	_____	_____
9. Is line 5 at least 6 times line 1?	_____	_____
*10. Are at least 90% of assets located in the U.S.? If not, complete line 11	_____	_____
11. Is line 6 at least 6 times line 1?	_____	_____

ALTERNATIVE II

1. Amount of annual aggregate liability coverage to be demonstrated. . . . . $_____

2. Current bond rating of most recent issuance and name of rating service. . . . . _____

3. Date of issuance of bond. . . . . _____

4. Date of maturity of bond. . . . . _____

*5. Tangible net worth. . . . . $_____

*6. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.). $_____

	YES	NO
7. Is line 5 at least $10 million?	_____	_____
8. Is line 5 at least 6 times line 1?	_____	_____
*9. Are at least 90% of assets located in the U.S.? If not, complete line 10.	_____	_____
10. Is line 6 at least 6 times line 1?.	_____	_____

[Fill in Part B if you are using the financial test to demonstrate assurance of both liability coverage *and* closure or post-closure care.]

Part B CLOSURE OR POST-CLOSURE CARE AND LIABILITY COVERAGE

[Fill in Alternative I if the criteria of 206.C.3.d.(5)(a)(i) or 206.C.3.f.(5)(a)(i) and 206.C.3.h.(6)(a)(i) are used or if the criteria of 206.D.3.d.(6)(a)(i) or 206.D.3.f.(6)(a)(i) and 206.D.3.h.(6)(a)(i) are used.

Fill in Alternative II if the criteria of 206.C.3.d.(5)(a)(ii) or 206.C.3.f.(5)(a)(ii) and 206.C.3.h.(6)(a)(ii) are used or if the

criteria of 206.D.3.d.(6)(a)(ii) or 206.D.3.f.(6)(a)(ii) and 206.D.3.h.(6)(a)(ii) are used.]

ALTERNATIVE I

1. Sum of current closure and post-closure cost estimates (total of *all* cost estimates listed above).
$_____

2. Amount of annual aggregate liability coverage to be demonstrated. $_____

3. Sum of lines 1 and 2. $_____

*4. Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liability, you may deduct that portion from thisline and add that amount to lines 5 and 6).
$_____

*5. Tangible net worth. $_____

*6. Net worth $_____

*7. Current assets. $_____

*8. Current liabilities. $_____

9. Net working capital (line 7 minus line 8).
$_____

*10. The sum of net income plus depreciation, depletion and amortization. $_____

*11. Total assets in U.S. (required only if less than90% of assets are located in the U.S.).$_____

	YES	NO
12. Is line 5 at least $10 million?	_____	_____
13. Is line 5 at least 6 times line 3?	_____	_____
14. Is line 9 at least 6 times line 3?	_____	_____
*15. Are at least 90% of assets located in theU.S.? If not,complete line 16.	_____	_____
16. Is line 11 at least 6 times line 3?	_____	_____
17. Is line 4 divided by line 6 less than 2.0?	_____	_____
18. Is line 10 divided by line 4 greater than 0.1?	_____	_____
19. Is line 7 divided by line 8 greater than 1.5?.	_____	_____

ALTERNATIVE II

1. Sum of current closure and post-closure cost estimates (total of *all* cost estimates listed above)
$_____

2. Amount of annual aggregate liability coverage to be demonstrated. . . . . $_____

3. Sum of lines 1 and 2. . . . . $_____

4. Current bond rating of most recent issuance and name of rating service . . . . . _____

5. Date of issuance of bond. . . . . _____

6. Date of maturity of bond. . . . _____

*7. Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line . . . . . $_____

*8. Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.). . . . $_____

	YES	NO
9. Is line 7 at least $10 million?	_____	_____
10. Is line 7 at least 6 times line 3?	_____	_____
*11. Are at least 90% of assets located in the U.S.? If not, complete line 12?	_____	_____
12. Is line 8 at least 6 times line 3?	_____	_____

I hereby certify that the wording of this letter is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(7), as such

regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

(4) This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under Part 144 of 40 CFR. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility.

(8) A corporate guarantee, as specified in 206.C.3.d.(5), or 206.C.3.f.(5), or 206.D.3.d.(6), or 206.D.3.f.(6), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of state], herein referred to as guarantor, to the New Mexico Environmental Improvement Division (EID), obligee, on behalf of our subsidiary [owner or operator] of [business address].

Recitals:

(1) Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3.d.(5), 206.C.3.f.(5), 206.D.3.d.(6), and 206.D.3.f.(6).

(2) [Owners or operator] owns or operates the following hazardous waste management facility(ies) covered by this guarantee: [list for each facility; EPA identification Number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]

(3) "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.2. and 206.D.2., for the closure and post-closure care of facilities as identified above.

(4) For value received from [owner or operator], guarantor guarantees to EID that in the event that [owner or operator] fails to perform [insert "closure," "post-closure care" or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. or 206.D.3., as applicable, in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. and 206.D.3.

(5) Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the EID Director and to [owner or operator] that he intends to provide alternate financial assurance as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. or 206.D.3., as applicable, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

(6) The guarantor agrees to notify the EID Director, by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(7) Guarantor agrees that within 30 days after being notified by the EID Director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. or 206.D.3., as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

(8) Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure

plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modificiation or alteration of an obligation of the owner or operator pursuant to the New Mexico Hazardous Waste Management Regulations, Part II, 206.A., 206.B., 206.C., or 206.D

(9) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. and 206.D.3. for the above listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the EID Director and to [owner and operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both EID and [owner or operator], as evidenced by the return receipts.

(10) Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3. or 206.D.3., as applicable, and obtain written approval of such assurance from the EID Director within 90 days after a notice of cancellation by the guarantor is received by the EID Director from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

(11) Guarantor expressly waives notice of acceptance of this guarantee by the EID or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(8), as such regulations were constituted on the date first above written

Effective date: _____

[Name of guarantor]

[Authorized signature of guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

_____

(9) A hazardous waste facility liability endorsement as required in 206.C.3.h. or 206.D.3.h. must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

HAZARDOUS WASTE FACILITY LIABILITY ENDORSEMENT

(1) This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with the insured's obligation to demonstrate financial responsibility under the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3.h. or 206.D.3.h. The coverage applies at [list EPA Identification Number, name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the insurer's liability], exclusive of legal defense costs.

(2) The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provision of the policy inconsistent with subsections (a) through (e) of this Paragraph (2) are hereby amended to conform with subsections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b) The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to the amount of any deductible for which coverage is demonstrated as specified in the New Mexico

Hazardous Waste Management Regulations, Part II, 206.C.3.h.(6) or 206.D.3.h.(6).

(c) Whenever requested by the Director of the New Mexico Environmental Improvement Division (EID), the Insurer agrees to furnish to the EID Director a signed duplicate original of the policy and all endorsements.

(d) Cancellation of this endorsement, whether by the Insurer or the Insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the EID Director.

(e) Any other termination of this endorsement will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the EID Director.

Attached to and forming part of policy No. _____ issued by [name of Insurer], herein called the Insurer, of [address of Insurer] to [name of insured] of [address], this _____ day of _____, 19_____ The effective date of said policy is _____day of _____, 19_____

I hereby certify that the wording of this endorsement is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(9), as such regulations were constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus liner insurer, in one or more States.

[Signature of Authorized Representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer]

[Address of Representative]

(10) A certificate of liability insurance as required in 206.C.3.h. or 206.D.3.h. must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

HAZARDOUS WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

(1) [Name of Insurer], (the "Insurer"), of [address of Insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured], (the "insured") of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3.h. or 206.D.3.h. The coverage applies at [list EPA Identification Number, name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's liability], exclusive of legal defense costs. The coverage is provided under policy number _____, issued on [date]. The effective date of said policy is [date]. The effective expiration date of said policy is [date].

(2) The insurer further certifies the following with respect to the insurance described in Paragraph (1) above:

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.C.3.h.(6) or 206.D.3.h.(6).

(c) Whenever requested by the Director of the New Mexico Environmental Improvement Division (EID), the Insurer agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

(d) Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the EID Director.

(e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the EID Director.

I hereby certify that the wording of this instrument is identical to the wording specified in the New Mexico Hazardous Waste Management Regulations, Part II, 206.D.3.j.(10), as such regulations were constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as a excess or surplus lines insurer, in one or more States.

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer]

[Address of Representative]

4. Use and Management of Containers.[57]

a. Applicability.

These regulations apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste except as provided otherwise in 206.A.

b. Condition of containers.

If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of 206.B. and D.

c. Compatibility of waste with containers.

The owner or operator must use a container made of, or lined with, materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired.

d. Management of containers.

(1) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

(2) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

e. Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

f. Containment.

(1) Container storage areas must have a containment system that is designed and operated in accordance with 206.D.4.f.(2), except as otherwise provided by 206.D.4.f.(3).

(2) A containment system must be designed and operated as follows:

(a) A base must underlie the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(b) The base must be sloped or the con- tainment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(c) The containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

(d) Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity, in addition to that required in 206.D.4.f.(2)(c), to contain any run-on which might enter the system; and

(e) Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

(3) Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system defined by 206.D.4.f.(2), except as provided by 206.D.4.f.(4) or provided that:

(a) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(b) The containers are elevated or are otherwise protected from contact with accumulated liquid.

(4) Storage areas that store containers holding the wastes listed below that do not contain free liquids must have a containment system defined by 206.D.4.f (2):

(a) F020, F021, F022, F023, F026, and F027.

g. Special requirements for ignitable or reactive waste.

Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line.

h. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, see 206.C. - Appendix IV for examples, must not be placed in the same containers, unless 206.B.7.b. is complied with.

(2) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(3) A storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

i. Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, liners, bases and soil containing or contaminated with hazardous waste or hazardous waste residues must be decontaminated or removed.

5. Tanks.[58]

a. Applicability.

(1) These regulations apply to owners and operators of facilities that use tanks to treat or store hazardous waste, except as provided otherwise by 206.D.5.a.(2) or 206.A.

(2) These regulations do not apply to facilities that treat or store hazardous waste in covered underground tanks that cannot be entered for inspection.

b. Design of tanks.

Tanks must have sufficient shell strength and, for closed tanks, pressure controls (e.g., vents) to assure that they do not collapse or rupture. The Director will review the design of the tanks, including the foundation, structural support, seams and pressure controls. The Director shall require that a minimum shell thickness be maintained at all times to ensure sufficient shell strength. Factors to be considered in establishing minimum thickness include the width, height, and materials of construction of the tank, and the specific gravity of the waste which will be placed in the tank. In reviewing the design of the tank and establishing a minimum thickness, the Director shall rely upon appropriate industrial design standards and other available information.

c. General operating requirements.

(1) Wastes and other materials (e.g., treatment reagents) which are incompatible with the material of construction of the tank must not be placed in the tank unless the tank is protected from accelerated corrosion, erosion or abrasion through the use of:

(a) An inner liner or coating which is compatible with the waste or material and which is free of leaks, cracks, holes or other deterioration; or

(b) Alternative means of protection (e.g., cathodic protection or corrosion inhibitors).

(2) The owner or operator must use appropriate controls and practices to prevent overfilling. These must include:

(a) Controls to prevent overfilling (e.g., waste feed cutoff system or bypass system to a standby tank); and

(b) For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or by precipitation.

d. Inspections.

(1) The owner or operator must inspect:

(a) Overfilling control equipment (e.g., waste feed cut-off systems and by-pass systems) at least once each operating day to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) where present, at least once each operating day to ensure that the tank is being operated according to its design;

(c) For uncovered tanks, the level of waste in the tank, at least once each operating day, to ensure compliance with 206.D.5.c.(2)(b);

(d) The construction materials of the above-ground portions of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and

(e) The area immediately surrounding the tank, at least weekly, to detect obvious signs of leakage (e.g., wet spots or dead vegetation).

(2) As part of the inspection schedule required in 206.B.5.b. and in addition to the specific requirements of 206.D.5.d.(1), the owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, corrosion or erosion which may lead to cracks or leaks, or wall thinning to less than the thickness required under 206.D.5.b. Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of

corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.

(3) As part of the contingency plan required under 206.B.10., the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank.

(a) For EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027, the contingency plan must also include the procedures for responding to a spill or leak of these wastes from tanks into the containment system. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.

e. Closure.

At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures.

f. Special requirements for ignitable or reactive wastes.

(1) Ignitable or reactive waste must not be placed in a tank unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that:

(i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(ii) 206.B.7.b. is complied with; or

(b) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(c) The tank is used solely for emergencies.

(2) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981) (incorporated by reference, see 104.D.).

g. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless 206.B.7.b. is complied with.

(2) Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless 206.B.7.b. is complied with.

h. Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(1) In addition to the other requirements of 206.D.5., the following requirements apply to tanks storing or treating Hazardous Wastes F020, F021, F022, F023, F026, and F027.

(a) Tanks must have systems designed and operated to detect and adequately contain spills or leaks. The design and operation of any containment system must reflect consideration of all relevant factors including:

(i) Capacity of the tank;

(ii) Volumes and characteristics of wastes stored or treated in the tank;

(iii) Method of collection of spills or leaks;

(iv) The design and construction materials of the tank and containment system, and

(v) The need to prevent precipitation and run-on from entering into the system.

(b) As part of the contingency plan required by 206.B.10., the owner or oprator must specify such procedures for responding to a spill or leak from the tank into the containment system as may be necessary to protect human health and environment. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.

6. Surface impoundments.[59]

a. Applicability.

The regulations in 206.D.6. apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as 206.A. provides otherwise.

b. Design and operating requirements.

(1) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with 206.D.6.f.(1)(a). For impoundments that will be closed in accordance with 206.D.6.f.(1)(b), the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(a) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(b) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(c) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

(2) The owner or operator will be exempted from the requirements of 206.D.6.b.(1) if the Director finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent migration of any hazardous constituents (See 206.D.1.d.) into ground water or surface water at any future time. In deciding whether to grant an exemption, the Director will consider:

(a) The nature and quantity of the wastes;

(b) The proposed alternate design and operation;

(c) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(d) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(3) A surface impoundment must be designed , constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(4) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leaking during the active life of the unit.

(5) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.6.b. are satisfied.

c. Double-lined surface impoundments: Exemption from 206.D.1. ground-water protection standards.

(1) The owner or operator of a double-lined surface impoundment is not subject to regulation under 206.D.1. if the following conditions are met:

(a) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table.

(b) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of 206.D.6.b.(1).

(c) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners.

(2) If liquid leaks into the leak detection system, the owner or operator must:

(a) Notify the Director of the leak in writing within seven days after detecting the leak; and

(b) Either:

(i) Within a time period specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certificaton from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(ii) If a detection monitoring program pursuant to 206.D.1.i has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of 206.D.1. within a period of time specified in the permit.

(3) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.6.c. are satisfied.

d. Monitoring and inspection

(1) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from 206.D.6.b.(1)) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(a) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(b) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(2) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(a) Deterioration, malfunctions, or improper operation of overtopping control systems;

(b) Sudden drops in the level of the impoundment's contents; and

(c) The presence of liquids in leak detection systems, where installed to comply with 206.D.6.c.; and

(d) Severe erosion or other signs of deterioration in dikes or other containment devices.

(3) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(a) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(b) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

e. Emergency repairs; contingency plans

(1) A surface impoundment must be removed from service in accordance with 206.D.6.e.(2) when:

(a) The level of liquids in the impoundment suddenly drops and the drop is not known to be caused by changes in the flows into or out of the impoundment; or

(b) The dike leaks.

(2) When a surface impoundment must be removed from service as required by 206.D.6.e.(1), the owner or operator must:

(a) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(b) Immediately contain any surface leakage which has occurred or is occurring;

(c) Immediately stop the leak;

(d) Take any other necessary steps to stop or prevent catastrophic failure;

(e) If a leak cannot be stopped by any other means, empty the impoundment; and

(f) Notify the Director of the problem in writing within seven days after detecting the problem.

(3) As part of the contingency plan required in 206.B.10, the owner or operator must specify a procedure for complying with the requirements of 206.D.6.e.(2).

(4) No surface impoundment that has been removed from service in accordance with the requirements of 206.D.6.e may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(a) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with 206.D.6.d.(3).

(b) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(i) For any existing portion of the impoundment, a liner must be installed in compliance with 206.D.6.b.(1) or 206.D.6.c.; and

(ii) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(5) A surface impoundment that has been removed from service in accordance with the requirements of 206.D.6.e. and that is not being repaired must be closed in accordance with the provisions of 206.D.6.f.

f. Closure and post-closure care.

(1) At closure, the owner or operator must:

(a) Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless 201.A.3.d. applies; or

(b) Comply with the following:

(i) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(ii) Stabilize remaining wastes to a bearing capacity sufficient to support final cover; and

(iii) Cover the surface impoundment with a final cover designed and constructed to:

A. Provide long-term minimization of the migration of liquids through the closed impoundment;

B. Function with minimum maintenance;

C. Promote drainage and minimize erosion or abrasion of the final cover;

D. Accommodate settling and subsidence so that the cover's integrity is maintained; and

E. Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(2) If some waste residues or contaminated materials are left in place at final closure, the owner or operator must comply with all post-closure requirements contained in 206.D.2.g. through j., including maintenance and monitoring throughout the post-closure care period (specified in the permit under 206.D.2.g.). The owner or operator must:

(a) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(b) Maintain and monitor the leak detection system in accordance with 206.D.6.c. where such a system is present between double liner systems;

(c) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of 206.D.1.; and

(d) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(3) If an owner or operator plans to close a surface impoundment in accordance with 206.D.6.f.(1)(a), and the impoundment does not comply with the liner requirements of 206.D.6.b.(1) and is not exempt from them in accordance with 206.D.6.b.(2), then:

(a) The closure plan for the impoundment under 206.D.2.c. must include both a plan for complying with 206.D.6.f.(1)(a) and a contingent plan for complying with 206.D.6.f.(1)(b) in case not all contaminated subsoils can be practicably removed at closure; and

(b) The owner or operator must prepare a contingent post-closure plan under 206.D.2.h. for complying with 206.D.6.f.(2) in case not all contaminated subsoils can be practicably removed at closure.

(4) If an owner or operator is required to prepare a contingent closure and post-closure plan under 206.D.6.f.(3), then the cost estimates calculated under 206.D.3.c. and 206.D.3.e. for closure and post-closure care of an impoundment subject to 206.D.6.f.(3) must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under 206.D.6.f.(1)(a).

(5) During the post-closure care period, if liquids leak into a leak detection system installed under 206.D.6.c., the owner or operator must notify the Director of the leak in writing within seven days after detecting the leak. The Director will modify the permit to require compliance with the requirements of 206.D.1.

g. Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(b) 206.B.7.b. is complied with; or

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(3) The surface impoundment is used solely for emergencies.

h. Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials, (see 206.C - Appendix IV for examples) must not be placed in the same surface impoundment, unless 206.B.7 b. is complied with.

i. Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(1) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the Director pursuant to the standards set out in 206.D.6.i.(1) and in accord with all applicable requirements of 206.D. The factors to be considered are:

(a) The volume, physical and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(b) The attenuative properties of underlying and surrounding soils or other materials;

(c) The mobilizing properties of other materials co-disposed with these wastes; and

(d) The effectiveness of additional treatment, design or monitoring techniques.

(2) The Director may determine that additional design, operating and monitoring requirements are necessary for surface impoundments managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

7. Waste Piles.[60]

a. Applicability.

(1) The regulations in 206.D.7. apply to owners or operators of facilities that store or treat hazardous waste in piles, except as 206.A. provides otherwise.

(2) The regulations in 206.D.7. do not apply to owners or operators of waste piles that are closed with wastes left in place. Such waste piles are subject to regulation under 206.D.10. (Landfills).

(3) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under 206.D.7.b., or under 206.D.1 provided that:

(a) Liquids or materials containing free liquids are not placed in the pile;

(b) The pile is protected from surface water run-on by the structure or in some other manner;

(c) The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting; and

(d) The pile will not generate leachate through decomposition or other reactions.

b. Design and operating requirements.

(1) A waste pile (except for an existing portion of a waste pile) must have:

(a) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(b) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The Director will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(i) Constructed of materials that are

A. Chemically resistant to the waste managed in the pile and the leachate expected to be generated; and

B. Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(ii) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(2) The owner or operator will be exempted from the requirements of 206.D.7.b.(1) if the Director finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see 206.D.1.d.) into the ground water or surface water at any future time

In deciding whether to grant an exemption, the Director will consider:

(a) The nature and quantity of the wastes;

(b) The proposed alternate design and operation;

(c) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(d) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(3) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm.

(4) The owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(5) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(6) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(7) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.7.b. are satisfied.

c. Double-lined piles: Exemption from 206.D.1. ground-water protection requirements.

(1) The owner or operator of a double-lined waste pile is not subject to regulation under 206.D.1. if the following conditions are met:

(a) The pile (including its underlying liners) must be located entirely above the seasonal high water table.

(b) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of 206.D.7.b.(1)(a).

(c) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners.

(d) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained and operated in accordance with 206.D.7.b.(1)(b).

(2) If liquid leaks into the leak detection system, the owner or operator must:

(a) Notify the Director of the leak in writing within seven days after detecting the leak; and

(b) Either:

(i) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped, or

(ii) If a detection monitoring program pursuant to 206.D.1.i. has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of 206.D.1 within a period of time specified in the permit.

(3) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.7.c. are satisfied.

d. Inspection of liners: Exemption from 206.D.1. ground-water protection requirements..

(1) The owner or operator of a pile is not subject to regulation under 206.D.1. if the following conditions are met:

(a) The pile (including its underlying liner) must be located entirely above the seasonal high water table.

(b) The pile must be underlain by a liner (base) that meets all the specifications of 206.D.7.b.(1)(a).

(c) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in 206.B.5. and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation (e.g., waste type, rainfall, loading rates, and subsurface stability).

(d) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection

(e) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with 206.D.7.b.(1)(b).

(2) If deterioration, a crack, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(a) Notify the Director of the condition in writing within seven days after detecting the condition; and

(b) Either:

(i) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(ii) If a detection monitoring program pursuant to 206.D.1.i. has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of 206.D.1. within a period of time specified in the permit.

(3) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.7.d. are satisfied.

e. Monitoring and inspection.

(1) During construction or installation, liners (except in the case of existing portions of piles exempt from 206.D.7.b.(1)) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(a) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(b) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(2) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(a) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(b) The presence of liquids in leak detection systems, where installed to comply with 206.D.7.c.;

(c) Proper functioning of wind dispersal control systems, where present; and

(d) The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

f. Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a waste pile unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the pile so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(b) 206.B.7.b. is complied with; or

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

g. Special requirements for incompatible wastes.

(1) Incompatible wastes, or incompatible wastes and materials, (see 206.C. Appendix IV for examples) must not be placed in the same pile, unless 206.B.7.b. is complied with.

(2) A pile of hazardous waste that is incompatible with any waste or other material stored nearby in containers, other piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device.

(3) Hazardous waste must not be piled on the same base where incompatile wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with 206.B.7.b.

h. Closure and post-closure care

(1) At closure, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless 201.A.3.d. applies.

(2) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in 206.D.7.h.(1), the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (206.D.10.f.).

(3) The owner or operator of a waste pile that does not comply with the liner requirements of 206.D.7.b.(1)(a) and is not exempt from them in accordance with 206.D.7.a.(3) or 206.D.7.b.(2), must:

(a) Include in the closure plan for the pile under 206.D.2.c. both a plan for complying with 206.D.7.h.(1) and a contingent plan for complying with 206.D.7.h.(2) in case not all contaminated subsoils can be practicably removed at closure; and

(b) Prepare a contingent post-closure plan under 206.D.2.h. for complying with 206.D.7.h.(2) in case not all contaminated subsoils can be practicably removed at closure.

(4) If an owner or operator is required to prepare a contingent closure and post-closure plan under 206.D.7.h.(3), then the cost estimates calculated under 206.D.3.c. and 206.D.3.e. for closure and post-closure care of a pile subject to 206.D.7.h.(3) must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under 206.D.7.h.(1).

i. Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027

(1) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in 206.D.7.a.(3)) unless the owner or operator operates the waste pile in accordance

with a management plan for these wastes that is approved by the Director pursuant to the standards set out in 206.D.7.i.(1) and in accord with all applicable requirements of 206.D. The factors to be considered are:

(a) The volume, physical and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(b) The attenuative properties of underlying and surrounding soils or other materials;

(c) The mobilizing properties of other materials co-disposed with these wastes; and

(d) The effectiveness of additional treatment, design or monitoring techniques.

(2) The Director may determine that additional design, operating and monitoring requirements are necessary for piles managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

8. Incinerators.[61]

a. Applicability.

(1) These regulations apply to owners and operators of facilities that incinerate hazardous waste, except as 206.A. provides otherwise. The following facility owners or operators are considered to incinerate hazardous waste:

(a) Owners or operators of hazardous waste incinerators (as defined in 102); and

(b) Owners or operators who burn hazardous waste in boilers or in industrial furnaces in order to destroy the wastes.

(2) After consideration of the waste analysis included with Part B of the permit application, the Director, in establishing the permit conditions, must exempt the applicant from all requirements of 206.D.8. except 206.D.8.b. [Waste analysis] and 206.D.8.h. [Closure];

(a) If the Director finds that the waste to be burned is:

(i) Listed as a hazardous waste in 201.C. solely because it is ignitable [Hazard Code I], corrosive [Hazard Code C], or both; or

(ii) Listed as a hazardous waste in 201.C solely because it is reactive [Hazard Code R] for characteristics other than those listed in 201.B.4.a.(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(iii) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the test for characteristics of hazardous wastes under 201.B.; or

(iv) A hazardous waste solely because it possesses any of the reactivity characteristics described by 201.B.4.a.(1), (2), (3), (6), (7), and (8), and will not be burned when other hazardous wastes are present in the combustion zone; and

(b) If the waste analysis shows that the waste contains none of the hazardous constituents listed in 201-Appendix III which would reasonably be expected to be in the waste.

(3) If the waste to be burned is one which is described by 206.D.8.a.(2)(a)(i), (ii), (iii), or (iv), and contains insignificant concentrations of the hazardous constituents listed in 201-Appendix III, then the Director may, in establishing permit conditions, exempt the applicant from all requirements of 206.D.8. except 206.D.8.b. [Waste analysis] and 206.D.8.h. [Closure], after consideration of the waste analysis included with Part B of the permit application, unless the Director finds that the waste will pose a threat to human health and the environment when burned in an incinerator.

(4) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of 302.E. [Short term and phased permits].

b. Waste analysis.

(1) As a portion of a trial burn plan required by 302.E.2., or with Part B of the permit application, the owner or operator must have included an analysis of the waste feed sufficient to provide all information required by 302.E.2.b. or 302.A.4.b.(2)(e). Owners or operators of new hazardous waste incinerators must provide the information required by 302.E.2.c. or 302A.4.b.(2)(e) to the greatest extent possible.

(2) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit [under 206.D.8.f.(2)].

c. Principal organic hazardous constituents (POHCs).

(1) Principal Organic Hazardous Constituents (POHCs) in the waste feed must be treated to the extent required by the performance standard of 206.D.8.d.

(2) One or more POHCs will be specified in the facility's permit, from among those constituents listed in 201, Appendix III, for each waste feed to be burned. This specification will be based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents which represent the greatest degree of difficulty of incineration will be those most likely to be designated as POHCs. Constituents are more likely to be designated as POHCs if they are present in large quantites or concentrations in the waste.

(3) Trial POHCs will be designated for performance of trial burns in accordance with the procedure specified in 302.E.2. for obtaining trial burn permits.

d. Performance standards.

An incinerator burning hazardous waste must be designed, constructed, and maintained so that, when operating in accordance with operating requirements specified under 206.D.8.f., it will meet the following performance standards:

(1) (a) Except as provided in 206.D.8.d.(1)(b), an incinerator burning hazardous waste must achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated (under 206.D.8.c.) in its permit for each waste feed. DRE is determined for each POHC from the following equation:

$$DRE = \frac{(W_{in} - W_{out})}{W_{in}} \times 100\%$$

Where:

W_{in} = Mass feed rate of one principal organic hazardous constituent (POHC) in the waste stream feeding the incinerator; and

W_{out} = Mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere

(b) An incinerator burning Hazardous Wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic hazardous constituent (POHC) designated (under 206.D.8.c.) in its permit. This performance must be demonstrated on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in 206.D.8.d.(1)(a). In addition, the owner or operator of the incinerator must notify the Director of his intent to incinerate Hazardous Wastes F020, F021, F022, F023, F026 or F027.

(2) An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour [4 pounds per hour] of hydrogen chloride [HCl] must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or 1% of the HCl in the stack gas prior to entering any pollution control equipment.

(3) An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter [0.08 grains per dry standard cubic foot] when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{21 - Y}$$

Where Pc is the corrected concentration of particulate matter, Pm is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A [Method 3]. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the Director will select an appropriate correction procedure, to be specified in the facility permit.

(4) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under 206.D.8.f.) will be regarded as compliance with 206.D.8. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of 206.D.8. may be "information," justifying modification, revocation, or reissuance of a permit under 302.M.

e. Hazardous waste incinerator permits.

(1) The owner or operator of a hazardous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under 206.D.8.f., except:

(a) In approved trial burns under 302.E.2.; or

(b) Under exemptions created by 206.D.8.a.

(2) Other hazardous wastes may be burned only after operating conditions have been specified in a new permit or a permit modification as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under 302.A.4.b.(2)(e).

(3) The permit for a new hazardous waste incinerator must establish appropriate conditions for each of the applicable requirements of 206.D.8. including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of206.D.8.f., sufficient to comply with the following standards:

(a) For the period beginning with the initial introduction of hazardous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in 206.D.8.e.(3)(b), not to exceed a duration of 720 hours operating time for treatment of hazardous waste, the operating requirements must be those most likely to ensure compliance with the performance standards of 206.D.8.d., based on the Director's engineering judgement. The Director may extend the duration of this period once for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

(b) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of 206.D.8.d. and must be in accordance with the approved trial burn plan;

(c) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Director, the operating requirements must be those most likely to ensure compliance with the performance standards of 206.D.8.d. based on the Director's engineering judgement.

(d) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in 302.A.4.b.(2)(e)(iii), as sufficient to ensure compliance with the performance standards of 206.D.8.d.

f. Operating requirements.

(1) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated [in a trial burn or in alternative data as specified in 206.D.8.e.(2) and included with Part B of a facility's permit application] to be sufficient to comply with the performance standards of 206.D.8.d.

(2) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirements of 206.D.8.d.) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

(a) Carbon monoxide (CO) level in the stack exhaust gas;

(b) Waste feed rate;

(c) Combustion temperature.

(d) An appropriate indicator of combustion gas velocity;

(e) Allowable variations in incinerator system design or operating procedures; and

(f) Such other operating requirements as are necessary to ensure that the performance standards of 206.D.8.d. are met.

(3) During start-up and shut-down of an incinerator, hazardous waste (except waste exempted in accordance with 206.D.8.a.) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(4) Fugitive emissions from the combustion zone must be controlled by:

(a) Keeping the combustion zone totally sealed against fugitive emissions; or

(b) Maintaining a combustion zone pressure lower than atmospheric pressure; or

(c) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(5) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under 206.D.8.f.(1).

(6) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

g. Monitoring and inspections

(1) The owner or operator must conduct, as a minimum, the following monitoring while incinerating hazardous waste:

(a) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis.

(b) CO must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere.

(c) Upon request by the Director, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of 206.D.8.d.

(2) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be subjected to thorough visual inspection, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

(3) The emergency waste feed cutoff system and associated alarms must be tested at least weekly to verify operability, unless the applicant demonstrates to the Director that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted at least monthly.

(4) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by 203.C.2.

h. Closure.

At closure the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site.

9. Land Treatment.[62]

a. Applicability

The regulations in 206.D.9. apply to owners and operators of facilities that treat or dispose of hazardous waste in land treatment units, except as 206.A. provides otherwise.

b. Treatment program.

(1) An owner or operator subject to 206.D.9. must establish a land treatment program that is designed to ensure that hazardous constituents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The Director will specify in the facility permit the elements of the treatment program, including:

(a) The wastes that are capable of being treated at the unit based on a demonstration under 206.D.9.c.;

(b) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with 206.D.9.d.(1); and

(c) Unsaturated zone monitoring provisions meeting the requirements of 206.D.9.f.

(2) The Director will specify in the facility permit the hazardous constituents that must be degraded, transformed, or immobilized under 206.D.9. Hazardous constituents are constituents identified in Appendix III of Part II, 201 that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(3) The Director will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below and including the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of hazardous constituents. The maximum depth of the treatment zone must be:

(a) No more than 1.5 meters (5 feet) from the initial soil surface; and

(b) More than 1 meter (3 feet) above the seasonal high water table.

c. Treatment demonstration.

(1) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that hazardous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

(2) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under 206.D.9.c.(1), he must obtain a treatment or disposal permit under 302.E.3. The Director will specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure and clean-up activities) necessary to meet the requirements in 206.D.9.c.(3).

(3) Any field test or laboratory analysis conducted in order to make a demonstration under 206.D.9.c.(1) must:

(a) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(i) The characteristics of the waste (including the presence of Appendix III constituents);

(ii) The climate in the area;

(iii) The topography of the surrounding area;

(iv) The characteristics of the soil in the treatment zone (including depth); and

(v) The operating practices to be used at the unit;

(b) Be likely to show that hazardous constituents in the waste to be tested will be completely degraded, transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(c) Be conducted in a manner that protects human health and the environment considering:

(i) The characteristics of the waste to be tested;

(ii) The operating and monitoring measures taken during the course of the test;

(iii) The duration of the test;

(iv) The volume of waste used in the test;

(v) In the case of field tests, the potential for migration of hazardous constituents to ground water or surface water.

d. Design and operating requirements.

The Director will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with 206.D.9.d.

(1) The owner and operator must design, construct, operate and maintain the unit to maximize the degradation, transformation, and immobilization of hazardous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accord with all design and operating conditions that were used in the treatment demonstration under 206.D.9.c. At a minimum, the Director will specify the following in the facility permit:

(a) The rate and method of waste application to the treatment zone;

(b) Measures to control soil pH;

(c) Measures to enhance microbial or chemical reactions (e.g., fertilization, tilling); and

(d) Measures to control the moisture content of the treatment zone.

(2) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize run-off of hazardous constituents during the active life of the land treatment unit.

(3) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the treatment zone during peak discharge from at least a 25-year storm.

(4) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(5) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain the design capacity of the system.

(6) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must manage the unit to control wind dispersal.

(7) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

(a) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and

(b) Improper functioning of wind dispersal control measures.

e. Food-chain crops.

The Director may allow the growth of food-chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of 206.D.9.e. The Director will specify in the facility permit the specific food-chain crops which may be grown.

(1) For wastes that contain hazardous constituents other than cadmium, the following conditions must be met:

(a) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that those hazardous constituents:

(i) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food-chain animals (e.g., by grazing); or

(ii) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(b) The owner or operator must make the demonstration required under 206.D.9.e.(1)(a) prior to the planting of crops at the facility for all constituents identified in Appendix III of Part II, 201 that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) In making a demonstration under 206.D.9.e.(1)(a), the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must;

(i) Base the demonstration on conditions similar to those present in the treatment zone, including soil characteristics (e.g., pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(ii) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(d) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration required under 206.D.9.e.(1)(a), he must obtain a permit for conducting such activities.

(2) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone:

(a) For food-chain crops other than animal feed:

(i) The pH of the waste and soil mixtures must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(ii) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate must not exceed:

Time Period	Annual Cd application rate (kg/ha)
Present to June 30, 1984	2.0
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(iii) The cumulative application of cadmium from waste must not exceed 5 kg/ha if the waste and soil mixture has a pH of less than 6.5, and

(iv) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5-15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(b) If animal feed is the only food-chain crop produced;

(i) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food-chain crops are grown;

(ii) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(iii) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food-chain crops must not be grown except in compliance with 206.D.9.e.(2)(b).

f. Unsaturated zone monitoring

An owner or operator subject to 206.D.9. must establish an unsaturated zone monitoring program to discharge the following responsibilities:

(1) The owner or operator must monitor the soil and soil-pore liquid to determine whether hazardous constituents migrate out of the treatment zone.

(a) The Director will specify the hazardous constituents to be monitored in the facility permit. The hazardous constituents to be monitored are those specified under 206.D.9.b.(2).

(b) The Director may require monitoring for principal hazardous constituents (PHCs) in lieu of the constituents specified under 206.D.9.b.(2). PHCs are hazardous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The Director will establish PHCs if he finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PHCs will assure treatment at at least equivalent levels for the other hazardous constituents in the wastes.

(2) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(a) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(b) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(3) The owner or operator must establish a background value for each hazardous constituent to be monitored under 206.D.9.f.(1). The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(a) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(b) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(c) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under 206.D.9.f.(6).

(d) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with 206.D.9.f.(2)(a).

(4) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring immediately below the treatment zone. The Director will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste

application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under 206.D.9.f.(6).

(5) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

(a) Sample collection;

(b) Sample preservation and shipment;

(c) Analytical procedures; and

(d) Chain of custody control.

(6) The owner or operator must determine whether there is a statistically significant change over background values for any hazardous constituent to be monitored under 206.D.9.f.(1) below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under 206.D.9.f.(4).

(a) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under 206.D.9.f.(4), to the background value for that constituent according to the statistical procedure specified in the facility permit under 206.D.9.f.(6).

(b) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after completion of sampling. The Director will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(c) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The Director will specify a statistical procedure in the facility permit that he finds:

(i) Is appropriate for the distribution of the data used to establish background values; and

(ii) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(7) If the owner or operator determines, pursuant to 206.D.9.f.(6), that there is a statistically significant increase of hazardous constituents below the treatment zone, he must:

(a) Notify the Director of this finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases.

(b) Within 90 days, submit to the Director an application for a permit modification to modify the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone.

(8) If the owner or operator determines, pursuant to 206.D.9.f.(6), that there is a statistically significant increase of hazardous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under 206.D.9.f.(8) in addition to, or in lieu of, submitting a permit modification application under 206.D.9.f.(7)(b) he is not relieved of the requirement to submit a permit modification application within the time specified in 206.D.9.f.(7)(b) unless the demonstration made under 206.D.9.f.(8) successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation.

In making a demonstration under 206.D.9.f(8), the owner or operator must:

(a) Notify the Director in writing within seven days of determing a statistically significant increase below the treatment zone that he intends to make a determination under 206.D.9.f.(8);

(b) Within 90 days, submit a report to the Director demonstrating that a source other than the regulated units caused the increase or that the increase resulted form error in sampling, analysis, or evaluation;

(c) Within 90 days, submit to the Director an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(d) Continue to monitor in accord with the unsaturated zone monitoring program established under 206.D.9.f.

g. Recordkeeping.

The owner or operator must include hazardous waste application dates and rates in the operating record required under 203.C.2.

h. Closure and post-closure care.

(1) During the closure period the owner or operator must:

(a) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of hazardous constituents within the treatment zone as required under 206.D.9.d.(1), except to the extent such measures are inconsistent with 206.D.9.h.(1)(h).

(b) Continue all operations in the treatment zone to minimize run-off of hazardous constituents as required under 206.D.9.d.(2);

(c) Maintain the run-on control system required under 206.D.9.d.(3);

(d) Maintain the run-off management system required under 206.D.9.d.(4);

(e) Control wind dispersal of hazardous waste if required under 206.D.9.d.(6)

(f) Continue to comply with any prohibitions or conditions concerning growth of food-chain crops under 206.D.9.e.;

(g) Continue unsaturated zone monitoring in compliance with 206.D.9.f., except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone; and

(h) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of hazardous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(2) For the purpose of complying with 206.D.2.f., when closure is completed the owner or operator may submit to the Director certification by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(3) During the post-closure care period the owner or operator must:

(a) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of hazardous constituents in the treatment zone to the extent that such measures are consistent with other post-closure care activities;

(b) Maintain a vegetative cover over closed portions of the facility;

(c) Maintain the run-on control system required under 206.D.9.d.(3);

(d) Maintain the run-off management system required under 206.D.9.d.(4);

(e) Control wind dispersal of hazardous waste if required under 206.D.9.d.(6);

(f) Continue to comply with any prohibitions or conditions concerning growth of food-chain crops under 206.D.9.e.; and

(g) Continue unsaturated zone monitoring in compliance with 206.D.9.f., except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone.

(4) The owner or operator is not subject to regulation under 206.D.9.h.(1)(h) and 206.D.9.h.(3) if the Director finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in 206.D.9.h.(4)(c). The owner or operator may submit such a demonstration to the Director at any time during the closure or post-closure care periods. For the purposes of 206.D.9.h.(4);

(a) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all hazardous constituents specified in the facility permit under 206.D.9.b.(a).

(i) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone.

(ii) The owner or operator must express background values and values for hazardous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under 206.D.9.h.(4)(c).

(b) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively.

(c) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(i) Is appropriate for the distribution of the data used to establish background values; and

(ii) Provides a reasonable balance between the probability of falsely identifying hazardous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(5) The owner or operator is not subject to regulation under 206.D.1. if the Director finds that the owner or operator satisfies 206.D.9.h.(4) and if unsaturated zone monitoring under 206.D.9.f. indicates that hazardous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

i Special requirements for ignitable or reactive waste.

The owner or operator must not apply ignitable or reactive waste to the treatment zone unless:

(1) The waste is immediately incorporated into the soil so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(b) 206.B.7.b. is complied with; or

(2) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

j. Special requirements for incompatible wastes.

The owner or operator must not place incompatible wastes, or incompatible wastes and materials (see 206.C. Appendix IV for examples), in or on the same treatment zone, unless 206.B.7.b. is complied with.

k. Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(1) Hazardous Wastes F020, F021, F022, F023, F026 and F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the Director pursuant to the standards of 206.D.9.k. and in accord with all other applicable requirements of 206.D. The factors to be considered are:

(a) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(b) The attenuative properties of underlying and surrounding soils or other materials;

(c) The mobilizing properties of other materials co-disposed with these wastes; and

(d) The effectiveness of additional treatment design or monitoring techniques

(2) The Director may determine that additional design, operating, and monitoring requirements are necessary for land treatment facilities managing F020, F021, F022, F023, F026 and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water or air so as to protect human health and the environment.

10. Landfills.[63]

a. Applicability.

The regulations in 206.D.10 apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as 206.A. provides otherwise.

b. Design and operating requirements.

(1) A landfill (except for an existing portion of a landfill) must have:

(a) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to the adjacent subsurface soil or ground water or surface water at anytime during the active life (including the closure period) of the landfill. The liner must be constructed of materials that prevent wastes from passing into the liner during the active life of the facility. The liner must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(b) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the landfill. The Director will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30cm (one foot). The leachate collection and removal system must be:

(i) Constructed of materials that are:

A. Chemically resistant to the waste managed in the landfill and the leachate expected to be generated; and

B. Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the landfill; and

(ii) Designed and operated to function without clogging through the scheduled closure of the landfill.

(2) The owner or operator will be exempted from the requirements of 206.D.10.b.(1) if the Director finds, based on a demonstration by the owner or operator, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see 206.D.1.d.) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the Director will consider:

(a) The nature and quantity of the wastes;

(b) The proposed alternate design and operation;

(c) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the landfill and ground water or surface water; and

(d) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water

(3) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

(4) The owner or operator must design, construct, operate, and maintain a run-off

management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(5) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(6) If the landfill contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the landfill to control wind dispersal.

(7) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.10.b. are satisfied.

c. Double-lined landfills: Exemption from 206.D.1. ground-water protection requirements.

(1) The owner or operator of a double-lined landfill is not subject to regulation under 206.D.1. if the following conditions are met:

(a) The landfill (including its underlying liners) must be located entirely above the seasonal high water table.

(b) The landfill must be underlain by two liners which are designed and constructed in a manner to prevent the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of 206.D.10.b.(1)(a).

(c) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquid into the space between the liners.

(d) The landfill must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with 206.D.10.b.(1)(b).

(2) If liquid leaks into the leak detection system, the owner or operator must:

(a) Notify the Director of the leak in writing within seven days after detecting the leak; and

(b) Either:

(i) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(ii) If a detection monitoring program pursuant to 206.D.1.i. has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of 206.D.1. within a period of time specified in the permit.

(3) The Director will specify in the permit all design and operating practices that are necessary to ensure that the requirements of 206.D.10.c. are satisfied.

d. Monitoring and inspection.

(1) During construction or installation, liners (except in the case of existing portions of landfills exempt from 206.D.10.b.(1)) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(a) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(b) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(2) While a landfill is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(a) Deterioration, malfunctions, or improper operation of run-on and run-off control systems.

(b) The presence of liquids in leak detection systems, where installed to comply with 206.D.10.c.;

(c) Proper functioning of wind dispersal control systems, where present; and

(d) The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

e. Surveying and recordkeeping.

The owner or operator of a landfill must maintain the following items in the operating record required under 203.C.2:

(1) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(2) The contents of each cell and the approximate location of each hazardous waste type within each cell.

f. Closure and post-closure care.

(1) At final closure of the landfill or upon closure of any cell the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(a) Provide long-term minimization of migration of liquids through the closed landfill;

(b) Function with minimum maintenance;

(c) Promote drainage and minimize erosion or abrasion of the cover;

(d) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(e) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(2) After final closure, the owner or operator must comply with all post-closure requirements contained in 206.D.2.g. through j., including maintenance and monitoring throughout the post-closure care period (specified in the permit under 206.D.2.g.) The owner or operator must:

(a) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(b) Maintain and monitor the leak detection system in accordance with 206.D.10.c. where such a system is present between double liner systems;

(c) Continue to operate the leachate collection and removal system until leachate is no longer detected;

(d) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of 206.D.1.;

(e) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(f) Protect and maintain surveyed benchmarks used in complying with 206.D.10.e.

(3) During the post-closure care period, if liquid leaks into a leak detection system installed under 206.D.10.c., the owner or operator must notify the Director of the leak in writing within seven days after detecting the leak. The Director will modify the permit to require compliance with the requirements of 206.D.1.

g. Special requirements for ignitable or reactive waste.

(1) Except as provided in 206.D.10.g.(2) and in 206.D.10.k., ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in a landfill so that:

(a) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 201.B.2. or 201.B.4.; and

(b) 206.B.7.b. is complied with.

(2) Ignitable wastes in containers may be landfilled without meeting the requirements of 206.D.10.g.(1) provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

h. Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials, (see 206.C. Appendix IV for examples) must not be placed in the same landfill cell, unless 206.B.7.b. is complied with.

i. Special requirements for bulk and containerized liquids.

(1) Bulk or non-containerized liquid waste or waste containing free liquids must not be placed in a landfill unless:

(a) The landfill has a liner and leachate collection and removal system that meet the requirements of 206.D.10.b.(1) or

(b) Before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with an absorbent solid), so that free liquids are no longer present.

(2) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846).

(3) Containers holding free liquids must not be placed in a landfill unless:

(a) All free-standing liquid has:

(i) Been removed by decanting or other methods;

(ii) Been mixed with absorbent or solidified so that free-standing liquid is no longer observed; or

(iii) Been otherwise eliminated; or

(b) The container is very small, such as an ampule; or

(c) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(d) The container is a lab pack as defined in 206.D.10.k. and is disposed of in accordance with 206.D.10.k.

j. Special requirements for containers.

Unless they are very small, such as an ampule, containers must be either:

(1) At least 90 percent full when placed in the landfill; or

(2) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

k. Disposal of small containers of hazardous waste in overpacked drums (lab packs).

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

(1) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or

be ignited by the contained waste. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste.

(2) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416 liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material.

(3) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with 206.B.7.b.

(4) Incompatible wastes, as defined in Part I, 101, must not be placed in the same outside container.

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in 201.B.4.a.(5), must be treated or rendered non-reactive prior to packing in accordance with 206.D.10.k.(1) through (4). Cyanide- and sulfide- bearing reactive waste may be packed in accordance with 206.10.k.(1) through (4) without first being treated or rendered non-reactive.

l. Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(1) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in a landfill unless the owner or operator operates the landfill in accord with a management plan for these wastes that is approved by the Director pursuant to the standards in 206.D.10.l and in accord with all other applicable requirements of 206.D. The factors to be considered are:

(a) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through the soil or to volatilize or escape into the atmosphere;

(b) The attenuative properties of underlying and surrounding soils or other materials;

(c) The mobilizing properties of other materials co-disposed with these wastes; and

(d) The effectiveness of additional treatment, design or monitoring requirements.

(2) The Director may determine that additional design, operating, and monitoring requirements are necessary for landfills managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water or air so as to protect human health and the environment.

E. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.[65]

1. Recyclable Materials Used in a Manner Constituting Disposal.

a. Applicability

(1) These regulations apply to recyclable materials that are applied to or placed on the land:

(a) Without mixing with any other substance(s); or

(b) After mixing with any other substance(s), unless the recyclable material undergoes a chemical reaction so as to become inseparable from the other substance(s) by physical means; or

(c) After combination with any other substance(s) if the resulting combined material is not produced for the general public's use. Those materials will be referred to in 206.E.1. as "materials used in a manner that constitutes disposal."

(2) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means. Commercial fertilizers that are produced for the general public's use that contain recyclable materials are not presently subject to regulation.

b. Standards applicable to generators and transporters of materials used in a manner that constitutes disposal.

Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of 203.A., and 204.A., B., F., and H.

c. Standards applicable to storers of materials that are to be used in a manner that constitutes disposal who are not the ultimate users.

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of 202.; 203.C.; 206.A., B., C.1., 2., 3., 4., 5., 6., and 7., D.1., 2., 3., 4., 5., 6., and 7., 301 and 302, and 40CFR Part 124.

d. Standards applicable to users of materials that are used in a manner that constitutes disposal.

Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of 202., 203.C., 206.A., B., C.1., 2., 3., 4., 5., 6., and 7., D.1., 2., 3., 4., 5., 6., and 7., 301 and 302 and 40 CFR Part 124. (These provisions do not apply to products which contain these recyclable materials under the provision of 206.E.1.a.)

2. Hazardous Waste Burned for Energy Recovery.

a. Applicability.

(1) These regulations apply to hazardous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under 206.C.10. or 206.D.8. except as provided by 206.E.2.(b). Such hazardous wastes burned for energy recovery are termed "hazardous waste fuel." However, hazardous waste fuels produced from hazardous waste by blending or other treatment by a person who neither generated the waste nor burns the fuel are not subject to regulation at the present time.

(2) The following hazardous wastes are not regulated in 206.E.2.:

(a) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in 201.B. Such used oil is subject to regulation under 206.E.3.;

(b) Hazardous wastes that are exempt from regulation under the provisions of 201.A.4. and hazardous wastes that are subject to the special requirements for small quantity generators under the provisions of 201.A.5;

b. Standards applicable to generators of hazardous waste fuel.

(1) Generators of hazardous waste fuel are subject to the requirements of 203.A., 204.A., B., F., and H, except that 206.E.2.f. exempts certain spent materials and by-products from these provisions;

(2) [Reserved]; and

(3) Generators who are burners also must comply with 206.E.2.e.

c. Standards applicable to transporters of hazardous waste fuel.

(1) Transporters of hazardous waste fuel from generator to marketer, or from a generator to a burner are subject to the requirements of 203.B. and 205.F. except that 206.E.2.f. exempts certain spent materials and by-products from these provisions.

(2) Transporters of hazardous waste fuel are not presently subject to regulation when they transport hazardous wastes fuel from marketers who are not also the generators of the waste, to burners or other marketers

d. [Reserved]

e. Standards applicable to burners of hazardous waste fuel.

(1) Burners that store hazardous waste fuel prior to burning are subject to the requirements of 204.B. or to all applicable requirements in 203.C., 206.A., 206.B., 206.C.1., 2., 3., 4., 5., 6., 7. or 206.D.1., 2., 3., 4., 5., 6., 7. with respect to such storage, except as provided by 206.E.2.f. for certain spent materials and by-products.

f. Conditional exemption for spent materials and by-products exhibiting a characteristic of hazardous waste

(1) Except as provided by 206.E.2.f.(2), hazardous waste fuels that are spent materials and by-products and that are hazardous only because they exhibit a characteristic of hazardous waste are not subject to the notification requirements of 202 (Section 3010 of RCRA), the generator, transporter, or storage requirements of 203 through 206, 301, 302, and 40 CFR Part 124.

(2) This exemption does not apply when the spent material or by-product is stored in a surface impoundment prior to burning.

3. Recyclable Materials Utilized for Precious Metal Recovery.

a. Applicability and requirements.

(1) The regulations of 206.E.3. apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, paladium, irridium, osmium, rhodium, ruthenium, or any combination of these.

(2) Persons who generate, transport or store recyclable materials that are regulated under 206.E.3. are subject to the following requirements:

(a) Notification requirements under 202; and

(b) 203.A.1. (for generators), 203.B.1. (for transporters), and 203.C.1. (for persons who store).

(3) Persons who store recycled materials that are regulated in 206.E.3. must keep the following records to document that they are not accumulating these materials speculatively (as defined in 201.A.1.):

(a) Records showing the volume of these materials stored at the beginning of the calendar year;

(b) The amount of these materials generated or received during the calendar year; and

(c) The amount of materials remaining at the end of the calendar year

(4) Recyclable materials that are regulated under 206.E.3. that are accumulated speculatively (as defined in 201.A.1.) are subject to all applicable provisions of 203, 204, 205, 206, 301 and 302 and 40 CFR Part 124.

4. Spent Lead-Acid Batteries Being Reclaimed.

a. Applicability and requirements

(1) The regulations of 206.E.4. apply to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries"). Persons who generate, transport, or collect spent batteries, or who store spent batteries but do not reclaim them are not subject to regulation under 202, 203, 204, 205, 206, 301 and 302, or 40 CFR Part 124.

(2) Owners or operators of facilities that store spent batteries before reclaiming them are subject to the following requirements:

(a) Notification requirements of 202;

(b) All applicable provisions in 206.A. and 206.B. (but not 203.B.3. (waste analysis)), 203.C. (but not 203.C.1. (dealing with the use of the manifest and manifest discrepancies)), 206.C.1., 2., 3., 4., 5., 6., and 7., and 206.D.1., 2., 3., 4., 5., 6., and 7.; and

(c) All applicable provisions of 301 and 302 and 40CFR Part 124

APPENDIX I - RECORDKEEPING INSTRUCTIONS
[See 206.C. Appendix I]

APPENDIX II[64] - COCHRAN'S APPROXIMATION TO THE BEHRENS-FISHER STUDENTS' T-TEST

Using all the available background data (n_b readings), calculate the background mean (X_B) and background variance (s_B^2). For the single monitoring well under investigation (n_m reading), calculate the monitoring mean (X_m) and monitoring variance (s_m^2).

For any set of data ($X_1, X_2 \ldots X_n$) the mean is calculated by:

$$\bar{X} = \frac{X_1 + X_2 \ldots + X_n}{n}$$

and the variance is calculated by:

$$S^2 = \frac{(X_1 - \bar{X})^2 + (X_2 - \bar{X})^2 \ldots + (X_n - \bar{X})^2}{n-1}$$

where "n" denotes the number of observations in the set of data.

The t-test uses these data summary measures to calculate a t-statistic (t^*) and a comparison t-statistic (t_c). The t^* value is compared to the t_c value and a conclusion reached as to whether there has been a statistically significant change in any indicator parameter.

The t-statistic for all parameters except pH and similar monitoring parameters is:

$$t^* = \frac{X_m - \bar{X}_B}{\frac{s_m^2}{n_m} + \frac{s_B^2}{n_B}}$$

If the value of this t-statistic is negative then there is no significant difference between the monitoring data and background data. It should be noted that significantly small negative values may be indicative of a failure of the assumption made for test validity or errors have been made in collecting the background data.

The t-statistic (t_c), against which t^* will be compared, necessitates finding t_B and t_m from standard (one-tailed) tables where,

t_B = t-tables with (n_B - 1) degrees of freedom, at the 0.05 level of significance

t_m = t-tables with (n_m - 1) degrees of freedom, at the 0.05 level of significance.

Finally, the special weightings W_B and W_m are defined as:

$$W_B = \frac{s_B^2}{n_B} \quad \text{and} \quad W_m = \frac{s_m^2}{n_m}$$

and so the comparison t-statistic is:

$$t_c = \frac{W_B t_B + W_m t_m}{W_B + W_m}$$

The t-statistic (t^*) is now compared with the comparison t-statistic (t_c) using the following decision-rule.

If t^* is equal to or larger than t_c, then conclude that there most likely has been a significant increase in this specific parameter.

If t^* is less than t_c, then conclude that most likely there has not been a change in this specific parameter.

The t-statistic for testing pH and similar monitoring parameters is constructed in the same manner as previously described except the negative sign (if any) is discarded and the caveat concerning the negative value is ignored. The standard (two-tailed) tables are used in the construction t_c for pH and similar monitoring parameters.

If t^* is equal to or larger than t_c, then conclude that there most likely has been a significant increase (if the initial t^* had been negative, this would imply a significant decrease). If t^* is less than t_c, then conclude that there most likely has been no change.

A further discussion of the test may be found in Statistical Methods (6th Edition, Section 4.14) by G.W. Snedecor and W.G. Cochran, or Principles and Procedures of Statistics (1st Edition, Section 5.8) by R.G.D. Steel and J.H. Torrie.

STANDARD T-TABLES
0.05 LEVEL OF SIGNIFICANCE

Degrees of Freedom	t-Value (one-tail)	t-values (two-tail)
1	6.314	12.706
2	2.920	4.303
3	2.353	3.182
4	2.132	2.776
5	2.015	2.571
6	1.943	2.447
7	1.895	2.365
8	1.860	2.306
9	1.833	2.262
10	1.812	2.228
11	1.796	2.201
12	1.782	2.179
13	1.771	2.160
14	1.761	2.145
15	1.753	2.131
16	1.746	2.120
17	1.740	2.110
18	1.734	2.101
19	1.729	2.093
20	1.725	2.086
21	1.721	2.080
22	1.717	2.074
23	1.714	2.069
24	1.711	2.064
25	1.708	2.060
30	1.697	2.042
40	1.684	2.021

Adopted from Table III of "Statistical Tables for Biological, Agricultural, and Medical Research" (1947, R.A. Fisher and F. Yates).

207. Endnotes - Part II

Portions of Part II, as noted in the text, have been taken from 40 C.F.R. (1982), as amended, with certain editorial stylistic, or other non-substantive changes as indicated below:

1. 40 C.F.R. §§261.2-261.7 (1982), as amended at 47 Fed. Reg. 36097 (1982) (to be codified at 40 C.F.R. § 261.7); 48 Fed. Reg. 2532 (1983) (to be codified at 40 C.F.R. § 261.6); 49 Fed. Reg. 23287 (1984) (to be codified at 40 C.F.R. § 261.3) ; as amended at 49 Fed. Reg. 44980 (1984) (to be codified at 40 C.F.R. § 261.4, 50 Fed. Reg. 663, 664, 665, 14219, (1985) (to be codified at 40 C.F.R. §§ 261.1, 261.2, 261.3, 261.4, 261.6); 50 Fed. Reg. 1999 (1985) (to be codified at 40 C.F.R. § 261.7), as amended at 50 Fed. Reg. 1999 (1985)(to be codified at 40 CFR § 261.5), 50 Fed. Reg. 665 (1985)(to be codified at 40 C.F.R. § 261.5) ; 50 Fed. Reg. 33542 (1985) (to be codified at 40 CFR 261.2).

2. 40 C.F.R. §§ 261.20-261.24 (1982).

3. 40 C.F.R. §§ 261.30-261.33 (1982), as amended at 49 Fed. Reg. 5312 (1984), (to be codified at 40 C.F.R. § 261.31); 49 Fed. Reg. 19923 (1984) (to be codified at 40 C.F.R. § 261.33(e)); 49 Fed. Reg. 19923 (1984) (to be codified at 40 C.F.R. § 261.33(f)); 49 Fed. Reg. 37070 (1984) (to be codified at 40 C.F.R. § 261.31; 49 Fed. Reg. 37070 (1984) (to be codified at 40 C.F.R. § 261.32; 49 Fed. Reg. 37070 (1984) (to be codified at 40 C.F.R. § 261.33) 50 Fed. Reg. 2000 (1985) to be codified at 40 CFR § 261.30; 50 Fed. Reg. 665 (1985) to be codified at 40 CFR § 261.31; 50 Fed. Reg. 2000 (1985) to be codified at 40 CFR § 261.31. As amended at 50 Fed. Reg. 665 (1985)(to be codified at 40 C.F.R. § 261.33), 50 Fed. Reg. 2000 (1985)(to be codified at 261.33).

4. 40 C.F.R. Part 261, Appendix I (1982).

5. 40 C.F.R. Part 261, Appendix II (1982).

6. 40 C.F.R. Part 261, Appendix VIII (1982), as amended at 49 Fed. Reg. 5312 (1984) (to be codified at 40 C.F.R. Part 261, Appendix VIII), 50 Fed. Reg. 2000 (1985)(to be codified at 40 C.F.R. Part 261, Appendix VIII).

7. 40 C.F.R. Part 261, Appendix VII (1982), as amended at 49 Fed. Reg. 5312 (1984) (to be codified at 40 C.F.R. Part 261, Appendix VIII), as amended 50 Fed. Reg. (1985)(to be codified at 40 C.F.R. Part 261, Appendix VII).

8. 40 C.F.R. §§ 262.20-262.23 (1982), as amended at 49 Fed. Reg. 10500 (1984) (to be codified at 40 C.F.R. §§ 262.20 and 262.21), 40 C.F.R. § 262.50 (1982), as amended at 48 Fed. Reg. 13027 (1983) (to be codified at 40 C.F.R. § 262.50); 49 Fed. Reg. 10500 (1984) (to be codified at 40 C.F.R. § 262.50).

9. 40 C.F.R. § 262.40 (1982), as amended at 48 Fed. Reg. 3981 (1983) (to be codified at 40 C.F.R. § 262.40)

10. 40 C.F.R. §§ 262.41-262.43 (1982), as amended at 48 Fed. Reg. 3981 (1983) (to be codified at 40 C.F.R. § 262.41)

11. 40 C.F.R. §§ 263.20-263.21 (1982).

12. 40 C.F.R. §§ 263.22 (1982).

13. 40 C.F.R. §§ 264.70-.72 (1982), 40 C.F.R. §§ 265.70-.72 (1982).

14. 40 C.F.R. §§ 264.73-.74 (1982), as amended at 47 Fed. Reg. 32350 (1982) (to be codified at § 264.73), 40 C.F.R. §§ 265.73-.74 (1982), 50 Fed. Reg. 18374 (1985)(to be codified at 40 CFR § 264.73).

15. 40 C.F.R. §§ 264.75-.77 (1982), as amended at 47 Fed. Reg. 32350 (1982) (to be codified at § 264.77), 47 Fed. Reg. 3982 (1983) (to be codified at § 264.75 - .77), 40 C.F.R. §§ 265.75-.77 (1982), as amended at 47 Fed. Reg. 3982 (1983) (to be codified at § 265.75 - .77).

16. 40 C.F.R. §§ 262.10-.12 (1982).

17. 40 C.F.R. § 262.34 (1982), as amended at 49 Fed. Reg. 49571 (1984) (to be codified at 40 CFR § 262.34).

18. 40 C.F.R. §§ 262.30-.33 (1982).

19. 40 C.F.R. § 262.51 (1982).

20. 40 C.F.R. § 263.10 (1982).

21. 40 C.F.R. § 262.11 (1982).

22. 40 C.F.R. § 263.12 (1982).

23. 40 C.F.R. §§ 263.30-.31 (1982).

24. 40 C.F.R. § 264.1 (1982), as amended at 48 Fed. Reg. 2511 (1983) (to be codified at § 264.1).

25. 40 C.F.R. § 265.1 (1982), as amended at 48 Fed. Reg. 2511 (1983) (to be codified at § 265.1), 48 Fed. Reg. 52721 (1983) (to be codified at § 265.1), 49 Fed. Reg. 46095 (1984) (to be codified at 40 CFR §265.1)] 40 C.F.R. § 265.10 (1982), [50 Fed. Reg. 2005 (1985)(to be codified at 40 CFR § 265.1); 50 Fed. Reg. 666 (1985)(to be codified at 40 CFR § 265.1).

26. 40 C.F.R. § 264.1 (1982), as amended at 48 Fed. Reg. 2511 (1983) (to be codified at § 264.1), 40 C.F.R. § 264.3 (1982), 40 C.F.R. § 264.10 (1982), as amended at 47 Fed. Reg. 32349 (1982) (to be codified at § 264.10.b.).

27. 40 C.F.R. § 264.1 (1982), as amended at 48 Fed. Reg. 2511 (1983) (to be codified at § 264.1), 40 C.F.R. § 265.1 (1982), as amended at 48 Fed. Reg. 2511 (1983) (to be codified at § 265.1).

28. 40 C.F.R. § 264.11 (1982), 40 C.F.R. § 265.11 (1982).

29. 40 C.F.R. § 264.12 (1982), 40 C.F.R. § 265.12 (1982).

30. 40 C.F.R. § 264.13 (1982), as amended 50 Fed. Reg. 18374 (1985)(to be codified at 40 C.F.R. § 264.13(1985)], 40 C.F.R. § 265.13 (1982), [as amended 50 Fed. Reg. 18374 (1985)(to be codified at 40 C.F.R. § 265.13(1985)

31. 40 C.F.R. § 264.14 (1982), 40 C.F.R. § 265.14 (1982).

32. 40 C.F.R. § 264.15 (1982), as amended at 47 Fed. Reg. 32350 (1982) (to be codified at § 264.15 b.4.), 40 C.F.R. § 265.15 (1982).

33. 40 C.F.R. § 264.16 (1982), 40 C.F.R. § 265.16 (1982).

34. 40 C.F.R. § 264.17 (1982), 40 C.F.R. § 265.17 (1982).

35. 40 C.F.R. § 264.18 (1982), as amended at 47 Fed. Reg. 32350 (1982) (to be codified at 40 C.F.R. § 264.18), 40 C.F.R. Part 264-Appendix VI (1982).

36. 40 C.F.R. §§ 264.30-.37 (1982), 40 C.F.R. §§ 265.30-.37 (1982).

37. 40 C.F.R. §§ 264.50-.56 (1982), 40 C.F.R. §§ 265.50-.56 (1982)

38. 40 C.F.R. §§ 265.90-.94 (1982), as amended at 48 Fed. Reg. 3982 (1983) (to be codified at 40 C.F.R. § 265.94).

39. 40 C.F.R. §§ 265.110-.120 (1982).

40. 40 C.F.R. §§ 265.140-.148 (1982).

41. 40 C.F.R. §§ 265.170-.177 (1982).

42. 40 C.F.R. §§ 265.190-.199 (1982).

43. 40 C.F.R. §§ 265.220-.230 (1982).

44. 40 C.F.R. §§ 265.250-.257 (1982), as amended at 47 Fed. Reg. 32367 (1982) (to be codified at 40 C.F.R. § 265.53), as amended at 47 Fed. Reg. 32368 (1982) (to be codified at 40 C.F.R. § 265.58).

45. 40 C.F.R. §§ 265.270-.282 (1982), as amended at 47 Fed. Reg. 32368 (1982) (to be codified at 40 C.F.R. §§ 265.272, 265.276, 265.279, 265.280 & 265.281).

46. 40 C.F.R. §§ 265.300-.315 (1982), as amended at 47 Fed. Reg. 32368 (1982) (to be codified at 40 C.F.R. §§ 265.302, 265.312, 265.314); 50 Fed. Reg. 16048 (1985)(to be codified at 40 C.F.R. §§265.310 and 265.315); 50 Fed. Reg. 18374 (1985)(to be codified at 40 CFR § 265.314).

47. 40 C.F.R. §§ 265.340-.351 (1982), 40 C.F.R. § 265.352, 50 Fed. Reg. 2005 (1985)(to be codified at 40 C.F.R. § 265.352).

48. 40 C.F.R. §§ 265.370-.382 (1982), 50 Fed. Reg. 666 (1985)(to be codified at 40 CFR § 265.370); 40 C.F.R. § 265.383 (1985); 50 Fed. Reg. 2005 (1985)(to be codified at 40 C.F.R. § 265.383).

49. 40 C.F.R. §§ 265.400-.406 (1982).

50. 40 C.F.R. Part 265 - Appendix I (1982)

51. 40 C.F.R. Part 265 - Appendix III (1982).

52. 40 C.F.R. Part 265 - Appendix IV (1982).

53. 40 C.F.R. Part 265 - Appendix V (1982)

54. 47 Fed. Reg. 32350 (1982) (to be codified at 40 C.F.R. §§ 264.90 - .100).

55. 40 C.F.R. §§ 264.110-.120 (1982), as amended at 47 Fed. Reg. 32356 (1982) (to be codified at 40 C.F.R. §§ 264.110, 264.112, 264.113, 264.117, 264.118).

56. 40 C.F.R. §§ 264.140-.151 (1982), as amended at 47 Fed. Reg. 32357 (1982) (to be codified at 40 C.F.R. §§ 264.140, 264.142, 264.144, 264.145, 264.147).

57. 40 C.F.R. §§ 264.170-.178 (1982), 50 Fed. Reg. 2003 (1985)(to be codified at 40 CFR § 264.175).

58. 40 C.F.R. §§ 264.190-.199 (1982), 50 Fed. Reg. 2003, 4(1985)(to be codified at 40 C.F.R. § 264.194. 40 C.F.R. § 264.200 (1985) 50 Fed. Reg. 2004 (1985)(to be codified at 40 C.F.R. § 264.200).

59. 40 C.F.R. §§ 264.220-.230 (1982), as amended at 47 Fed. Reg. 32357 (1982) (to be codified at 40 C.F.R. §§ 264.220 - .230), 40 C.F.R.§ 264.231 (1985), 50 Fed. Reg. 2004 (1985)(to be codified at 40 C.F.R. § 264.31.

60. 40 C.F.R. §§ 264.250-.258 (1982), as amended at 47 Fed. Reg. 32359 (1982) (to be codified at 40 C.F.R. §§ 264.250 - .258), 40 C.F.R. § ,264.259 50 Fed. Reg. 2004 (1985)(to be codified at 40 CFR § 264.259.

61. 40 C.F.R. §§ 264.340-.351 (1982), 50 Fed. Reg. 2005 (1985)(to be codified at 40 CFR § 264.343).

62. 47 Fed. Reg. 32361 (1982) (to be codified at 40 C.F.R. §§ 264.270 - .282), 50 Fed. Reg. 2005 (1985)(to be codified at 40 C.F.R. § 264.383).

63. 47 Fed. Reg. 32365 (1982) (to be codified at 40 C.F.R. §§ 264.300 - .316), 50 Fed. Reg. 18374 (1985)(to be codified at 40 C.F.R. § 265.314), 40 C.F.R. § 264.317 (1985) 50 Fed. Reg. 2004 (1985)(to be codified at 40 C.F.R. § 264.317).

64. 47 Fed. Reg. 32367 (1982) (to be codified at 40 C.F.R. Part 264 Appendix IV).

65. 40 C.F.R. Part 266 (1985) 50 Fed. Reg. 666 (1985)(to be codified at 40 C.F.R. §§ 266.1 to 266.30).

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PART III. HAZARDOUS WASTE PERMIT PROGRAM.

301 Scope of the Hazardous Waste Permit Requirements.[1]

A. General.

The New Mexico Hazardous Waste Act requires a permit for the "treatment", "storage", or "disposal" of any "hazardous waste" as identified or listed under § 74-4-4 NMSA 1978. The terms "treatment", "storage", "disposal", and "hazardous waste" are defined in 102. of these regulations. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and, for any unit which closes after January 26, 1983, during any post-closure care period required under 206.D.2.g., and during any compliance period specified under 206.D.1.g., including any extension of that compliance period under 206.D.1.g.(3).

B. Specific Inclusions.

Owners and operators of certain facilities require hazardous waste permits as well as permits under other programs for certain aspects of the facility operation. Hazardous waste permits are required for:

1. Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store, or dispose of hazardous waste. However, the owner and operator with a UIC permit issued by an approved or promulgated UIC program, will be deemed to have a hazardous waste permit for the injection well itself, if they comply with the requirements of 302.D.1. (permit by rule for injection wells); and

2. Treatment, storage, or disposal of hazardous waste at facilities requiring a NPDES permit. However, the owner and operator of a publicly owned treatment works will be deemed to have a hazardous waste permit for that waste if they comply with the requirements of 302.D.2. (permit by rule for POTW's).

C. Specific Exclusions.

The following persons are among those who are not required to obtain a hazardous waste permit:

1. Generators who accumulate hazardous waste on-site for less than 90 days as provided in 204.B.;

2. Farmers who dispose of hazardous waste pesticides from their own use as provided in 204.H.;

3. Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under 301. and 302. by 201.A.4.and 201.A.5.(small generator exemption);

4. Owners or operators of totally enclosed treatment facilities as defined in 102.;

5. Owners and operators of elementary neutralization units or wastewater treatment units as defined in 102.;

6. Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 204.F.1. at a transfer facility for a period of ten days or less;

7. A person engaged in treatment or containment activities taken during immediate response to any of the following situations:

a. A discharge of a hazardous waste;

b. An imminent and substantial threat of a discharge of hazardous waste;

c. A discharge of a material which, when discharged, becomes a hazardous waste; except that

d. Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of 301 through 303 for those activities.

8. Persons adding absorbent material to waste in a container (as defined in Part I, 102) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and 206.B.7.b., 206.D.4.b. and 206.D.4.c. are complied with.

D. Permits for less than an entire facility.

The Division may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

302. Program Requirements.

A. Application For a Permit.

1. Permit application.[2]

a. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director as described herein and in 302 C. Persons currently authorized with interim status under 302 C shall apply for permits when required by the Director. Persons covered by the permits by rule (see 302 D.) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in 302 E.

b. Existing HMW facilities.

(1) Existing facilities which first become required to comply with the standards and requirements of 206.B. and 206.C. due to amendments to 102., 201., or 206.B. and 206.C. must file a Notification of Hazardous Waste Activity as specified in 202.D. and request a permit application.

(2) Existing HWM facilities with interim status must submit Part B of the permit application as requested by the Director.

(a) Any owner or operator shall be allowed at least six months from the date of the request to submit Part B of the application.

(b) Any owner or operator of an existing HWM facility with interim status may voluntarily submit Part B of the application at any time.

(c) Failure to submit a requested Part B application on time, or to furnish in full the information required by the Part B application is grounds for termination of interim status.

c. New HWM facilities.

(1) No person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and received a finally effective hazardous waste permit.

(2) An application for a permit for a new HWM facility (including both Part A and Part B) may be filed any time after the effective date of the standards and requirements of 206.B. and 206.D. applicable to such facility, or after any applicable revisions to 206.B. and 206.D. become effective.

2. Who applies?[3]

When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application.

3. Completeness.[4]

The Director shall not issue a permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

4. Information requirements.

All applicants for permits shall provide the following information to the Director using the form provided by the Director:

a. Contents of Part A:[5]

(1) The activities conducted by the applicant which require it to obtain a permit under the New Mexico Hazardous Waste Act;

(2) Name, mailing address, and location of the facility for which the application is submitted;

(3) Up to four SIC codes which best reflect the principal products or services provided by the facility;

(4) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity;

(5) Whether the facility is located on Indian lands;

(6) A listing of all permits or construction approvals received or applied for under any of the following programs:

(a) Hazardous Waste Management Program under the New Mexico Hazardous Waste Act;

(b) UIC program under SDWA, as amended, (42 U S C. 3001 et seq.);

(c) NPDES program under CWA, as amended, (33 U S C. 1251 et seq.);

(d) Prevention of Significant Deterioration under the Clean Air Act, as amended (42 U S C. 7401 et seq.);

(e) Non-attainment program under the Clean Air Act, as amended (42 U.S.C. 7401 et seq.);

(f) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act, as amended (42 U S C. 7401 et seq.); and

(g) Other relevant environmental permits;

(7) A topographic map (or other map if a topographical map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary;

(8) A brief description of the nature of the business;

(9) The latitude and longitude of the facility;

(10) The name, address, and telephone number of the owner or the facility;

(11) An indication of whether the facility is new or existing and whether it is a first or revised application;

(12) For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage and disposal areas;

(13) For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;

(14) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items; and

(15) A specification of the hazardous waste listed or designated under 201 to be treated, stored, or disposed at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for such wastes.

b. Contents of Part B.[6]

Part B information requirements presented below reflect the standards described in 206.B. and 206 D. These information requirements are necessary in order for the EID to determine compliance with the standards of 206.B. and 206 D. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Director may make allowance for submission of such information on a case by case basis. Information required in Part B shall be submitted to the Director and signed in accordance with requirements in 302 B. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. Part B of the permit application includes the following:

(1) General information requirements.[7]

The following information is required for all facilities except as 206.A provides otherwise.

(a) A general description of the facility;

(b) Chemical and physical analyses of the hazardous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes in accordance with 206.B. and D.;

(c) A copy of the waste analysis plan required by 206.B.3.b. and, if applicable, 206.B.3.c.;

(d) A description of the security procedures and equipment required by 206.B.4., or a justification demonstrating the reasons for requesting a waiver of this requirement;

(e) A copy of the general inspection schedule required by 206.B.5.b. Include, where applicable, as part of the inspection schedule, specific requirements in 206.D.4.e., 206.D.5.d., 206.D.6.d., 206.D.7.e., 206.D.9.d., and 206.D.10.d.

(f) A justification of any request for a waiver(s) of the preparedness and prevention requirements of 206.B.9.;

(g) A copy of the contingency plan required by 206.B.10. Note: include where applicable, as part of the contingency plan, specific requirements in 206.D.6.e., 206.D.7.i. and 206.D.5.h.(1);

(h) A description of the procedures, structures, or equipment used at the facility to:

(i) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(ii) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(iii) Prevent contamination of water supplies;

(iv) Mitigate effects of equipment failure and power outages; and

(v) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing);

(i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with 206.B.7., including documentation demonstrating compliance with 206.B.7.c.;

(j) Traffic pattern, estimated volume (number, type of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals;

(k) Facility location information:

(i) In order to determine the applicability of the seismic standard (206.B.8.a.) the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located. If the county or election district is not listed in 206.B.8., no further information is required to demonstrate compliance with 206.B.8.a.;

(ii) If the facility is proposed to be located in an area listed in 206.B.8., the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

A. No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

1. Published geologic studies;

2. Aerial reconnaissance of the area within a five-mile radius from the facility;

3. An analysis of aerial photographs covering a 3,000 foot radius of the facility; and

4. If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility; or

B. If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility, data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document, with supporting maps and other analyses, the location of any faults found.

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where a FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

(iv) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

A. Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;

B. Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout; and

C. If applicable, and in lieu of A and B above, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

1. Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;

2. A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under 206.B. and 206.D. and 301. through 303.;

3. The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and

4. The potential for accidental discharges of the waste during movement.

(v) Existing facilities NOT in compliance with 206.B.8.b. shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(l) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with 206.B.6. A brief description of how training will be designed to meet actual job tasks in accordance with the requirements in 206.B.6.a.(3);

(m) A copy of the closure plan and, where applicable, the post-closure plan required by

206 D 2 c. and h.. Include where applicable, as part of the plans, specific requirements in 206.D.4.i ,5.e., 6.f ,7.h , 8.h , 9 h , and 10.f ;

(n) For existing facilities, documentation that a notice has been placed in the deed or appropriate alternate instrument as required by 206 D 2.j.,

(o) The most recent closure cost estimate for the facility prepared in accordance with 206 D 3 c. plus a copy of the financial assurance mechanism adopted in compliance with 206 D 3.d ;

(p) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with 206 D 3 e plus a copy of the financial assurance mechanism adopted in compliance with 206 D 3.f ;

(q) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of 206 D.3 h. For a new facility, documentation showing the amount of insurance meeting the specifications of 206.D.3.h (1) and, if applicable, 206 D.3 h.(2) that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in 206.D.3.h (4); and

(r) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61 0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities The map shall clearly show the following:

(i) Map scale and date;

(ii) 100-year floodplain area;

(iii) Surface waters including intermittant streams;

(iv) Surrounding land uses (residential, commercial, agricultural, recreational);

(v) A wind rose (i.e., prevailing windspeed and direction);

(vi) Orientation of the map (north arrow);

(vii) Legal boundaries of the HWM facility site,

(viii) Access control (fences, gates);

(ix) Injection and withdrawal wells both on-site and off-site;

(x) Buildings; treatment, storage, or disposal operations; or other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(xi) Barriers for drainage or flood control; and

(xii) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

NOTE: For large HWM facilities, the Division will allow the use of other scales on a case by case basis.

(2) Specific information requirements. The following additional information is required from owners or operators of specific types of HWM facilities that are used or are to be used for storage, treatment or disposal of hazardous waste:

(a) For facilities that store containers of hazardous waste, except as otherwise provided in 206 D 4 a.: [8]

(i) A description of the containment system to demonstrate compliance with 206.D.4.f. Show at least the following:

A. Basic design parameters, dimensions, and materials of construction;

B. How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

C. Capacity of the containment system relative to the number and volume of containers to be stored;

D. Provisions for preventing or managing run-on; and

E. How accumulated liquids can be analyzed and removed to prevent overflow;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with 206.D.4.f.(3) including:

A. Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

B. A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) Sketches, drawings, or data demonstrating compliance with 206.D.4.g. (location of buffer zone and containers holding ignitable or reactive wastes) and 206.D.4.h.(3) (location of incompatible wastes), where applicable; and

(iv) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 206.D.4.h.(1) and (2), and 206.B.7.b. and c.

(b) For facilities that use tanks to store or treat hazardous waste, except as otherwise provided in 206.D.5.a., a description of design and operation procedures which demonstrate compliance with the requirements of 206.D.5.b., c., f., and g. including: [9]

(i) References to design standards or other available information used (or to be used) in design and construction of the tank;

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);

(iii) Tank dimensions, capacity, and shell thickness;

(iv) A diagram of piping, instrumentation, and process flow;

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents); and

(vi) Description of procedures for handling incompatible, ignitable, or reactive wastes, including the use of buffer zones.

(vii) Where applicable a description of the containment and detection systems to demonstrate compliance with 206.D.5.h.(1) must include at least the following:

(A) Drawings and a description of the basic design parameters, dimensions and materials of construction of the containment system; and

(B) Capacity of the containment system relative to the design capacity of the tank(s) within the system;

(C) Description of the system to detect leaks and spills, and how precipitation and run-on will be prevented from entering into the detection system.

(c) For facilities that store, treat or dispose of hazardous waste in surface impoundments, except as otherwise provided in 206.A.; [10]

(i) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of 206.D.6.b. This submission must adddress the following items as specified in 206.D.6.b:

A. The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by 206.D.6.b.(2), submit detailed plans and engineering and hydrogeologic reports as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

B. Prevention of overtopping; and

C. Structural integrity of dikes;

(iii) If an exemption from 206.D.1. is sought, as provided by 206.D.1.c.(1), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of 206.D.6.d.(1) and (2). This information should be included in the inspection plan submitted under 302.A.4.b.(1)(e);

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under 206.D.6.d.(3). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under 206.D.6.e.(2) and (3). This information should be included in the contingency plan submitted under 302.A.4.b.(1)(g);

(vii) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under 206.D.f.(1)(a). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how 206.D.6.f.(1)(b) and (2) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under 302.A.4.b.(1)(m);

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how 206.D.6.g. will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how 206.D.6.h. will be complied with.

(x) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026 and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of 206.D.6.i. This submission must address the following items as specified in 206.D.6.i.:

(A) The volume, physical and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(B) The attenuative properties of underlying and surrounding soils or other materials;

(C) The mobilizing properties of other materials co-disposed with these wastes; and

(D) The effectiveness of additional treatment, design or monitoring techniques.

(d) For facilities that store or treat hazardous waste in waste piles, except as otherwise provided in 206.A.:[11]

(i) A list of hazardous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to 206.D.7.b. and 206.D.1. as provided by 206.D.7.a.(3) an explanation of how the standards of 206.D.7.a.(3) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated and maintained to meet the requirements of 206.D.7.b. This submission must address the following items as specified in 206.D.7.b.

A. The liner system (except for an existing portion of a pile). If an exemption from the requirement for a liner is sought, as provided by 206.D.7.b.(2), the owner or operator must submit detailed plans and engineering and hydrogeologic reports as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

B. Control of run-on;

C. Control of run-off;

D. Management of collection and holding units associated with run-on and run-off control systems; and

E. Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from 206.D.1. is sought as provided by 206.D.7.c. or 206.D.7.d. submit detailed plans and an engineering report describing how the requirements of 206.D.7.c.(1) or 206.D.7.d.(1) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 206.D.7.e.(1) and (2). This information should be included in the inspection plan submitted under 302.A.4.b.(1)(e). If an exemption is sought to 206.D.1. pursuant to 206.D.7.d., describe in the inspection plan how the inspection requirements of 206.D.7.d.(1)(c) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of 206.D.7.f. will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how 206.D.7.g. will be complied with;

(ix) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under 206.D.7.h.(1). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how 206.D.10.f.(1) and (2) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under 302.A.4.b.(1)(m).

(x) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a waste pile that is not enclosed (as defined in 206.D.7.a.(3)) is or will be designed, constructed, operated, and maintained to meet the requirements of 206.D.7.i. This submission must address the following items as specified in 206.D.7.i.:

(A) The volume, physical and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(B) The attentuative properties of underlying and surrounding soil or other materials;

(C) The mobilizing properties of other materials co-disposed with these wastes; and

(D) The effectiveness of additional treatment, design or monitoring techniques.

(e) For facilities that incinerate hazardous waste, except as 206.D.8.a. provides otherwise, the applicant must fulfill the requirements of 302.A.4.b.(2)(e)(i), (ii), and (iii) below.[12]

(i) When seeking exemption under 206.D.8.a.(2) or (3) (Ignitable, corrosive, or reactive wastes only):

A. Documentation that the waste is listed as a hazardous waste in 201.C. solely because it is ignitable [Hazard Code I], corrosive [Hazard Code C], or both; or

B. Documentation that the waste is listed as a hazardous waste in 201.C. solely because it is reactive [Hazard Code R] for characteristics other than those listed in 201.B.4.a.(4) and (5),and will not be burned when other hazardous wastes are present in the combustion zone; or

C. Documentation that the waste is a hazardous waste solely because it possesses the characteristics of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under 201.B.; or

D. Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 201.B.4.a.(1), (2), (3), (6), (7), or (8), and it will not be burned when other hazardous wastes are present in the combustion zone; or

(ii) Submit a trial burn plan or the results of a trial burn including all the required determinations in accordance with 302.E.2.; or

(iii) In lieu of a trial burn, the applicant may submit the following information:

A. An analysis of each waste or mixture of wastes to be burned including:

1. Heat value of the waste in the form and composition in which it will be burned;

2. Viscosity (if applicable), or description of physical form of the waste;

3. An identification of any hazardous organic constituents listed in 201, Appendix III, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in 201, Appendix III, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/ Chemical Methods" (incorporated by reference, see 104.E.), or their equivalent;

4. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see 104.E.); and

5. A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in 206.D.8.d.

B. A detailed engineering description of the incinerator, including:

1. Manufacturer's name and model number of incinerator;

2. Type of incinerator;

3. Linear dimension of incinerator unit including cross sectional area of combustion chamber;

4. Description of auxiliary fuel system (type/feed);

5. Capacity of prime mover;

6. Description of automatic waste feed cutoff system(s);

7. Stack gas monitoring and pollution control monitoring system;

8. Nozzle and burner design;

9. Construction materials; and

10. Location and description of temperature, pressure, and flow indicating devices and control devices.

C. A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in 302.A.4.b.(2)(e)(iii)A. This analysis should specify the POHC's which the applicant has identified in the waste for which a permit is sought, and any differences from the POHC's in the waste for which burn data are provided.

D. The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available.

E. A description of the results submitted from any previously conducted trial burn(s) including:

1. Sampling and analysis techniques used to calculate performance standards in 206.D.8.d.;

2. Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

3. Identification of any hazardous combustion by-products detected; and

4. The certification and results required by 302.E.2.b.(7).

F. The expected incinerator operation information to demonstrate compliance with 206.D.8.d. and 206.D.8.f. including:

1. Expected carbon monoxide (CO) level in the stack exhaust gas;

2. Waste feed rate;

3. Combustion zone temperature;

4. Indication of combustion gas velocity;

5. Expected stack gas volume, flow rate, and temperature;

6. Computed residence time for waste in the combustion zone;

7. Expected hydrochloric acid removal efficiency;

8. Expected fugitive emissions and their control procedures; and

9. Proposed waste feed cut-off limits based on the identified significant operating parameters.

G. Such supplemental information as the Director finds necessary to achieve the purposes of these regulations.

H. Waste analysis data, including that submitted in 302.A.4.b.(2)(e)(iii)A., sufficient to allow the Director to specify as permit Principal Organic Hazardous Constituents (permit POHC's) those constituents for which destruction and removal efficiencies will be required.

(iv) The Director shall approve a permit application without a trial burn if he finds that:

A. The wastes are sufficiently similar; and

B. The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under 206.D.8.f.) operating conditions that will ensure that the performance standards in 206.D.8.d. will be met by the incinerator.

(f) For facilities that use land treatment to dispose of hazardous waste, except as otherwise provided in 206.A.[illegible]

(i) A description of plans to conduct a treatment demonstration as required under 206.D.9.c. The description must include the following information:

A. The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;

B. The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

C. Any specific laboratory or field test that will be conducted, including:

1. the type of test (e.g., column leaching, degradation);

2. materials and methods, including analytical procedures;

3. expected time for completion;

4. characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under 206.D.9.b. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

A. The wastes to be land treated;

B. Design measures and operating practices necessary to maximize treatment in accordance with 206.D.9.d.(1) including:

1. Waste application method and rate;

2. Measures to control soil pH;

3. Enhancement of microbial or chemical reactions;

4. Control of moisture content;

C. Provisions for unsaturated zone monitoring, including:

1. Sampling equipment, procedures, and frequency;

2. Procedures for selecting sampling locations;

3. Analytical procedures;

4. Chain of custody control;

5. Procedures for establishing background values;

6. Statistical methods for interpreting results;

7. The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in 206.D.9.f.(1);

D. A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to 206.B.3.;

E. The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of 206.D.9.d. This submission must address the following items:

A. Control of run-on;

B. Collection and control of run-off;

C. Minimization of run-off of hazardous constituents from the treatment zone;

D. Management of collection and holding facilities associated with run-on and run-off control systems;

E. Periodic inspection of the unit. This information should be included in the inspection plan submitted under 302.A.4.b.(1)(e);

F. Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under 206.D.9.e.(1) will be conducted including:

A. Characteristics of the food-chain crop for which the demonstration will be made;

B. Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

C. Procedures for crop growth, sample collection, sample anaysis, and data evaluation;

D. Characteristics of the comparison crop including the location and conditions under which it was or will be grown.

(v) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of 206.D.9.e.(2) will be complied with;

(vi) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under 206.D.9.h.(1)(h) and 206.D.9.h.(3)(b). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under 302.A.4.b.(1)(m);

(vii) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of 206.D.9.i will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how 206.D.9.j. will be complied with.

(ix) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated and maintained to meet the requirements of 206.D.9.K. This submission must address the following items as specified in 206.D.9.K.:

(A) The volume, physical, and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(B) The attentuative properties of underlying and surrounding soils or other materials;

(C) The mobilizing properties of other materials co-disposed with these wastes; and

(D) The effectiveness of additional treatment, design or monitoring techniques.

(g) For facilities that dispose of hazardous waste in landfills, except as otherwise provided in 206.A.[14]

(i) A list of the hazardous waste placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated, and maintained to comply with the requirements of 206.D.10.b. This submission must address the following items as specified in 206.D.10.b.:

A. The liner system and leachate collection and removal system (except for an existing portion of a landfill). If an exemption from the requirements for a liner and a leachate collection and removal system is sought as provided by 206.D.10.b.(2), submit detailed plans and engineering and hydrogeologic reports as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituent into the ground water or surface water at any future time;

B. Control of run-on;

C. Control of run-off;

D. Management of collection and holding facilities associated with run-on and run-off control systems; and

E. Control of wind dispersal of particulate matter, where applicable.

(iii) If an exemption from 206.D.1. is sought, as provided by 206.D.10.c.(1), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of 206.D.10.d.(1) and (2). This information should be included in the inspection plan submitted under 302.A.4.b.(1)(e);

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with 206.D.10.f.(1), and a description of how each landfill will be maintained and monitored after closure in accordance with 206.D.10.f.(2). This information should be included in the closure and post-closure plans submitted under 302.A.4.b.(1)(m).

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the requirements of 206.D.10.g. will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how 206.D.10.h. will be complied with;

(viii) If bulk or non-containerized liquid waste or waste containing free liquids is to be landfilled, an explanation of how the requirements of 206.D.10.i. will be complied with;

(ix) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of 206.D.10.j. or 206.D.10.k., as applicable, will be complied with

(x) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of 206.D.10.l. This submission must address the following items as specified in 206.D.10.l.:

(A) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(B) The attenuative properties of underlying and surrounding soils or other materials;

(C) The mobilizing properties of other materials co-disposed with these wastes; and

(D) The effectiveness of additional treatment, design, or monitoring techniques.

(3) Additional information requirements.[5]

The following additional information regarding protection of ground water is required from owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills, except as otherwise provided in 206.D.1.a.(2):

(a) A summary of the ground-water monitoring data obtained during the interim status period under 206.C.1.a. through e., were applicable.

(b) Identification of the uppermost aquifer and aquifers hydraulically interconneted beneath the facility property, including ground-water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

(c) On the topographic map required under 302.A.4.b.(1)(r), a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under 206.D.1.f., the proposed location of ground-water monitoring wells as required under 206.D.1.h. and, to the extent possible, the information required in 302.A.4.b.(3)(b);

(d) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application is submitted that:

(i) Delineates the extent of the plume on the topographic map required under 302.A.4.b.(1)(r);

(ii) Identifies the concentration of each 201.C.- Appendix III constituent throughout the plume or identifies the maximum concentrations of each 201.C.- Appendix III constituent in the plume.

(e) Detailed plans and an engineering report describing the proposed ground-water monitoring program to be implemented to meet the requirements of 206.D.1.h.;

(f) If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of 206.D.1.i. This submission must address the following items as specified under 206.D.1.i.:

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(ii) A proposed ground-water monitoring system;

(iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

(g) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of 206.D.1.j. The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of 206.D.1.k., except as provided in 206.D.1.i.(8)(e). To demonstrate compliance with 206.D.1.j., the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with 206.D.1.h. and 206.D.1.j.;

(iv) Proposed concentration limits for each hazardous constituent, based

on the criteria set forth in 206.D.1.e.(1), including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of 206.D.1.h.; and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

(h) If hazardous constituents have been measured in the ground water which exceed the concentration limits established under 206.D.1.e. Table 1. or if ground water monitoring conducted at the time of permit application under 206.C.1.a. through e. at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of 206.D.1.k. However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Director that alternate concentration limits will protect human health and the environment after considering the criteria listed in 206.D.1.e.(2). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of 206.D.1.j., and 302.A.4.b.(3)(f). To demonstrate compliance with 206.D.1.k., the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the ground water as set forth in 206.D.1.e.;

(iii) Detailed plans and an engineering report describing the corrective action to be taken; and

(iv) A description of how the ground-water monitoring program will assess the adequacy of the corrective action.

5. Updating permit applications.[16]

a. If any owner or operator of a HWM facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application:

(1) With the EID Director no later than the effective date of regulatory provisions listing or designating wastes as hazardous in addition to those listed or designated previously, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or

(2) As necessary to comply with provisions of 302.C. for changes during interim status. Revised Part A applications necessary to comply with the provisions of 302.C. shall be filed with the Director.

b. The owner or operator of a facility who fails to comply with the updating requirements of 302.A.5.a. does not receive interim status as to the wastes not covered by duly filed Part A applications.

6. Reapplications.[17]

Any HWM facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

7. Recordkeeping.[18]

Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under 302.A.4. for a period of at least three (3) years from the date the application is signed.

B. Signatories to Permit Applications and Reports.[19]

1. Applications.

All permit applications shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purposes of this requirement, a responsible corporate officer means:

(1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation; or

(2) The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal or other public agency: by either a principal executive officer or ranking elected official. For the purposes of this requirement, a principal executive officer of a Federal agency includes:

(1) The chief executive officer of the agency; or

(2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. Regional Administrators of EPA).

2. Reports.

All reports required by permits and other information requested by the Director shall be signed by a person described in 302.B.1. above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in 302.B.1.;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the Director.

3. Changes to authorization.

If an authorization under 302.B.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of 302.B.2. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification.

Any person signing a document under 302.B.1. or 302.B.2. shall make the following certification:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualifed personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. Interim Status.[20]

1. Qualifying for interim status.

a. Any person who owns or operates an "existing HWM facility" shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

(1) Complied with the requirements of Section 3010(a) of RCRA pertaining to notification of hazardous waste activity;

(2) Complied with the requirements of 302.A.1.b. and c. governing submission of Part A applications; and

b. Failure to qualify for Interim Status.

If EID has reason to believe upon examination of a Part A application that it fails to meet the requirements of Section 302.A.4.a., it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for EID's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, EID determines that the application is deficient it may take appropriate enforcement action.

2. Operation during interim status.

a. During the interim status period the facility shall not:

(1) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

(2) Employ processes not specified in Part A of the permit application; or

(3) Exceed the design capacities specified in Part A of the permit application.

b. During interim status owners and operators shall comply with the interim status standards in 206.B. and 206.C.

3. Changes during interim status.

a. New hazardous wastes not previously identified in Part A of the permit application may be treated, stored, or disposed of at a facility if the owner or operator submits a revised Part A permit application prior to such a change;

b. Increases in the design capacity of processes used at a facility may be made if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Director approves the change because of a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities;

c. Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at a facility or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Director approves the change because:

(1) It is necessary to prevent a threat to human health or the environment because of an emergency situation; or

(2) It is necessary to comply with State regulations (including the standards at 206.B. and 206.C.) or local laws;

d. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 206.C.3. (financial requirements), until the new owner or operator has demonstrated to the Director that it is complying with 206.C.3. The new owner or operator must demonstrate compliance with the Financial Requirements within six months of the date of the change in the ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the

facility. Upon demonstration to the Director by the new owner or operator of compliance with 206.C.3., the Director shall notify the old owner or operator in writing that it no longer needs to comply with 206.C.3. as of the date of demonstration; and

e. In no event shall changes be made to an HWM facility during interim status which amounts to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new HWM facility.

4. Grounds for termination of interim status.

Interim status terminates when:

a. Final administrative disposition of a permit application is made; or

b. Interim status is terminated as provided in 302.A.1.b.(2)(c).

D. Permits by Rule [21]

Notwithstanding any other provision of 301. through 303., the following shall be deemed to have a hazardous waste permit if the conditions listed are met:

1. Injection wells.

The owner or operator of an injection well disposing of hazardous waste, if the owner or operator:

a. Has a permit for underground injection issued by an approved or promulgated UIC program; and

b. Complies with the conditions of that permit and with the following:

(1) 202. Notification requirements;

(2) 206.B.1., Identification number;

(3) 203.C.1., Use of Manifest System;

(4) 203.C.3., Manifest Discrepancies;

(5) 203.C.2.e.(1) and (2), Operating Record;

(6) 203.C.3.a., Biennial Report;

(7) 203.C.3.b., Unmanifested Waste Report;

(8) 206.B.6., Personnel Training;

(9) Certification of Closure: When abandonment is completed, the owner or operator must submit to the Director certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the specifications set forth in the permit.

2. Publicly owned treatment works (POTW).

The owner or operator of a POTW which accepts for treatment hazardous waste, if the owner or operator:

a. Has an NPDES permit;

b. Complies with the conditions of that permit; and

c. Complies with the following regulations:

(1) 206.B.1., Identification Number;

(2) 203.C.1., Use of Manifest System;

(3) 203.C.3., Manifest Discrepancies;

(4) 203.C.2.c.(1), Operating Record;

(5) 203.C.3.a., Biennial Report;

(6) 203.C.3.b., Unmanifested Waste Report; and

d. If the waste meets all State and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe or similar conveyance.

E. Special forms of permits.

1. Emergency permits.[22]

Notwithstanding any other provision of 301. through 303., in the event the Director finds an imminent and substantial endangerment to human health or the environment the Director may issue a temporary emergency permit to a non-permitted facility to allow treatment, storage, or disposal of hazardous waste or to a permitted facility to allow treatment, storage, or disposal of hazardous waste not covered by an effective permit. This emergency permit:

a. May be oral or written. If oral, it shall be followed in five (5) days by a written emergency permit;

b. Shall not exceed 90 days in duration;

c. Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage or disposal;

d. May be terminated by the Director at any time without process if he or she determines that termination is appropriate to protect human health and the environment;

e. Shall be accompanied by a public notice published under 303.A.4. including:

(1) Name and address of the office granting the emergency authorization;

(2) Name and location of the permitted HWM facility;

(3) A brief description of the wastes involved;

(4) A brief description of the action authorized and reasons for authorizing it; and

(5) Duration of the emergency permit; and

f. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of 301., 302, 206.A., B., and D.

2. Hazardous waste incinerator permits.[23]

a. For the purposes of determining operational readiness following completion of physical construction, the Director must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Director may extend the duration of this operational period once, for up to 720 additional hours at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to 302.0. (Minor modifications of permits).

(1) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of 206.D.8.d. during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in 206.D.8.f.

(2) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 206.D.8.d. based on his engineering judgement.

b. For the purposes of determining feasibility of compliance with the performance standards of 206.D.8.d. and of determining adequate operating conditions under 206.D.8.f., the Director must establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

(1) Applicants must propose a trial burn plan, prepared under 302.E.2.b.(2) with Part B of the permit application.

(2) The trial burn plan must include the following information:

(a) An analysis of each waste or mixture of wastes to be burned which includes:

(i) Heat value of the waste in the form and composition in which it will be burned.

(ii) Viscosity (if applicable), or description of physical form of the waste.

(iii) An identification of any hazardous organic constituents listed in 201 - Appendix III which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in 201 - Appendix III, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see 104 E.) or their equivalent.

(iv) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," (incorporated by reference, see 104 E.) or their equivalent.

(b) A detailed engineering description of the incinerator for which the permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available).

(ii) Type of incinerator.

(iii) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

(iv) Description of the auxiliary fuel system (type/feed).

(v) Capacity of prime mover.

(vi) Description of automatic waste feed cut-off system(s).

(vii) Stack gas monitoring and pollution control equipment.

(viii) Nozzle and burner design.

(ix) Construction materials.

(x) Location and description of temperature, pressure, and flow indicating and control devices.

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Director's decision under 302.E.2.b.(5).

(e) A detailed test protocol, including for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(f) A description of, and planned operating conditions for, any emission control equipment which will be used.

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(h) Such other information as the Director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this 302.E.2.b. and the criteria in 302.E.2.b.(5).

(3) The Director, in reviewing the trial burn plan, shall evaluate the sufficiency of the

information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of 302.E.2.b..

(4) Based on the waste analysis data in the trial burn plan, the Director will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Director based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in 201.C., the hazardous waste organic constituent or constituents identified in Appendix IV of 201 as the basis for listing.

(5) The Director shall approve a trial burn plan if he finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by 206.D.8.d. can be met;

(b) The trial burn itself will not present an imminent hazard to human health or the environment;

(c) The trial burn will help the Director to determine operating requirements to be specified under 206.D.8.f.; and

(d) The information sought in 302.E.2.b.(5)(a) and (c) cannot reasonably be developed through other means.

(6) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(b) A quantititive analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (02) and hydrogen chloride (HCl)

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.

(d) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 206.D.8.d.(1).

(e) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with 206.D.8.d.(2).

(f) A computation of particulate emissions, in accordance with 206.D.8.d.(3)

(g) An identification of sources of fugitive emissions and their means of control

(h) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(i) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(j) Such other information as the Director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in 206.D.8.d. and to establish the operating conditions required by 206.D.8.f. as necessary to meet that performance standard.

(7) The applicant must submit to the Director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in 302.E.2.b.(6). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Director.

(8) All data collected during any trial burn must be submitted to the Director following the completion of the trial burn.

(9) All submissions required by 302.E.2.b. must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 302.B.

(10) Based on the results of the trial burn, the Director shall set the operating requirements in the final permit according to 206.D.8.f. The permit

modification shall proceed as a minor modification according to 302.O

c. For the purposes of allowing operation of a new hazarous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Director may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of 206.D.8.f. in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Director.

(1) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of 206.D.8.d. during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in 206.D.8.f.

(2). The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of 206.D.8.d. based on his engineering judgement.

d. For the purposes of determining feasibility of compliance with the performance standards of 206.D.8.d. and of determining adequate operating conditions under 206.D.8.f., the applicant for a permit to an existing hazardous waste incinerator may prepare and submit a trial burn plan and perform a trial burn in accordance with 302.E.2.b.(2) through (9). Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in 302.E.2.b.(6), with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Director to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period to be specified by the Director.

3. Permits for land treatment demonstrations using field tests or laboratory analyses.

a. For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of 206.D.9.c., the Director may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in 206.D.9.c.(3). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction, operation and maintenance of the land treatment unit.

(1) The Director may issue a two-phase facility permit if he finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

(2) If the Director finds that not enough information exists upon which he can establish permit conditions to attempt to provide for compliance with all of the requirements of 206.D.9., he must issue a treatment demonstration permit covering only the field test or laboratory analyses.

b. If the Director finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the Director finds may be necessary under 206.D.9.c.(3). The Director will include conditions in the second phase of the facility permit to attempt to meet all 206.D.9. requirements pertaining to unit design, construction, operation, and maintenance. The Director will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(1) The first phase of the permit will become effective 30 days after the service of notice of the Directors final permit decision, unless:

(a) A later effective date is specified in the decision; or

(b) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(2) The second phase of the permit will be effective as provided in 302.E.3.d.

c. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration he must submit to the Director a certification, signed by a person authorized to sign a permit application or report under 302.B., that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Director approves a later date.

d. If the Director determines that the results of the field tests or laboratory analyses meet the requirements of 206.D.9.c., he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with 206.D.9., based upon the results of the field tests or laboratory analyses.

(1) This permit modification may proceed as a minor modification under 302.O., provided any such change is minor, or otherwise will proceed as a modification under 302.M.1.b.

(2) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the Director will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit then will become effective as specified by the Director.

(3) If modifications under 302.M.1.b. are necessary, the second phase of the permit will become effective only after those modifications have been made.

F. Conditions Applicable to All Permits.[45]

The following conditions are applicable to all permits and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

1. Duty to comply.

The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (See 302.E.1.) Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the appropriate Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Duty to reapply.

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

3. Need to halt or reduce activity not a defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate.

In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

5. Proper operation and maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

6. Permit actions.

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. Property rights.

This permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to provide information.

The permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Inspection and entry.

The permittee shall allow the Director, or an authorized representative, upon the presentation of

credentials and other documents as may be required by law, to:

a. Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Act, any substances or parameters at any location.

10. Monitoring and records.

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. The permittee shall maintain records from all ground monitoring wells and associated groundwater surface elevations, for the active life of the facility, and, for disposal facilities, for the post-closure care period as well.

c. Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

11. Signatory requirement.

All applications, reports, or information submitted to the Director shall be signed and certified (see 302.B.).

12. Reporting requirements.

a. Planned changes.

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

b. Anticipated noncompliance.

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new HWM facility, the permittee may not treat, store, or dispose of hazardous waste; and for a facility being modified the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, until:

(1) The permittee has submitted to the Director by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(2) Either:

(a) The Director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(b) Within 15 days of the date of submission of the letter in 302.F.12.b.(1) above, the permittee has not received notice from the Director of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

c. Transfers.

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See 302.L.; in some cases, modification or revocation and reissuance is mandatory.)

d. Monitoring reports.

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

e. Compliance schedules.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

f. Twenty-four hour reporting.

(1) The permittee shall report any non-compliance which may endanger human health or the environment orally, within 24 hours from the time the permittee becomes aware of the circumstances, including:

(a) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;

(b) Any information of a release or discharge of hazardous waste, or of a fire or explosion from a HWM facility, which could threaten the environment or human health outside the facility.

(2) The description of the occurrence and its cause shall include:

(a) Name, address, and telephone number of the owner or operator;

(b) Name, address, and telephone number of the facility;

(c) Date, time, and type of incident;

(d) Name and quantity of material(s) involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

(3) A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Director may waive the five (5) day written notice requirement in favor of a written report within fifteen (15) days.

g. Manifest discrepancy report.

If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen (15) days, the permittee must submit a letter report including a copy of the manifest to the Director. (See 203.C.1.d.)

h. Unmanifested waste report:

This report must be submitted to the Director within fifteen (15) days of receipt of unmanifested waste. (See 203.C.3.b.)

i. Biennial report.

An biennial report must be submitted covering facility activities during odd numbered calendar years. (See 203.C.3.c.)

j. Other noncompliance.

The permittee shall report all instances of noncompliance not reported under 302.F.12.d., e., and f., at the time monitoring reports are submitted. The reports shall contain the information listed in 302.F.12.f..

k. Other information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

G. Establishing Permit Conditions.[26]

1. In addition to conditions required in all permits, the Director shall establish conditions as required on a case-by-case basis, in permits for the duration of the permits (302.H.), possible schedules of compliance (302.I.1.), and recordkeeping and reporting of monitoring results (302.J.).

2. The Director shall establish conditions in permits, as required on a case-by-case basis, to provide for and assure compliance with, all applicable requirements of the appropriate Act and regulations.

3. An applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit and also any requirement which takes effect prior to the modification or revocation and reissuance of a permit to the extent allowed in 302.M.

4. New or reissued permits, and to the extent allowed under 302.M. modified or revoked and reissued permits, shall incorporate each of the applicable requirements specified in 206.B. and D.

5. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements will be given in the permit.

H. Duration of Permits.[27]

1. Permits shall be effective for a fixed term not to exceed 10 years.

2. The term of a permit shall not be extended by modification beyond the maximum duration specified above.

3. The Director may issue any permit for a duration that is less than the full allowable term specified above.

I. Schedules of Compliance.[28]

The permit may, when appropriate, specify a schedule of compliance leading to compliance with the appropriate Act and regulations as follows:

1. Time for compliance.

Any schedules of compliance under 302.I. shall require compliance as soon as possible.

2. Interim dates.

If a permit establishes a schedule of compliance which exceeds one (1) year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement as follows:

a. The time between interim dates shall not exceed 1 year; and

b. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one (1) year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. Reporting.

The permit shall be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the Director in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if 302.I.2. is applicable.

J. Requirements for Recording and Reporting of Monitoring Results.[29]

All permits shall specify:

1 Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

2. Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and

3 Applicable reporting requirements based upon the impact of the regulated activity and as specified in 206.B. and D Reporting shall be no less than specified in the above regulations.

K. Effect of a Permit.[30]

1 Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the New Mexico Hazardous Waste Act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in 302.M. and N.

2 The issuance of a permit does not convey any property rights of any sort, or any exclusive privileges.

3 The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights or any infringement of other State or local laws or regulations.

L. Transfer of Permits.[31]

A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 302.M.2.b.) or a minor modification made (under 302.O.4.), to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act.

M. Major Modification or Revocation and Reissuance of Permits.[32]

When the Director receives any information [for example, inspects the facility, receives information submitted by the permittee as required in the permit (see 302.F.), receives a request for modification or revocation and reissuance under 303.B., or conducts a review of the permit file] he or she may determine whether or not one or more of the causes listed in 302.M.1. and 2. for modification or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of 302.M.3., and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under 302.M. or 302.O., the Director shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in 302.O. for "minor modifications", the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 303. followed.

1. Cause for modification.

The following are causes for modification but not revocation and reissuance of permits. However, the following may be causes for revocation and reissuance as well as modification when the permittee requests or agrees.

a. Alterations

There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b. Information.

The Director has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

c. New regulations.

The standards or regulations on which the permit were based have been changed by adoption of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

(1) For adoption of amended standards or regulations, when:

(a) The permit condition requested to be modified was based on regulations adopted in the New Mexico Hazardous Waste Management Regulations; and

(b) The EID has revised, withdrawn, or modified that portion of the regulations on which the permit condition was based; and

(c) A permittee requests modification in accordance with 303.B. within ninety (90) days after the effective date of the revision, withdrawal or modification.

(2) For judicial decisions, a court of competent jurisdiction has remanded and stayed EID regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based, and a request is filed by the permittee in accordance with 303.B. within ninety (90) days of the judicial remand.

d. Compliance schedules.

The Director determines that good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. [See also 302.O. (minor modification)]

e. The Director may also modify a permit:

(1) When modification of a closure plan is required under 206.D.2.c.(2) or 206.D.2.i.(2);

(2) After the Director receives the notification of expected closure under 206.D.2.d., when the Director determines that extension of the 90 to 180 day periods under 206.D.2.d., modification of the 30-year post-closure period under 206.D.2.h.(1), continuation of security requirements under 206.D.2.h.(2), or permission to disturb the integrity of the containment system under 206.D.2.h.(3) are warranted; and

(3) When the permittee has filed a request under 206.D.3.h.(3) for a variance to the level of financial responsibility or when the Director demonstrates under 206.D.3.h.(4) that an upward adjustment of the level of financial responsibility is required.

(4) When the corrective action program specified in the permit under 206.D.1.k. has not brought the regulated unit into compliance with the ground-water protection standard within a reasonable amount of time.

(5) To include a detection monitoring program meeting the requirements of 206.D.1.i., when the owner or operator has been conducting a compliance monitoring program under 206.D.1.j. or a corrective action program under 206.D.1.k. and the compliance period ends before the end of the post-closure care period for the unit.

(6) When a permit requires a compliance monitioring program under 206.D.1.j., but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground-water protection standard.

(7) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

(8) When a land treatment unit is not achieving complete treatment of hazardous constituents under it's current permit conditions.

2. Causes for modification or revocation and reissuance

The following are causes to modify or, alternatively, revoke and reissue a permit:

a. Cause exists for termination under 302.N., and the Director determines that modification or revocation and reissuance is appropriate; or

b. The Director has received notification (as required in the permit, see 302.F.12.c.) of a proposed transfer of the permit.

3. Facility siting.

Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to the human health or the environment exists which was unknown at the time of permit issuance.

N. Termination of Permits.[33]

1. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

a. Noncompliance by the permittee with any condition of the permit;

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

2. The Director shall follow the applicable procedures in 303. in terminating any permit.

O. Minor Modification of Permits.[34]

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed below, without following the procedures of 303. Any permit modification not processed as a minor modification under 302.O. must be made for cause and with a draft permit and public notice as required in 302.M. Minor modification may only:

1. Correct typographical errors;

2. Require more frequent monitoring or reporting by the permittee;

3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

4. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 206.D.3. (Financial Requirements), until the new owner or operator has demonstrated to the Director that he is complying with the requirements of that regulation within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with the Financial Requirements, the Director shall notiafy the old owner or operator in writing that he no longer needs to comply with the Financial Requirements as of the date of demonstration;

5. Changes the lists of facility emergency coordinators or equipment in the permit's contingency plan;

6. Change estimate of maximum inventory under 206.D.2.c.(1)(b);

7. Change estimate of expected year of closure or schedules for final closure under 206.D.2.c.(1)(d);

8. Approve periods longer than 90 days or 180 days under 206.D.2.d.(1) and (2);

9. Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor;

10. Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor;

11. Grant one extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste;

12. Change the treatment program requirements for land treatment units under 206.D.9.b. to improve treatment of hazardous constituents, provided that the change is minor;

13 Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with 302.E.3., provided that the change is minor, and

14 Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by 206.D.9.c.(1) provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

P Confidentiality of Information [15]

1 Pursuant to N.M. Stat. Ann. § 74-4-4.3 (1978) of the New Mexico Hazardous Waste Act, any records, reports, or information obtained by the Division under these regulations shall be available to the public, except that, upon a showing satisfactory to the Division that records, reports or information, or a particular part thereof, to which the Director or his authorized representatives have access under this section, if made public, would divulge information entitled to protection under Section 1905 of Title 18 of the United States Code, such information or particular portion thereof shall be considered confidential, except that such record, report, document or information may be disclosed to officers, employees or authorized representatives of the United States concerned with carrying out the Resource Conservation and Recovery Act, or when relevant in any proceedings under the Hazardous Waste Act.

This section is not intended to negate or otherwise eliminate the applicability of statutory privileges or privileges under the New Mexico or Federal Rules of Evidence to such records, reports or information obtained by the Division under Parts I through V of these Regulations.

2. Claims of confidentiality for the following information will be denied:

a. The name and address of any permit applicant; or

b. The name and address of any permittee

303. Permitting Procedures.

A. Permit Issuance.

1. Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

2. If the Director decides to prepare a draft permit, he shall prepare a draft permit that contains all conditions, compliance schedules, monitoring requirements and technical standards for treatment, storage, and/or disposal provided for in 302.A.4., 302.F., 302.H., 302.I., and 302.J.

3. All draft permits for facilities or activities prepared by the Division under 303.A.2. shall be accompanied by a fact sheet and shall be based on the administrative file. Copies of the fact sheet shall be sent to the applicant, any state or federal agency as applicable and, on request, to any other person.

4. The Director shall give public notice that a draft permit has been prepared or that a permit application has been tentatively denied and shall allow at least 45 days for public comment and review. During this comment period, whenever a written notice of opposition to a draft permit and a request for a hearing is received from an affected individual, a public hearing may be held. The Division, acting in conjunction with the applicant, will respond to these requests in an attempt to resolve those issues giving rise to such opposition. If such issues can be resolved to the satisfaction of the opponent, the affected individual may waive his request for a public hearing. In such case the public hearing need not be held. The Director may also hold a public hearing at his discretion.

5. No ruling shall be made on permit issuance without an opportunity for all interested persons to be given a reasonable chance to submit significant data, views or arguments orally or in writing and to examine witnesses testifying at any public hearing. The comment period specified in 303.A.4. shall automatically be extended to the close of any public hearing.

6. The Director shall give due consideration and the weight he deems appropriate to all comments received during a public comment period and to all relevant facts and circumstances presented at any public hearing.

7. When ruling on permit issuance, the Division may disapprove in whole or in part, or make reasonable conditions to any permit, if it appears that the proposed action will not meet the requirements of these regulations.

8. At the time that any final permit decision is issued, the Director shall issue a response to comments. This response shall:

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

b. Briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

9. The response to comments shall be available to the public.

10. The approval of a permit does not relieve any person from the responsibility of complying with applicable state or federal laws and regulations.

11. The Director shall notify the permittee by certified mail of any impending permit action and of any scheduled public hearing date.

B. Permit Modification, Suspension and Revocation.

1. The Director may modify, suspend, or revoke a permit issued pursuant to 303.B. for cause set forth in 302.M., 302.N., and 302.O.

2. The Director may modify, suspend, revoke or terminate a permit upon his initiative, or if, after the Division's investigation of the facts and circumstances, pursuant to the request of any interested person, such permit action is deemed warranted.

3. All requests for permit modification, suspension, revocation or termination shall be in writing and shall contain facts or reasons supporting the request.

4. In a permit modification under this section, only those conditions to be modified shall be considered when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit.

5. Minor modifications as outlined in 302.O. are not subject to the requirements in 303.B. for permit modifications.

6. The Director shall notify the permittee by certified mail of any impending permit action and of any scheduled public hearing date and issue public notice of impending permit action.

7. No ruling shall be made on permit modification, suspension or revocation without an opportunity for a public hearing at which all interested persons shall be given a reasonable chance to submit significant data, views or argument orally or in writing and to examine witnesses testifying at the hearing.

8. The Director shall give due consideration and the weight he deems appropriate to all comments received during a public comment period and to all relevant facts and circumstances presented at any public hearing.

C. Public Notices.

1. Public notice of permit actions (preparation of a draft permit, tentative denial of a permit application, scheduling of a public hearing) shall be given by publication of a notice in a newspaper of general circulation in the area affected, broadcasts over local radio stations and by mailing a copy of the notice to the permit applicant, those individuals on the Hazardous Waste Unit's mailing list, and to any units of local, state and federal government as may be applicable.

2. All public notices issued shall contain the following minimum information:

a. The subject, the time and place of any scheduled hearing and the manner in which interested persons may present their views;

b. A brief description of the procedures by which requests for hearings may be made, unless already scheduled;

c. Name and address of the office processing the permit action for which notice is being given;

d. Name and address of the permittee or permit applicant, and, if different, of the facility or activity regulated by the permit;

e. A brief description of the business conducted at the facility or activity described in the permit application or the draft permit; and

f. Name, address and telephone number of a person from whom interested persons may obtain further information;

g. In addition, public notice of a scheduled public hearing shall also contain references to the date of previous public notices relating to the permit.

D. Fact Sheet.

1. A fact sheet shall be prepared for every draft permit for a Hazardous Waste Management facility or activity. The fact sheet shall briefly set forth the principal facts and the significant factual legal, methodological and policy questions considered in preparing the draft permit.

2. The fact sheet shall include, when applicable:

a. A brief description of the type of facility or activity which is the subject of the draft permit;

b. The type and quantity of wastes which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

c. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions

d. Reasons why any requested variance or alternative to require standards do or do not appear justified.

e. A description of the procedures for reaching a final decision on the draft permit including:

(1) The beginning and ending dates of the comment period and the address where comments will be received;

(2) Procedures for requesting a hearing and the nature of that hearing; and

(3) Any other procedures by which the public may participate in the final decision.

f. Name and telephone number of a person to contact for additional information

3. The fact sheet shall be available at the time the public notice is published.

E. Hearings.

1. Public notice of any public hearing shall be given at least thirty (30) days prior to the scheduled date of the hearing.

2. Hearings shall be held in Santa Fe or within any area of the state substantially affected by the proceedings as specified by the Director.

3. The Director may designate a hearing officer to take evidence at the hearing.

4. All hearings shall be recorded by a certified court reporter. A transcript will be furnished to all persons for review at the Division's main office. Costs of a copy of a transcript will be borne by those requesting such copies

5. In hearings, the rules of civil procedures and the technical rules of evidence shall not apply, but the hearings shall be conducted so that all relevant views, arguments, and testimony are amply and fairly received without undue repetition.

6. Any person heard or represented at the hearing shall be given written notice of the action of the Director.

7. The Director shall notify the applicant or permittee of his decision and the reasons, therefore, by certified mail

F. Director's Decision

For purposes of these regulations, the Director's decision is not made until it becomes final under Section 303 G. or until the Board renders its decision under 303 F. either sustaining or reversing the Director. Immediately upon receiving the Board's decision the Director shall enter the Director's decision in accord with the Board's decision, which shall be considered the Director's decision for purposes of appeal to the Court of Appeals

G. Review and Hearings Before Board.

1. Any person adversely affected by the decision of the Director concerning the issuance, suspension, modification or revocation of a permit may request a review of the Director's decision by, or a hearing de novo before, the Environmental Improvement Board. For purposes of this regulation, an applicant for permit, permittee or alleged violator of a permit or regulation shall be "appellant". A request for review must be made in writing to the Board within thirty days after notice of the Director's action or decision has been received by the appellant. Unless a timely request for review and hearing is made, the decision of the Director shall be final.

2. Any new evidence becoming available after the hearing before the Director may be presented at a hearing before the Board if such hearing is requested along with the request for review of the Director's decision. Otherwise, the Board shall consider only the evidence admitted in the record formed at the hearing before the Director. All parties who participated in the hearing before the Director may submit to the Board, within thirty days of the appellant's request for review, proposed findings and reasons based upon the hearing record.

In reviewing the Director's decision, the Board may modify or reverse the Director's decision if:

(a) It is not clear that the Director considered and weighed all of the evidence presented in making a finding or reason, or

(b) A finding or reason for the Director's action was made on the basis of, or contains, undue conjecture, speculation or hypothetical circumstances, or

(c) A finding or reason for the Director's action is not supported by the preponderance of the probative evidence, or

(d) The Director's action, or a finding or reason therefore, is otherwise not in accordance with law.

If the appellant requests only that the Board review the Director's decision without requesting a hearing to consider new evidence, the Board shall render a decision denying, modifying or sustaining the Director's decision, along with findings and reasons, within sixty days of the appellant's request, and by certified mail shall notify the appellant and shall make a reasonable effort to notify all participants in the hearing before the Director of its decision, findings and reasons. If a hearing to consider new evidence is held, the Board's decision on the Director's decision shall be defered until the hearing is held in accordance with the sub-sections 3 through 6.

3. If a timely request for hearing is made, the Board shall hold a hearing within thirty days after receipt of the request, and at least twenty days prior to the hearing date shall notify the appellant by certified mail and shall make a reasonable effort to notify all who participated in the hearing before the Director of the date, time and place of the hearing. The Board shall also publish notice of the date, time and place of hearing at least twenty days prior to the hearing date in a newspaper of general circulation in the county in which the facility is proposed to be located or is located and a newspaper of general circulation in the state.

4. The Division will arrange for transcript of the hearing by a certified reporter. Copies of the transcript shall be paid for by those requesting them.

5. Hearings shall be before the Board but a hearing officer may be designated by the Board to rule on the evidence presented. In hearings, the technical rules of evidence and the rules of civil procedure shall not apply, but the hearings shall be conducted so that all relevant views are amply and fairly presented without undue repetition. The Board may require reasonable substantiation of statements or records tendered and may require any view to be stated in writing when the circumstances justify.

6. The Board shall allow all parties a reasonable opportunity at a hearing to submit written and oral evidence and arguments, to introduce exhibits, and to cross-examine persons who testify. At any hearing accompanying the review of the Director's decision, in which only new evidence becoming available following the hearing before the Director is allowed, all exhibits, evidence and cross-examination shall be restricted to such new evidence.

7. All parties participating in the hearing may submit proposed findings and reasons to the Board within 30 days following the Board's receipt of the transcript.

8. The Board may adopt findings submitted or may make separate findings, but the Board shall:

(a) make clear that it considered and weighed all of the evidence presented in making or adopting any and all of its findings and reasons, and

(b) adopt or make only findings and reasons that are supported by the preponderance of the probative evidence presented, and

(c) not adopt or make any findings and reasons on the basis of or which contain undue conjecture, speculation or hypothetical circumstances.

9. Within sixty days following the Board's receipt of the transcript, the Board shall render a decision on the basis of the hearing record sustaining, modifying or reversing the Director, along with findings and reasons, and shall notify the appellant and all participants in the hearing of its decision, findings and reasons.

304. Endnotes - Part III

Portions of Part III, as noted in the text, have been taken from 48 Fed. Reg. 14146 (1983) (to be codified at 40 C.F.R. Part 270), as amended, with certain editorial, stylistic, or other non-substantive changes as indicated below:

1. 48 Fed. Reg. 14228 (1983) (to be codified at 40 C.F.R. § 270.1).

2. 48 Fed. Reg. 14233 (1983) (to be codified at 40 C.F.R. § 270.10).

3. 48 Fed. Reg. 14233 (1983) (to be codified at 40 C.F.R. § 270.10).

4. 48 Fed. Reg. 14233 (1983) (to be codified at 40 C.F.R. § 270.10).

5. 48 Fed. Reg. 14235 (1983) (to be codified at 40 C.F.R. § 270.13).

6. 48 Fed. Reg. 14235 (1983) (to be codified at 40 C.F.R. § 270.14).

7. 48 Fed. Reg. 14235 (1983) (to be codified at 40 C.F.R. § 270.14), 50 Fed. Reg. 2006 (1985)(to be codified at 40 CFR § 270.14).

8. 48 Fed. Reg. 14238 (1983) (to be codified at 40 C.F.R. § 270.15).

9. 48 Fed. Reg. 14238 (1983) (to be codified at 40 C.F.R. § 270.16), 50 Fed. Reg. 2006 (1985)(to be codified at 40 CFR § 270.16).

10. 48 Fed. Reg. 14238 (1983) (to be codified at 40 C.F.R. § 270.17), 50 Fed. Reg. 2006 (1985)(to be codified at 40 CFR § 270.17).

11. 48 Fed. Reg. 14238 (1983) (to be codified at 40 C.F.R. § 270.18), 50 Fed. Reg. 2006 (1985)(to be codified at 40 CFR § 270.18).

12. 48 Fed. Reg. 14239 (1983) (to be codified at 40 C.F.R. § 270.19).

13. 48 Fed. Reg. 14240 (1983) (to be codified at 40 C.F.R. § 270.20), 48 Fed. Reg. 30114 (1983) (to be codified at 40 C.F.R. § 270.20).

14. 48 Fed. Reg. 14240 (1983) (to be codified at 40 C.F.R. § 270.21), 48 Fed. Reg. 30114 (1983) (to be codified at 40 C.F.R. § 270.21), 50 Fed. Reg. 2006 (1985)(to be codified at 40 CFR § 270.21).

15. 48 Fed. Reg. 14235 (1983) (to be codified at 40 C.F.R. § 270.14), 48 Fed. Reg. 30114 (1983) (to be codified at 40 C.F.R. § 270.14).

16. 48 Fed. Reg. 14234 (1983) (to be codified at 40 C.F.R. § 270.10).

17. 48 Fed. Reg. 14234 (1983) (to be codified at 40 C.F.R. § 270.10).

18. 48 Fed. Reg. 14234 (1983) (to be codified at 40 C.F.R. § 270.10).

19. 48 Fed. Reg. 14234 (1983) (to be codified at 40 C.F.R. § 270.11), 48 Fed. Reg. 39622 (1983) (to be codified at 40 C.F.R. § 270.11).

20. 48 Fed. Reg. 14248 (1983) (to be codified at 40 C.F.R. § 270.70 - .73); 48 Fed. Reg. 17718 (1984) (to be codified at 40 C.F.R. § 270.70).

21. 48 Fed. Reg. 14245 (1983) (to be codified at 40 C.F.R. § 270.60).

22. 48 Fed. Reg. 14245 (1983) (to be codified at 40 C.F.R. § 270.61), 48 Fed. Reg. 30114 (1983) (to be codified at 40 C.F.R. § 270.61).

23. 48 Fed. Reg. 14246 (1983) (to be codified at 40 C.F.R. § 270.62).

24. 48 Fed. Reg. 14247 (1983) (to be codified at 40 C.F.R. § 270.63).

25. 48 Fed. Reg. 14241 (1983) (to be codified at 40 C.F.R. § 270.30); 48 Fed. Reg. 30114 (1983) (to be codified at 40 C.F.R. § 270.30); 48 Fed. Reg. 39622 (1983) (to be codified at 40 C.F.R. § 270.30)

26. 48 Fed. Reg. 14242 (1983) (to be codified at 40 C.F.R. § 270.32).

27. 48 Fed. Reg. 14245 (1983) (to be codified at 40 C.F.R. § 270.50).

28. 48 Fed. Reg. 14243 (1983) (to be codified at 40 C.F.R. § 270.33).

29. 48 Fed. Reg. 14242 (1983) (to be codified at 40 C.F.R. § 270.31).

30. 48 Fed. Reg. 14232 (1983) (to be codified at 40 C.F.R. § 270.4).

31. 48 Fed. Reg. 14243 (1983) (to be codified at 40 C.F.R. § 270.40).

32. 48 Fed. Reg. 14243 (1983) (to be codified at 40 C.F.R. § 270.41).

33. 48 Fed. Reg. 14245 (1983) (to be codified at 40 C.F.R. § 270.43).

34. 48 Fed. Reg. 14244 (1983) (to be codified at 40 C.F.R. § 270.42).

35. 48 Fed. Reg. 14244 (1983) (to be codified at 40 C.F.R. § 270.12).

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P-573 858 008

Mr. Bill Moore,
Pinchem Co. Inc.
6133 Edith Blvd. NE
Albq NM 87107

Jan. 7, 1988

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

January 8, 1988 **CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Mr. Bill Moore, President
Rinchem Company, Inc.
6133 Edith Boulevard, N.E.
Albuquerque, NM 87107

Re: NMD 002208627

Dear Mr. Moore:

Enclosed is the operating permit for Rinchem Company, Inc.'s hazardous waste storage facility located at 6133 Edith Boulevard, N. E. , Albuquerque. This permit is issued under authority of the New Mexico Hazardous Waste Act (Section 74-4-1 *et seq.*, NMSA 1978, as amended) and the Hazardous Waste Management Regulations (HWMR-4).

The permit will become final and effective after the appeal period provided for in Section 303.G. of HWMR-4 has expired. The appeal period runs for thirty days after receipt of this permit by Rinchem, and the permit may be appealed by any adversely-affected person. Operations under the permit may not commence until the permit is final and effective. The permit will run for a term of ten years from the effective date.

After the effective date of the permit, Rinchem will be subject to all provisions of the Hazardous Waste Act and HWMR-4, both as a regulated storage facility and as a transporter of hazardous waste.

If you have any questions, please contact Mr. C. Kelley Crossman of the Hazardous Waste Management Section at 827-2923, or Mr. Pat Anderson of the Office of General Counsel at 827-2990.

Sincerely,

Michael J. Burkhart

Michael J. Burkhart, Director
Environmental Improvement Division

cc: Tanga Winkle, EPA (6H-HS)

Hazardous Waste Facility Permit

PERMITTEE: Rinchem Company, Inc.

LOCATION: 6133 Edith Blvd., N.E.
Albuquerque, NM 87107

ID NUMBER:
NMD002208627
PERMIT NUMBER
NMD 002208627-1

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6901, *et seq.*), and the New Mexico Hazardous Waste Act (§§ 74-4-1 *et seq.* NMSA 1978, as amended 1987) a permit is issued to Rinchem Company, Inc. (hereafter called the Permittee) to operate a hazardous waste storage facility at the location stated above.

The Permittee must comply with all the terms and conditions of this permit. This permit consists of the conditions contained herein including the attachments. Applicable provisions of regulations cited are those which are in effect on the effective date of this permit, New Mexico Hazardous Waste Management Regulations (HWMR-4). This permit shall become effective in accordance with HWMR-4, Sections 303.F. and 303.G. and shall run for a period of ten years.

This permit is based on the provisions of HWMR-4. This permit is also based on the assumption that all information contained in the permit application is accurate and that the facility will be operated as specified in the application. The permit application consists of information submitted August 5, 1986 and revised on February 17, 1987.

Any inaccuracies found in the information may be grounds for the termination or modification of this permit and potential enforcement action.

Signed this 8th day of January 1988

by Michael J. Burkhart

Michael J. Burkhart, Director, N.M.E.I.D.

New Mexico
Health and Environment Department
Environmental Improvement Division

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

January 8, 1988

TO: Commenters on Rinchem Company, Inc.
Hazardous Waste Storage Permit Application
NMD 002208627

Re: Response to Comments

On August 9, 1987, the EID announced its intention to issue a permit to the Rinchem Company, Inc., 6133 Edith Blvd, N.E., Albuquerque, and invited the public to comment on the proposed permit. As a result of the response from the public, certain changes were made to the draft permit. These changes were incorporated and the permit issued on January 8, 1988. Any person adversely affected by this decision may request a review of this decision in accordance with the New Mexico Hazardous Waste Management Regulations, Section 303.G.

The final decision to issue the permit was made after careful consideration of all the comments made by the public. The concerns expressed by most commenters were either location or potential environmental impact, particularly to groundwater. Since there is no disposal of hazardous wastes at this site, and the facility is designed to retain any potential spill or leak within its leak collection system, there will be no groundwater impacts. Consequently, regulations requiring groundwater protection and monitoring measures are inapplicable to this facility. However, issuance of this permit allows the EID to require other safety measures such as contingency planning, notification to local authorities and emergency response units, and comprehensive training for Rinchem personnel. Without the permit the EID lacks authority to require these efforts.

The concerns about environmental impact are similarly addressed by the EID in the permit. The contingency and closure plans require cleanup of all spills and the posting of financial surety to ensure the availability of funds to pay for closure. These things are not required if a permit is not issued. Therefore the EID believes that environmental protection is enhanced by issuance of this permit.

Rinchem Company, Inc.
Response to Comments
January 8, 1988

The comments received on the draft permit were discussed by the EID letter of November 10, 1987, mailed to all commenters who included a return address. The comments incorporated into the final permit are as follows:

1. Several typographical errors and grammatical redundancies were corrected.

2. Regulatory cites throughout were changed to HWMR-4 which will become effective prior to the effective date of the permit. A copy of HWMR-4 was added to the permit as attachment K.

3. A cross-reference between federal regulations (40 CFR) cited in the permit and HWMR-4 was added as attachment J.

4. A requirement to check the spill collection sump after precipitation events was added to the inspection plan, permit attachment C.

5. Two record keeping requirements of the regulations were added in permit paragraph II.K.1.

6. Permit paragraph II.N. was rewritten to specify the current building. Expansion beyond the current building will require permit modification.

7. A maximum aggregate quantity of 500 drums of waste was added to permit paragraph III.B.2.

8. The closure plan, permit attachment F, was modified to require scrubbing with a detergent and water solution, and additional sampling was specified.

Thank you for your input to the permitting process.

Michael J. Burkhart

Michael J. Burkhart, Director
Environmental Improvement Division

cc: Tanga Winkle, EPA (6H-HS)
Rinchem Company, Inc.

290 Signatures
Del. EID
Friday 10-23-87

MC

PETITION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.	Edna P Dupin	6118 Edith NE #15	345-7113
2.	Bianche Allen	" " #13	344-2296
3.	Merle Almond	" " #12	345-5788
4.	Graham E Almond	" " 12	— —
5.	Vernon + Beatrice Smith	#11 (Mr Smith Neighborhood Blind)	345-9512
6.	Melba & Charles Cline	" " #10	344-1358
7.	Emmett Summers	" " #8	345-2775
8.	Geneva Ankeny	6118 Edith NE #3	345-9279
9.	Frank C English	6118 Edith Blvd NE #82	344-6816
10.	Mabel L English	6118 Edith Blvd #82	344-9566
11.	Dorothy Bowen	6118 Edith Blvd #96	345-1995
12.	Derrell Bowen	6118 Edith #96	[illegible]
13	[illegible]	6118 Edith #9	[illegible]
14	Bill Keenen	6118 Edith #44	344-9629
15	Virginia Johnson	6118 Edith #44	344-9629
16	Joe R. Rael	6118 Edith NE #123	
17	Jane Olsen	6118 Edith NE #56	[illegible]
18	Molly M Beach	6118 Edith NE #32	[illegible]
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OCT 2 - 1987
HAZARDOUS WASTE SECTION

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	NAME	ADDRESS	TEL. NO.
1.	O.K. Clark Jr.	6016 Unitas Dr. N.W.	897-0324
2.	Mary Cisney	2609 Devaney Rd NW	242-7974
3.	Randy Josephson	6301 Fourth ST	345-0880
4.	Jim Burbank	302 Alameda NW	345-1604
5.	Ken Baker	925 Hacienda Dr. NW	898-9523
6.	W Meadahall	915 HACIENDA N.W	898-9614
7.	[illegible]	3709 Tony Pinto	821338
8.	Sidney M Santa J.	5836 El Prado NW	345-5888
9.	Kathy Schaning Hansen	1902 Candelaria NW	345-0868
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RECEIVED

HAZARDOUS WASTE SECTION

ORIGINATOR OF PETITION: R.B. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

PETITION

HAZARDOUS WASTE SECTION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.	Vicki L Martinez	113 NARA VISTA DR NW	344-4756
2.	D.M. McIntosh	108 San Fidel Dr NW	344-5474
3.	Thelma McIntosh	108 San Fidel NW	344-5474
4.	Antoinette Marquez	112 San Fidel N.W.	344-2777
5.	Alda Sáiz	112 San Fidel NW	344-2777
6.	Louis Lucero	117 San Fidel NW	344-8151
7.	Harry Norton	116 San Fidel	344-4228
8.	Howard Samek	116 San Fidel	344-4228
9.	Barbara Tenney	120 San Fidel NW	344-4996
10.	Toby Tenney	120 San Fidel NW	" "
11.	Sandra Aragon	6620 Tierra Dr.	345-7247
12.	Hubert Aragon	" "	" "
13	Peter Weirich	124 SAN FIDEL NW	344-0605
14	Ann Fern Alvarado	113 San Fidel NW	344-5007
15	Lillian Pilon	129 - San Fidel N.W.	345-2217
16	Eleanor C. Nelson	133 San Fidel N.W.	345-6453
17	D.C. Nelson	133 San Fidel N.W.	345-6453
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ORIGINATOR OF PETITION: RB. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

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	NAME	ADDRESS	TEL NO.
1.	[illegible]	6705-Vermejo N.W.	344-9186
2.	[illegible]	6705 Vermejo NW	344-9186
3.	[illegible]	6701 Vermejo NW	344-1379
4.	[illegible]	6704 Vermejo NW	344-8046
5.	[illegible]	6713 Verme. NW	345-3000
6.	[illegible]	149 SANFIDEL NW	344-1160
7.	Frank Dance	152 Nara Visa	345 7818
8.	[illegible]	148 NARA VISA	345-3824
9.	Joseph J. Brem	148 NARA VISA NW	345-3824
10.	Mrs. L.V. Neely	144 Nara Visa NW	344-4606
11.	[illegible]	145 Nara Visa NW	344-5328
12.	Dee B. Wright	140 Nara Visa N.W.	344-5769
13.	Joseph M. Wright	140 NARA VISA NW.	344 5769
14.	Tony Lucero	141 Nara Visa NW	344-7589
15.	Richard Kaufman	136 Nara Visa	344-4287
16.	Robert Kaufman	136 Nara Visa	344-4187
17.	[illegible]	137 Nara Visa NW	345 1562
18.	[illegible]	133 Nara Visa NW	344-1125
19.	[illegible]	132 Nara Visa NW	344-2907
20.	Teresa Gray	128 Nara Visa Rd	345-7368
21.	Robert [illegible]	129 Nara Visa NW	344-2847
22.	Katherine Seaman	129 Nara Visa NW	344-2847
23.	Carol [illegible]	130 Nara Visa NW	345-0418
24.	Margaret J. [illegible]	130 Nara Visa NW	345-0418
25.	[illegible]	121 NARA VISA NW.	345-4657
26.	Arthur Joe Berry	116 Nara Visa NW	344-9923
27.	MARY STOREY	112 NARA VISA NW	3454232
28.	Dolores C. Casias	112 NARA VISA N.W.	-345-4232
29.	[illegible]	113 NARA VISA DR N.W.	344-4756

ORIGINATOR OF PETITION: RB. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

WE, THE UNDERSIGNED RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.	RB Pete Craig	120 Carlito Rd. NW	345-6676
2.	[illegible]	6303 4th St. NW	345-8506 366-4519
3.	Jeffrey C Alpers	4420 Shepard NE	884-0734
4.	Michael P. Craig	9620 4th #71	898-2460
5.	Norma Whites	6608 Tierra Del NW	344-3342
6.	Claudia S. Mitts	6611 Tierra Del NW	
7.	Nancy J Craig	120 Carlito Rd NW	345-6676
8.	Cathrin M Romero	121 Carlito N.W.	345-0529
9.	Martin R. Romero	121 Carlito Rd NW	345-0529
10.	Nola Bruce	112 Carlito, N.W.	344-3976
11.	[illegible] Vandenburg	117 Carlito NW	344-7622
12.	[illegible] Vandenburg	117 Carlito NW	344-7622
13	[illegible] Brown	133 Carlito Rd NW	344-9785
14	[illegible] Brown	133 Carlito Rd NW	344-9785
15	Donald Jones	253 Green Valley N.W.	344-0101
16	Bob Bode	113 Velarde NW	344 6690
17	Debbie Maestas	121 Velarde N.W	345-3138
18	Moses Maestas	121 Velarde N.W	345 5758
19	Barbara Phillips	120 Velarde N.W.	344-2003
20	Harold Phillips	120 Velarde N.W	344-2003
21	Bert Gonzales	128 Velarde NW	344-8451
22	Barbara Gonzales	128 Velarde NW	344 8451
23	John Schow	308 Del Akers Rd NW	344 2966
24	Amen Robertson	125 Velarde NW	345-1395
25	Chandon or Robertson	125 Velarde NW	345-1395
26	Robert B C Howell	136 Velarde NW	344-2771
27	Patricia A Howell	136 Velarde N W	344-2771
28	Anthony J Garcia	6805 Yarnajo DR. N.W.	344-2871
29	Norma Garcia	" "	" "

ORIGINATOR OF PETITION: RB. PETE CRAIG, 120 CARLITO RD. N.W. ALB. N.M. 87107

PETITION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.	Russ Alberti	6740 4th St NW	344-2388
2	Susan Glynn	339 Tyler Rd NW	none
3.	LRoy H Hackett	915 Green Valley Road NW	345-0011
4.	[illegible]	618 Fairway N.W	344-1337
5.	Francisco Lucero	4902 Mescalero NE	881-3623
6.	Carol Kerr-Lopez	505 Rockl Rd N.W.	898-7814
7.	Reginald N Lopez	505 Rockl Rd N.W	898-7814
8.	Kathy Rauschenberger	8909 4th NW.	898-9181
9.	Geoffrey C. Gifford	4224 Stepard NE	889-0734
10.	DAVID G OLLOIN	710 MISSION AVE NE	344-9134
11.	Anne Crawford	312 Rockl NW	884 4205
12	Anthony Mankewicz	5119 Spring STREAM Ct.	823-1313
13	Marilyn Mankewicz	5119 Stream Ct NE	823-1313
14	Jake McCarty	613 San Lorenzo NW	344-8435
15	[illegible]	312 Nava Vista NW	344-5254
16	Ramon Romero	2229 Kelly	873 3325
17	[illegible] Johnson	6405 Guadalupe Pl. NW	344-0733
18	Marvin Fitzgerald	7008 4th NW	344 1817
19	[illegible]	317 F Osuna NE	None
20	[illegible]	4409 17th NW	345 5924
21	[illegible]	808 Freeman NW.	345-1271
22	Albert Hernandez	7018 Guadalupe Tr NW	897-1317
23	[illegible]	10111 Edith NE.	897 2657
24	Joe Montoya	1725 Connally NW	898.3258
25	[illegible]	149 Pueblo Solano NW	345 3212
26	Alma Morales	406 Michell	
27	MICHAEL BRESLOW	4216 EDITH NE	345-2232
28	David Hogan	128 Hilton	
29	[illegible]	151 Pleasant Ave NW	

ORIGINATOR OF PETITION: R.B. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

PETITION

HAZARDOUS WASTE SECTION

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	NAME	ADDRESS	TEL. NO.
1.	Patricia Wise	6118 EDITH NE #198	344-1520
2.	Robert Shingleton	6118 Edith NE #156	344-3736
3.	Mary Shingleton	6118 Edith NE #156	344-3736
4.	A. Ruth G. Hashimoto	6118 Edith NE #159	344-1580
5.	Beverly Brown	6118 Edith NE #158	344-4659
6.	[illegible]	#155	344-3306
7.	Shirley Kavanaugh	6118 Edith N.E. #153	344-4367
8.	Geraldine Dupont	6118 Edith #200	345-6367
9.	Albert M. Dupont	6118 Edith #200	345-6367
10.	Joan B. Powers	6118 Edith #144	345-0160
11.	Phyllis B. Norman	6118 Edith NE #197	344-7101
12.	Lorin R. Norman	6118 Edith #197	344-7101
13.	E. Coates	6118 Edith #194	344-5167
14.	Jean Pellegrin	6118 Edith #193	345-3240
15.	Royal M. Stanchina	6118 Edith #181	344-4965
16.	Roy Dowen	6118 Edith #158	344-5659
17.	Pilarda Gallegos	6118 Edith NE Sp189	344-3265
18.	Phyllis T. Lundgren	" " " Sp192	344-8530
19.	Dorothy C. Lundgren	" " " "	" "
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ORIGINATOR OF PETITION: R.B. PETE CRAIG, 120 CARLITO Rd. N.W. ALB. N.M. 87107

PETITION

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NAME	ADDRESS	TEL NO.
1. Gladys Marshall	6118 Edith Blvd NE #165	344 9025
2. Eugene Marsh	c/ 6118 Edith Blvd NE #165	344 9025
3. Dorella L Yonkers	6118 Edith Blvd NE #167	344-6630
4. Theodore H. Yonkers	6118 Edith Blvd NE #167	344-6630
5. Todd C Gray	6118 Edith Blvd NE #168	345-7191
6. Dorothy Grange	6118 Edith Blvd NE #168	345-7191
7. Mrs Rosalie Lewanter	#171	3456148
8. John Starchus	#181	344-4965
9. Gertrude Groves	#182	344-3763
10. Priscilla Beatright	6118 Edith NE #163	344-9830
11. Marie Thurman	6118 Edith NE #183	345-6823
12. Harry H Fox	6118 Edith N.E. #162	344-0589
13. Esther G. Fox	6118 Edith NE #162	344-0589
14. [illegible]	6118 Edith N.E. #163	344-9830
15. Mane Bartolucci	6118 Edith #166	344 9545
16. Anthony Bartolucci	6118 Edith 186	344 9545
17. Manuel A. Garcia Jr	6118 Edith NE #178	345-2296
18. Madeline Garcia	6118 Edith NE #178	345-2296
19. Joseph Gardner	6118 Edith NE #176	345-4052
20. Rose Gardner	6118 Edith NE #176	345-4050
21. Genevieve Massey	6118 Edith NE #184	345-1455
22. Geraldine A Gaines	6118 Edith NE 185	344-3156
23. Rose M. Worden	6118 Edith NE 187	344-7862
24. Floyd H Worden	6118 Edith NE 187	344-7862
25. Mecka Kaszuba	6118 Edith NE #150	345-4591
26. Rudolph Kaszuba	6118 Edith NE #150	345-4591
27. Ralph Lafabre	6118 Edith NE #149	344-6520
28. Joyce Lavelage	6118 Edith N.E. #149	"
29. Harry D Wise	6118 Edith NE #198	344-[illegible]

ORIGINATOR OF PETITION: R.B. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

PETITION

HAZARDOUS WASTE SECTION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL NO.
1.	Lloyd Yandell	6118 Edith Blvd NE #128	344-7415
2.	Maurine Yandell	6118 Edith NE 128	344-7415
3.	Sterling Gardner	6118 Edith NE 115	344-6624
4.	Betty Gardner	6118 Edith N.E. #115	344-6624
5.	Fern N. Knudsen	6118 Edith NE #114	344-9346
6.	Dale J. Knudsen	6118 Edith NE #114	344-9346
7.	Cora Vaio	6118 Edith NE #113	344-5632
8.	Hunter Vaio	6118 Edith NE 113	344-5632
9.	Marion Menapace	6118 Edith N.E. 110	344-7764
10.	Dorothy M Moore	6118 Edith NE 106	355-6115
11.	John J Sa Cubitt	" " "	" "
12.	Sarah M Harner	6118 Edith N.E. #102	345-5042
13.	John R Harner	6118 Edith #102	345-5042
14.	Jeanette Kihn	6118 NE #78 Albuq. NM. 87107	345-7402
15.	Ralph Pilkenton	6118 Edith NE #143 Albuq NM 87107	344-2433
16.	Minnie Pilkenton	6118 Edith NE #143 Albuq N.M 87107	344-2433
17.	Linda Pilkenton	6118 Edith NE #143 Albuq N.M. 87107	344-2433
18.	John T Kreisf	6118 Edith #142 Albu N.M.	345-7111
19.	Edwina Kreisf	6118 Edith #142 Albu N.M.	345-7111
20.	Edna Deal	6118-141 Edith Blvd. N.E. Albuq N.M. 87107	344-4334
21.	Helen Trudeau	6118 EDITH #139 Albq. N 87107	344-2514
22.	Pauline Frenfer	6118 Edith #139 Albuq 87107	344-2514
23.	Hanah Pyles	6118 Edith NE #129 Albuq 87107	345-0#29
24.	JOHN PIERUCKI	John Pierucki 6118 EDITH BLVD N.E. #134 87107	344-6005
25.	Barbara Pierucki	6118 Edith Blvd N.E. Albuq # 134 87107	344-6005
26.	Carla Jane Thompson	6118 Edith N.E. #132 Albq. N.M.	344-1948
27.	Helen M. Vaughan	6118 Edith NE #129 Albuq N.M.	344-0643
28.	Bill Steinkamp	6118 Edith NE #118 Albq. N.M.	345-7218
29.	Helen Steinkamp	6118 Edith NE #118 Albuq N.M.	345-7218

ORIGINATOR OF PETITION: RB. PETE CRAIG, 120 CARLITO RD. N.W. ALB. N.M. 87107

PETITION

HAZARDOUS WASTE SECTION

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	NAME	ADDRESS	TEL NO.
1.	Jan Price	6118 Edith NE #130 Albuq N M	—
2.	Charlie Price	6118 Edith NE #130 Albuq NM	—
3.	Richard W Schroeppe	6118 Edith Blvd NE #119 alb NM	344-2209
4.	Gerarda F. Schroeppe	6118 Edith Blvd NE #119 alb NM	344-2209
5.	Violet Spaulding	6118 Edith Blvd N.E. #131 Albuq N.M.	345-7458
6.	Margaret Tilk	6118 Edith Blvd N.E. #133 Albuq NM	344-0477
7.	Jack Margard	6118 N Edith - #136, Albuquerque, N.M.	345-2040
8.	Kathi Margard	6118 Edith NE #136, Albuquerque, NM	345-2040
9.	Nelbert Taylor	6118 Edith NE #140 Albuquerque NM	344-7560
10.	Katherine Taylor	6118 Edith NE #140 Alb. N M	344-7560
11.	Betty Perrault	6118 Edith Blvd N.E. #144 Alb. N.M.	344-9211
12.	Alfred E Perrault	6118 EDITH N.E. #144 ALB. N.M.	344-9211
13	Hugh Gray	6118 Edith N.E. #145 ALB N.M	344-9976
14	L. Ruth Gray	✓ ✓ ✓ ✓ ✓ ✓ ✓	✓
15	Bette T. Darner	6118 Edith NE #152 Albuq	345-6326 87107
16	Peter Ewerts	6118 Edith Blvd #100 Albuq	345-7520 87107
17	John A Zastrow	6118 Edith Blvd #99 Albq	344-0665 87107
18	Duane R. Zastrow	6118 Edith Blvd #99 Alb	344-0665 87107
19	Robert R D Trimble	6118 Edith 148 Albuq	344-5852 87107
20	Ruth E Trimble	6118 Edith NE 148 Albuq	344-5852 87107
21.	F. R. Morey	6118 Edith N.E. 147 Albuq.	345-2206 87107
22	Gertrude Morey	6118 Edith N.E. #147 Albuquerque	345-2206 87107
23	Della Mayorst	6118 Edith NE #97 Albuq	344-7474 87107
24	Glenna Jermena	6118 Edith NE #101 Albuq	345-2186 87107
25	Edmund N. J. Jermena	6118 Edith N.E. #101 Alb.	345-2186 87107
26	C H Dalton	6118 Edith NE #129 alb	344-0643 87107
27	Pauline C. Stericker	6118 Edith N.E. #120 Albuq N.M.	87107
28	Vergil Kavanaugh	6118 Edith N.E. #153 Albuq N.M.	87107
29	Doris M Patrick	6118 Edith Blvd NE #154 Albuq NM	87107

ORIGINATOR OF PETITION: R.B. PETE CRAIG, 120 CARLITO RD. N.W. ALB. N.M. 87107

PETITION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.	Lola Gurule	6118 Edith N.E. #54	345-6118.
2.	Earl K. Warnock	6118 Edith NE #55	344-3708
3.	V. Bolinger	6118 Edith N.E. #53	884-2699
4.	Irene Berger	6118 Edith N.E. #52	345-2705
5.	Don Bockwalter	6118 EDITH NE #78	345-1757
6.	Glen Bockwalter	6118 EDITH NE. #78	345-1757
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RECEIVED
HAZARDOUS WASTE SECTION

ORIGINATOR OF PETITION: R.B. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

PETITION

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	NAME	ADDRESS		TEL. NO.
1.	Lucile Murman	6118 Edith N.E	#57	344-4033
2.	Helene Simmons	"	#56	344-0761
3.	Sam Simmons	"	—	—
4.	Harry Murman	"	#57	344-4033
5.	Jay W. Frank	"	#58	344-2009
6.	Janet S. Green	"	#58	344-2009
7.	Evelyn V. Carugno	"	#59	344-2661
8.	Glenn A. Donley	"	#60	344-7176
9.	Vera A. Donley	"	#60	344-7176
10.	Bobbie D. Dryden	"	61	345-1277
11.	Edna M. Dryden	"	#61	345-1277
12.	Rosemary Franke		#76	344-7907
13.	Pat Rice		#84	344-6178
14.	Glynn Rice	"	#84	344-6178
15.	Howby, Mrs.	"	#86	344 5925
16.	Robert D. Howby	"	#86	344 5925
17.	Michael Sylvester	"	#87	345 4445
18.	Grace M. Sylvester	"	#87	"
19.	Janet B. Wilkinson	"	#89	344-7551
20.	Dan Wilkinson	"	89	344-7551
21.	Mildred Haddon		#90	344-4945
22.	Jack Haddon		90	344 4945
23.	Donald Huebsmann		#93	345-9630
24.	Barbara Huebsmann		#93	345-9630
25.	Virginia Martin		#94	345-4794
26.	Terry Lucero		#49	344-7268
27.	Hazel L. Barnes		#50	345-4954
28.	Joseph E. Winkes		#51	345-7353
29.	Mary Ann. Winkes		#51	345-7353

RECEIVED
OCT 12 1987
HAZARDOUS WASTE SECTION

ORIGINATOR OF PETITION: R.B. Pete Craig, 120 Carlito Rd. N.W. Alb. N.M. 87107

PETITION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.	[illegible] Beach	6118 Edith NE Sp 32	344-6975
2.	Albert Lyons	6118 Edith N.E. #33	345-4932
3.	Marie C. Lyons	6118 Edith NE #33	345-4932
4.	Zurin A. Simon	6118 Edith NE #31	344-5766
5.	Ken Zigler	6118 Edith NE #37	344-7124
6.	Joy Zigler	6118 Edith NE #37	344-7124
7.	Edna Cooper	6118 Edith NE #40	[illegible]
8.	Donald Romer	6118 Edith NE #40	[illegible]
9.	[illegible]	#43	[illegible]
10.	Janice McDivitt	6118 Edith #46	345-1231
11.	Josephine Welch	6118 Edith #41	345-4945
12.	Thomas H. Salmon	6118 Edith #37	344-1587
13	Helga Simon	6118 Edith #4	344-5766
14	Virgil McDivitt	6118 EDITH #46	345 1231
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RECEIVED

HAZARDOUS WASTE SECTION

PETITION

CONT'.

NAME	ADDRESS	TEL NO:
Frank Dubbs	314 Del aber	344 8309
Niya Williams	1211 EL Portal N.W.	345-9318
Richard Boltz	515 Roehl Rd	898-6469
Rose O' boyle	515 Roehl Rd	898-6469

RECEIVED

OCT 2 5 1987

HAZARDOUS WASTE SECTION

MEMORANDUM OF MEETING OR CONVERSATION

[✓] Telephone [ ] Personal	Time 3:20 p.m.	Date 10/20/87

Originating Party	Other Parties
Pete Craig,	Elizabeth Gordon, EID

Subject: Rinchem permit + public meeting.

Discussion

Mr. Craig called to see if his letter had been received and if a decision had been made regarding another meeting. I assured him that his letter was in the Rinchem file that Kelley was meeting w/ the EID Directors Monday to discuss the situation and that probably a meeting would be held but not sure if it would be a formal hearing or an informational meeting. He would like to know the decision and would someone contact him. They are circulating petition for a meeting. He does understand difference between informational meeting and formal hearing.

Conclusions or Agreements

Distribution
CKC
Rinchem file

Signed A. Gordon

RINCHEM COMPANY, INC.
6133 EDITH BOULEVARD NE
ALBUQUERQUE, NM 87107
PHONE (505) 345-3655

RECEIVED
HAZARDOUS WASTE SECTION

October 19, 1987

C. Kelley Crossman
Environmental Supervisor Hazardous Waste Bureau
P. O. Box 968
Santa Fe, NM 87504-0968

Dear Kelley:

Rinchem Company, Inc. has sampled and tested groundwater at 6133 Edith Blvd. NE every six months since we built on the property. In response to your request for TOC results, I am including the following data:

MO/YR	2/84	8/84	2/85	8/85	2/86	8/86	2/87	8/87
TOC (mg/Liter)	1	<1	<1	<1	2.1	46	17.2	5

The results of the February 1986 sample were given to us in a lab report date April 3, 1986. Additional samples were taken and tested as follows:

MO/DAY/YR	4/8/86	4/29/86	5/20/87
TOC (mg/Liter)	31.1	20.9	50.7

Along with the May sample a purge and trap technique was performed for volatile organics. None were found at the threshhold of the technique (.02 mg/Liter).

In April or May we contacted EID with these results of these tests. Greg Lewis of EID sampled the water and concurred with the analysis of the Albuchemist. Their reports are attached.

Any help on making TOC a good indicator or a new more appropriate indicator would be greatly appreciated.

We Care,

Bill Moore

Bill Moore
President

pr

Enclosure: EID reports

STATE OF NEW MEXICO

ENVIRONMENTAL IMPROVEMENT DIVISION

TONEY ANAYA
GOVERNOR

DENISE D. FORT
DIRECTOR

RECEIVED
HAZARDOUS WASTE SECTION

September 11, 1986

William W. Moore, President
Rinchem Company, Inc.
6133 Edith Blvd., NE
Albuquerque, NM 87107

Dear Mr. Moore:

Enclosed please find the results of laboratory analyses performed on the ground-water samples that I collected at your site on June 5, 1986. The results indicate that there is no contamination of ground water by organic chemicals. However, the results do show that the organic nitrogen in the water (total Kjeldahl nitrogen) is fairly high (29.7 mg/l), as is the total organic carbon (5.9 mg/l). This phenomenon may be a result of nitrogen loading due to an increased number of septic tanks in the vicinity. The chemistry of the water suggests that it may be moving towards anaerobic conditions. I would like to sample your well periodically in the future to monitor how the chemistry may be changing.

At any rate, I see no indication of any ground-water related problem due to your facility's operations. If you have any questions, do not hesitate to contact me at 827-2890.

Sincerely,

Greg Lewis

Greg Lewis
Water Resource Specialist
Ground Water Section

GL:egr

Enclosures

86- 0672-C

SCIENTIFIC LABORATORY DIVISION

700 Camino de Salud NE
Albuquerque, NM 87106 841-2570

HEALTH & ENVIRONMENT — STATE OF NEW MEXICO

REPORT TO: GREG LEWIS
GROUND WATER / HAZ WASTE BUREAU
EID
P.O BOX 968, SANTA FE, 87504-0968

S.L.D. No. OR- 672-14 B
DATE REC. 6/5/86
PRIO

PHONE(S): 827-2890
USER CODE: [redacted]

SUBMITTER: GREG LEWIS
CODE: |__|__|__|

SAMPLE COLLECTION CODE: (YYMMDDHHMMIII) |8|6|0|6|0|5|1|0|1|5|__|__|__|

SAMPLE TYPE: WATER [X], SOIL [ ], FOOD [ ], OTHER:_____ CODE: |__|__|__|

COUNTY: BERNALILLO ; CITY: ALBUQUERQUE CODE: |__|__|__|__|

LOCATION CODE: (Township-Range-Section-Tracts) |__|__|__|+|__|__|+|__|+|__|__|__|(10N06E24342)

ANALYSES REQUESTED: Please check the appropriate box(es) below to indicate the type of analytical screens required. Whenever possible list specific compounds suspected or required.

PURGEABLE SCREENS

- [ ] (753) Aliphatic Purgeables (1-3 Carbons)
- [X] (754) Aromatic & Halogenated Purgeables
- [ ] (765) Mass Spectrometer Purgeables
- [ ] (766) Trihalomethanes

Other Specific Compounds or Classes

- [ ] _____
- [ ] _____
- [ ] _____
- [ ] _____
- [ ] _____

EXTRACTABLE SCREENS

- [ ] (751) Aliphatic Hydrocarbons
- [ ] (760) Organochlorine Pesticides
- [ ] (755) Base/Neutral Extractables
- [ ] (758) Herbicides, Chlorophenoxy acid
- [ ] (759) Herbicides, Triazines
- [ ] (760) Organochlorine Pesticides
- [ ] (761) Organophosphate Pesticides
- [ ] (767) Polychlorinated Biphenyls (PCB's)
- [ ] (764) Polynuclear Aromatic Hydrocarbons
- [ ] (762) SDWA Pesticides & Herbicides

Remarks: This is from the monitoring well of a Haz waste storage facility (see attached list of chemicals handled) Facility name: RINCHEM

FIELD DATA:

pH= 7.0 ; Conductivity= 1500 umho/cm at 23 °C; Chlorine Residual=_____mg/l

Dissolved Oxygen=_____mg/l; Alkalinity=_____mg/l; Flow Rate_____ ____/____

Depth to water ~45 ft.; Depth of well_____ft.; Perforation Interval ____-____ft.; Casing:_____

Sampling Location, Methods and Remarks (i.e. odors, etc.)

Bailed From monitor well

I certify that the results in this block accurately reflect the results of my field analyses, observations and activities.(signature collector): Gregory J. L... Method of Shipment to the Lab: State Vehicle

This form accompanies 2 Septum Vials, ____ Glass Jugs, and/or ____

Samples were preserved as follows:

- [ ] NP: No Preservation; Sample stored at room temperature.
- [X] P-Ice Sample stored in an ice bath (Not Frozen).
- [ ] P-$Na_2S_2O_3$ Sample Preserved with Sodium Thiosulfate to remove chlorine residual.

RECEIVED
JUL 2 1986
GROUND WATER/HAZARDOUS WASTE BUREAU

CHAIN OF CUSTODY

I certify that this sample was transferred from _____ to _____

at (location) _____ on ____/____/____ - ____:____ and that

the statements in this block are correct. Evidentiary Seals: Not Sealed [ ] Seals Intact: Yes [ ] No [ ]

Signatures _____ _____

ANALYSES PERFORMED

LAB. No.: OR- 672

THIS PAGE FOR LABORATORY RESULTS ONLY

This sample was tested using the analytical screening method(s) checked below:

PURGEABLE SCREENS

- [ ] (753) Aliphatic Purgeables (1-3 Carbons)
- [x] (754) Aromatic & Halogenated Purgeables
- [ ] (765) Mass Spectrometer Purgeables
- [ ] (766) Trihalomethanes

Other Specific Compounds or Classes

- [ ] _____
- [ ] _____
- [ ] _____
- [ ] _____
- [ ] _____

EXTRACTABLE SCREENS

- [ ] (751) Aliphatic Hydrocarbons
- [ ] (760) Organochlorine Pesticides
- [ ] (755) Base/Neutral Extractables
- [ ] (758) Herbicides, Chlorophenoxy acid
- [ ] (759) Herbicides, Triazines
- [ ] (760) Organochlorine Pesticides
- [ ] (761) Organophosphate Pesticides
- [ ] (767) Polychlorinated Biphenyls (PCB's)
- [ ] (764) Polynuclear Aromatic Hydrocarbons
- [ ] (762) SDWA Pesticides & Herbicides

ANALYTICAL RESULTS

COMPOUND(S) DETECTED	CONC. [PPB]	COMPOUND(S) DETECTED	CONC. [PPB]
aromatic purgeables	ND		
1,2-dichloroethane	1		
1,1-dichloroethane	TR		
* DETECTION LIMIT * *	1 µg/L	+ DETECTION LIMIT + +	

ABBREVIATIONS USED:

N D = NONE DETECTED AT OR ABOVE THE STATED DETECTION LIMIT

T R = DETECTED AT A LEVEL BELOW THE STATED DETECTION LIMIT (NOT CONFIRMED)

[RESULTS IN BRACKETS] ARE UNCONFIRMED AND/OR WITH APPROXIMATE QUANTITATION

LABORATORY REMARKS: _____

CERTIFICATE OF ANALYTICAL PERSONNEL

Seal(s) Intact: Yes [ ] No [x]. Seal(s) broken by: _____ date: _____

I certify that I followed standard laboratory procedures on handling and analysis of this sample unless otherwise noted and that the statements on this page accurately reflect the analytical results for this sample.

Date(s) of analysis: 11 June 86. Analyst's signature: J.P. Finney

I certify that I have reviewed and concur with the analytical results for this sample and with the statements in this block.

Reviewers signature: R Meyerhein

Lab Number: HM 1053

Sample Code: Rinchem

Date Submitted: 6/5/86

Date Analyzed: 6/19/86

By: Greg Lewis

Reviewed By: J.P. Ashby

Date Reported: 7/8/86

Element	ICAP VALUE(MG/L)	AA VALUE(MG/L)
Aluminum	<0.1	
Barium	<0.1	
Berylium	<0.1	
Boron	0.2	
Cadmium	<0.1	
Calcium	180.	
Chromium	<0.1	
Cobalt	<0.1	
Copper	<0.1	
Iron	<0.1	
Lead	<0.1	<.01
Magnesium	29.	
Manganese	0.14	
Molybdenum	<0.1	
Nickel	<0.1	
Silicon	16.	
Silver	<0.1	
Strontium	1.5	
Tin	<0.1	
Vanadium	<0.1	
Zinc	<0.1	
Arsenic		.008
Selenium		.008
Mercury		<.0005

State of New Mexico
HEALTH and ENVIRONMENT DEPARTMENT
SCIENTIFIC
LABORATORY DIVISION

CHEMICAL and PHYSICAL ANALYSES for WATER SAMPLES

Date received	Lab No.	SLD user code No.

FOR PROPER PRESERVATION OF SAMPLES, CONSULT DEFINITIONS ON REVERSE. TYPE OR PRINT WITH BALL POINT PEN.

CHEMICAL ANALYSES: *Check individual items for analysis [Mark appropriate box(es)]*

INTERIM PRIMARY PARAMETER GROUP: ☐ 1 ☐ 2 ☐ 3

TYPE of CHEMICAL ANALYSIS: ☐ Complete Secondary ☐ Organic ☐ Radiological

Water Supply System Name	Water Supply System Code No.	City or Location	County	*Check one:* ☐ TREATED WATER ☐ RAW WATER

Collection Date	Collection Time	Collection Point	Collector's remarks	Report to
				Address
Collected By		Owner		

TYPE of SYSTEM *(Check one)*
☐ PRIVATE PUBLIC: ☐ Community ☐ Non-community

SOURCE: ☐ Spring ☐ Lake ☐ Well-Depth ____ ☐ Drain ☐ Stream ☐ Pool ☐ Other *(specify)* ____

LAT. ° ' "
LONG ° ' "

CATIONS	mg/l	ANIONS	mg/l	PHYSICAL		HEAVY METALS	mg/l	PARAMETER		ORGANIC	mg/l
00930 Sodium (as Na)		00940 Chloride (as Cl)		70300 Total Filterable Residue	mg/l	01000 Arsenic				39390 Endrin	
00935 Potassium (as K)		00950 Fluoride (as F)		38260 Foaming Agents (as Las)		01005 Barium				39732 Lindane	
00900 Tot.Hardness (as $CaCO_3$)		00620 Nitrate (as N)		00095 Conductance Micromhos 25°C		01025 Cadmium				38270 Methoxychlor	
00915 Calcium (as Ca)		00430 Alkalinity (as $CaCO_3$)		00400 pH		01030 Chromium		RADIOLOGICAL 01501 Gross Alpha	pCi/l	39400 Toxaphene	
00925 Magnesium (as Mg)		00440 Bicarbonate (as HCO_3)		01330 Odor		01049 Lead		03501 Gross Beta	pCi/l	39730 2, 4-D	
01045 Iron-Total (as Fe)		00445 Carbonate (as CO_3)		00080 Color	mg/l	07180 Mercury		09501 Radium-226	pCi/l	39740 2, 4, 5-TP (Silvex)	
01056 Manganese (as Mn)		00945 Sulfate (as SO_4)		00070 Turbidity		01145 Selenium		11501 Radium-228	pCi/l		
						01075 Silver					

LABORATORY REMARKS:

Reviewed by

Date reported

DISTRIBUTION: **White** - Water Supply F[illegible]tion, SF • **Canary** - WS System • **Pink** - EIA Regional Office • **Goldenrod** - SLD Lab

New Mexico Health and Environment Department
SCIENTIFIC LABORATORY DIVISION
700 Camino de Salud NE
Albuquerque, NM 87106 — (505) 841-2555

GENERAL WATER CHEMISTRY and NITROGEN ANALYSIS

DATE RECEIVED 6 5 86	LAB NO. 112.340	USER CODE [redacted]	
Collection DATE 06 05 86	SITE INFORMATION ►	Sample location RUNCHEM	
Collection TIME 10:15 A		Collection site description MONITOR WELL	
Collected by — Person/Agency G. LEWIS / EID			

RECEIVED
AUG 01 1986
GROUND WATER/HAZARDOUS WASTE BUREAU

SEND FINAL REPORT TO ►
GROUND WATER & HAZARDOUS WASTE BUREAU
NM ENVIRONMENT IMPROVEMENT DIVISION/HED
Crown Building, PO Box 968
Santa Fe, NM 87504-0968
Attn: GREG LEWIS

Station/ well code
Owner

SAMPLING CONDITIONS

☒ Bailed ☐ Dipped ☐ Pump ☐ Tap	Water level	Discharge	Sample type
pH (00400) 7.00	Conductivity (Uncorrected) 1500 µmho	Water Temp. (00010) 23 °C	Conductivity at 25°C (00094) µmho

Field comments NO ODOR

SAMPLE FIELD TREATMENT — *Check proper boxes*

No. of samples submitted ☒ **NF:** Whole sample (Non-filtered) ☐ **F:** Filtered in field with 0.45 µmembrane filter ☒ **A:** 2 ml H_2SO_4/L added

☐ **NA:** No acid added ☐ Other-*specify:*

ANALYTICAL RESULTS from SAMPLES

NF, NA		Units	Date analyzed
☐ Conductivity (Corrected) 25°C (00095)		µmho	
☐ Total non-filterable residue (suspended) (00530)		mg/l	
☐ Other:			
☐ Other:			
☐ Other:			

F, NA		Units	Date analyzed
☐ Calcium (00915)		mg/l	
☐ Magnesium (00925)		mg/l	
☐ Sodium (00930)		mg/l	
☐ Potassium (00935)		mg/l	
☐ Bicarbonate (00440)		mg/l	
☐ Chloride (00940)		mg/l	
☐ Sulfate (00945)		mg/l	
☐ Total filterable residue (dissolved) (70300)		mg/l	
☐ Other:			

NF, A-H_2SO_4			
☒ Nitrate-N +, Nitrate-N total (00630)	1.90	mg/l	6/17
☒ Ammonia-N total (00610)	0.21	mg/l	6-10
☒ Total Kjeldahl-N ( )	2.97	mg/l	6-23
☐ Chemical oxygen demand (00340)		mg/l	
☒ Total organic carbon ( )	2.1	mg/l	6/5
☐ Other:			
☐ Other:			

F, A-H_2SO_4			
☒ Nitrate-N +, Nitrate-N dissolved (00631)	ND	mg/l	
☒ Ammonia-N dissolved (00608)		mg/l	
☒ Total Kjeldahl-N ( )		mg/l	
☐ Other:			

Analyst	Date Reported	Reviewed by
	6 11 6	

Laboratory remarks

SLD 726 (12/84) *DISTRIBUTION:* **WHITE** — EID, GW&HW Bureau **CANARY** — WS System **PINK** — EID Local Office **GOLDENROD** — SLD

New Mexico Health and Environment Department
SCIENTIFIC LABORATORY DIVISION
700 Camino de Salud NE
Albuquerque, NM 87106 — (505) 841-2555

GENERAL WATER CHEMISTRY and NITROGEN ANALYSIS

DATE RECEIVED 6 5 86	LAB NO. U2-2394	USER CODE ☒ [redacted] ☐ [redacted] ☐ OTHER:	
Collection DATE 06 05 86	SITE INFORMATION ►	Sample location RINCHEM	
Collection TIME 10:15A		Collection site description MONITOR WELL	
Collected by — Person/Agency G. LEWIS / EID			

SEND FINAL REPORT TO ►
GROUND WATER & HAZARDOUS WASTE BUREAU
NM ENVIRONMENT IMPROVEMENT DIVISION/HED
Crown Building, PO Box 968
Santa Fe, NM 87504-0968
Attn: GREG LEWIS

Station/ well code
Owner

SAMPLING CONDITIONS

☒ Bailed ☐ Pump ☐ Dipped ☐ Tap	Water level	Discharge	Sample type
pH (00400) 7.00	Conductivity (Uncorrected) 1500 µmho	Water Temp. (00010) 23	Conductivity at 25°C (00094) µmho

Field comments

RECEIVED JUL 7 1986 GROUND WATER/HAZARDOUS WASTE BUREAU

SAMPLE FIELD TREATMENT — *Check proper boxes*

No. of samples submitted ☐ NF: Whole sample (Non-filtered) ☒ F: Filtered in field with 0.45 µmembrane filter ☐ A: 2 mL H_2SO_4/L added

☒ NA: No acid added ☐ Other-*specify:*

ANALYTICAL RESULTS from SAMPLES

NF, NA		Units	Date analyzed
☐ Conductivity (Corrected) 25°C (00095)		µmho	
☐ Total non-filterable residue (suspended) (00530)		mg/l	
☐ Other:			
☐ Other:			
☐ Other:			

F, NA		Units	Date analyzed
☒ Calcium (00915)	152	mg/l	6-23
☒ Magnesium (00925)	124	mg/l	"
☒ Sodium (00930)	154	mg/l	"
☒ Potassium (00935)	2.02	mg/l	"
☒ Bicarbonate (00440)	431	mg/l	6/12
☒ Chloride (00940)	194	mg/l	6/12
☒ Sulfate (00945)	259	mg/l	6/12
☒ Total filterable residue (dissolved) (70300)	1130	mg/l	6/11
☐ Other:			

NF, A-H_2SO_4			
☐ Nitrate-N +, Nitrate-N total (00630)		mg/l	
☐ Ammonia-N total (00610)		mg/l	
☐ Total Kjeldahl-N ( )		mg/l	
☐ Chemical oxygen demand (00340)		mg/l	
☐ Total organic carbon ( )		mg/l	
☐ Other:			
☐ Other:			

F, A-H_2SO_4			
☐ Nitrate-N +, Nitrate-N dissolved (00631)		mg/l	
☐ Ammonia-N dissolved (00608)		mg/l	
☐ Total Kjeldahl-N ( )		mg/l	
☐ Other:			

Analyst	Date Reported	Reviewed by
	6 / 24 / 86	

Laboratory remarks

SLD 726 (12/84) *DISTRIBUTION:* **WHITE** — EID, GW&HW Bureau **CANARY** — WS System **PINK** — EID Local Office **GOLDENROD** — SLD

ALBUCHEMIST, INC.
501 Wyoming, SE
Albuquerque, New Mexico 87123
Phone: 268-7367

DATE: May 28, 1986

LAB. NO. 52086-1

FOR: Rinchem

6133 Edith NE

Albuquerque, New Mexico 87107

ATTN: Bill Moore

SAMPLE: Water from test well

DATE DELIVERED: May 20, 1986

RESULTS:

Two samples taken May 20, 1986 were run for total organic carbon and by purge and trap technique for volatile organics. The samples were taken simultaneously to assure that the high TOC's recently experienced in the well were in fact present when the sampling for volatiles was done.

TOC - 50.7 mg/liter

Purge and trap yielded no volatiles in the sample, or approximately all analytes within the range of the technique less than 0.02 mg/liter. Considering that, to the best of my knowledge, all your products are classified as volatiles, I don't believe the high TOC's are due to the presence of any chemicals handled by Rinchem.

BY: Dan Angin

Chemist

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

October 15, 1987

Mr. Bill Moore, President
Rinchem Company, Inc.
6133 Edith Blvd, NE
Albuquerque, NM 87107

Re: Response to Public Comments
NMD 002208627

Dear Mr. Moore:

Enclosed are copies of the correspondence EID received concerning your permit application. In accordance with HWMR-3, Section 303.A.4., we solicit your response to each objection raised by the commentors. Duplicate comments need only be addressed once.

A decision cannot be made on your application until after your response is received. Please therefore respond by November 6, 1987.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

cc: Tanga Winkle EPA (6H-HS)

RINCHEM TRAFFIC ACCIDENT ANALYSIS

ASSUMPTIONS

1. The Albuquerque urban area extends for a 25 mile radius around Rinchem.
2. Urban accident rates apply.
3. Trips are roundtrips, 50 miles total.
4. 100 hazardous materials trips occur each month.
5. New Mexico has twice the national accident rate.
6. Twenty percent of the trips involve hazardous waste.

DATA (1984 statistics *)

1. Urban accident rate is 149 accidents per 100 million vehicle miles.
2. Truck accidents were 6.3 million.
3. Vehicle accidents were 18.8 million.
4. Rinchem reports 60 to 80 trips per month.
5. Rinchem estimates ten percent of the trips involve hazardous waste.

CALCULATIONS

$$\frac{(149 \text{ accidents}) \times (2) \times (6.3 \text{ million truck acc.})}{(100{,}000{,}000 \text{ vehicle miles}) \times (18.8 \text{ million vehicle acc})} = \frac{1 \text{ truck accident}}{1{,}000{,}000 \text{ vehicle miles}}$$

$$\frac{(100 \text{ trips}) \times (50 \text{ miles}) \times (1 \text{ accident})}{(\text{month}) \times (\text{trip}) \times (1{,}000{,}000 \text{ miles})} = \frac{0.005 \text{ accident}}{\text{month}}$$

= 1 accident every 200 months

= 1 accident every 16 years

$$\frac{(1 \text{ accident}) \times (20 \text{ percent})}{(16 \text{ years})} = 1 \text{ accident every 83 years involving hazardous waste}$$

* *Statistical Abstract of the United States*
107th Edition, 1987
U.S. Department of Commerce
Bureau of the Census

P 101.15
NM

595/yr

TD2.27:977

Fatal accident rate 1983
NM - 4.5/1 Mil veh miles of tvl
National Statistics

580 1985 Haz mat'ls (all modes) 5984 accidents
~~Motor vehicles 18,800,000 accidents~~

594 1984 Truck accidents 6.3 Mil
Haz Mat's, all modes 5776
Motor vehicles, all 18,800,000 accidents
total acc rate, all modes 124 acc/100 Mil veh miles
urban acc rate, all modes 149 acc/100 mil veh miles

Statistical Abstract of the United States
107th Ed 1987
US Dept of Commerce
Bureau of the Census

MEMORANDUM OF MEETING OR CONVERSATION

☒ Telephone ☐ Personal | Time 10:40 a.m. | Date 10/1/87

Originating Party	Other Parties
Rene Kimball	Liz Gordon EID
ABQ Journal 823-3958	

Subject

public hearing on Rinchem permit

Discussion

told her no decision has been made re public hearing.

Conclusions or Agreements

I promised to call her when decision had been made

Distribution

CKC
Rinchem Part B Application

Signed Liz Gordon

RINCHEM PERMIT PUBLIC RESPONSE
9/17/87 9/28/87

FORM LETTERS

81 Signed, with return address
42 Signed, with no return address
2 Unsigned

125 TOTAL

ORIGINAL COMMENTS

Important issue
Easier to be cautious

ENDORSEMENTS

New Mexico Hazardous Waste Management Society
University of New Mexico

INPUTS ANTICIPATED

Petition from the neighborhood asking for disapproval

POTENTIAL INPUTS

Legistative inquiry from a locally elected official

COMMENT PERIOD ENDS

September 25, 1987

NEXT ACTIONS

Respond to comments.
Finalize permit transmittal correspondence

PROPOSED EFFECTIVE DATE, IF APPROVED

February 1, 1988 (Estimated effective date for HSWA permit issued by EPA)

cc:
Kirk Jones
Jack Ellvinger
Dee Lynn

City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

CITY COUNCIL

Phone: 768-3100

RECEIVED

SEP 30 1987

HAZARDOUS WASTE SECTION

President
Patrick J. Baca
District 1

Vice President
Michael C. Wiener
District 9

Nadyne C. Bicknell
District 7

Pete Dinelli
District 5

Steve D. Gallegos
District 3

Vincent E. Griego
District 2

Fran J. Hill
District 8

Thomas W. Hoover
District 4

Richard F. Mather
District 6

•

Eldon Marr
Director of
Council Services

25 September 1987

C. Kelley Crossman, Environmental Supervisor
Environmental Improvement Division
Hazardous Waste Management Section
P. O. Box 968
Santa Fe, New Mexico 87504-0968

Re: Request for Hearing/Permit of Rinchem Company

Dear Mr. Crossman:

Enclosed is a copy of a letter I received from the Harwood Lateral Neighborhood Association that is indicative of the numerous calls I have received from other constituents in this area.

I share the concerns addressed in the Harwood letter, plus I would like to point out some additional issues to be considered:

1. There should be a thorough transportation analysis, such as the major routes anticipated for deliveries, the condition of those routes, and whether or not other residential routes will be utilized.

2. Since the permit of Rinchem is a dual permitting process between E.I.D. and E.P.A., I feel it would be prudent for E.I.D. to hold another public meeting and waive any final permit decisions until such time as E.P.A. completed their comment period (around the end of October).

3. The question of financial surety should be carefully studied, as the amount currently required appears inadequate to cover the minimum costs involved with a long term release when clean-up and restitution costs are considered.

4. The entire question of jurisdiction appears to be in transition. Although Rinchem is located within the county, it is close enough to the city boundaries so as to impact the city's residents if any mishaps were to occur. Also, the primary business of Rinchem is currently the warehousing and distribution of various chemicals which will continue in addition to their current request for indefinite storage time of these chemicals. Which governmental entity will monitor their ongoing warehousing activities?

5. Also, I have been informed that the City of Albuquerque has begun work to develop an industrial siting policy of such businesses which will not be completed for over one year and may be a joint effort involving the County.

I would greatly appreciate your cooperation on allowing another public hearing on this very important matter prior to any final action on the part of E.I.D.

Respectfully,

Vincent E. Griego

Vincent E. Griego, Councillor
District 2

VEG:ls
Attachment a/s
cc: Harwood Lateral Neighborhood Association

MEMORANDUM OF MEETING OR CONVERSATION

☒ Telephone ☐ Personal	Time 11:15 Am	Date 9/25/87
Originating Party		Other Parties
Linda Stewart - Abq City Council 768-3126		CK Crossman

Subject Rinchem permit

Discussion Will request a hearing on transportation issue - from Abq City Council. Other issues may be insurance coverage and delay of decision until more public input is received.
EID will meet privately or publicly with any city official(s) who request such a meeting.

Conclusions or Agreements The letter will go out today EID will wait for it. Linda will ask about briefing/meeting requests

Distribution
CC: EID Director
EID Deputy Director

Signed CK Crossman

NEW MEXICO PIRG

new mexico
public interest research group

Box 66, Student Union Building
University of New Mexico
Albuquerque, New Mexico 87131

(505) 277-2758

September 24, 1987

Mr. C. Kelly Crossman
Environmental Supervisor
Hazardous Waste Bureau
N.M. Environmental Improvement Division
P.O. Box 968
Santa Fe, NM 87504-0968

RECEIVED
SEP 24 1987
HAZARDOUS WASTE SECTION

Dear Mr. Crossman,

Pursuant to the guidelines for public notification and participation as set forth in the New Mexico Hazardous Waste Act, please accept these comments on the application by Rinchem Company Incorporated for a permit to operate an expanded hazardous waste storage and transfer facility. I apologize for the late date at which these comments are being submitted, but it has taken me until now to sort through the numerous questions raised by Rinchem's application and to arrive at an understanding of what I believe to be the crucial issues in this case.

By way of a preface to my comments, however, I would like to state that after talking with other citizens who are concerned about the Rinchem application and about what the presence of such a facility in their neighborhoods would mean, I am confident that, as far as the permit requirements go, the more substantive questions concerning such matters as transportation and insurance have already been adequately addressed by other writers. What follows, therefore, is an examination of some of the issues that, if not entirely pertinent to the specific permit requirements for an HWSTF under the New Mexico Hazardous Waste Act, still need to be addressed in a forum that only a formal public hearing can provide.

1) Rinchem is located in a low-lying area of the North Valley where ground water contamination has already been detected. Ground water contamination has also been detected at Rinchem's old site on Edith Blvd. Given those facts, and given the inadequacy of the transportation analysis in the permit application, it would seem to be only prudent for the EID to delay issuing the permit until the source of the contamination in the 5000 block of Edith Boulevard can be determined.

2) The City and the County are considering an industrial siting policy that could severely restrict or even prohibit hazardous waste storage and transfer operations at Rinchem's current location. Because many existing industries in the valley areas will most likely be "grandfathered" in when such a policy becomes a reality, again, it seems only prudent for the EID to delay permitting Rinchem until that policy is finalized.

3) Support for Rinchem's application at some levels of City and County government is predicated on a study the results of which have not been independently verified. I'm specifically referring to the economic analysis in the Jacob's study, and the fact that the importance of this issue argues against accepting that analysis as correct without conducting a thorough review of the methodology and assumptions that went into the analysis. Such a review would probably require some degree of assistance from the state.

4) If the state's objective in permitting an HWSTF is to cut down on the rate of illegal dumping, there needs to be additional mechanisms in place to insure that the permitting of an HWSTF will accomplish that purpose. Some possibilities might be the regulation of the prices charged to the customers of an HWSTF(in lieu of marketplace regulation of those prices,) and the imposition of more frequent enforcement actions and more extensive education efforts. Additionally, because the Rinchem HWSTF is the only HWSTF currently operating in the state, there needs to be some provision made for the receipt of household hazardous waste.

The issues cited above, Mr. Crossman, outline some of my major concerns about the Rinchem application for the HWSTF. And while I realize that some of these issues fall outside of the bounds of what the EID is legally required to consider in the permitting process, I believe that the importance of these issues warrants their inclusion in the EID's decision-making process.

Sincerely,

Kevin Bean

Kevin Bean
Director, NMPIRG

RECEIVED
HAZARDOUS WASTE SECTION

RECEIVED
SEP 25 1987
CITY COUNCIL
OFFICE

24 September 1987

Mr. Vincent Griego
City Council
District 2
Albuquerque, New Mexico

Dear Mr. Griego:

As I am sure you are aware, the State Environmental Improvement Division (EID) of the New Mexico State Government has received a permit application from Rinchem Company for a hazardous and toxic waste transfer and storage facility. If approved, this will be the first facility of its type in New Mexico. Toxic waste storage, reprocessing, and disposal is a very serious problem confronting all of us and should involve scientists, transportation experts, and the citizenry at large in any planning process for such a facility.

The site for this permit application is 6133 Edith N.E. Although this location is south of Osuna and slightly outside the Albuquerque city limits, it is in the flood plain, near Middle Rio Grande Conservancy District irrigation laterals, accessed by very poor road conditions through heavy industrial traffic, and is roughly in the geographic center of the metropolitan population. Because the EID is eager to have such a facility licensed, it is not engaging the appropriate expertise in the planning process nor is the EID scheduling a public hearing.

For these reasons, the Harwood Lateral Neighborhood Association, during its annual meeting on September 23, 1987, voted unanimously against this site as a toxic waste transfer and storage facility.

We urge you to please use any influence within city government to postpone this license until all concerns have been addressed.

Sincerely,

Steven Ruffennach
Harwood Lateral Neighborhood Association

MEMORANDUM OF MEETING OR CONVERSATION

☐ Telephone ☐ Personal	Time 4:25 pm	Date 9/23/87

Originating Party	Other Parties
Chuck Wiggins - Sierra Club 277-5541	CK Crossman

Subject Rinchem Permit

Discussion
Returned his call — out of the office

Conclusions or Agreements

Distribution

Signed

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
ALLIED BANK TOWER AT FOUNTAIN PLACE
1445 ROSS AVENUE
DALLAS, TEXAS 75202

SEP 21 1987

RECEIVED

SEP 32 1987

HAZARDOUS WASTE SECTION

Mr. Jack Ellvinger, Program Manager
Hazardous Waste Section
Hazardous Waste Bureau
New Mexico Health and Environment Department
P.O. Box 968
Santa Fe, New Mexico 87504-0968

Dear Mr. Ellvinger:

On July 27, 1987, the Environmental Protection Agency (EPA) Region VI, received a draft permit for Rinchem Company, Inc., (NMD002208627) prepared by the Environmental Improvement Division (EID). This document establishes provisions for the storage of hazardous wastes received from off-site sources.

EPA has completed a review of the draft permit and offers the enclosed comments for your consideration. The comments address the criteria for issuing a State Resource Conservation and Recovery Act (RCRA) permit under the authorized hazardous waste management program.

If you have any questions or if we can assist you further, please contact me or Marc Sides of my staff at (214) 655-6785.

Sincerely yours,

Sam Becker, P.E.
Chief
Hazardous Waste Compliance Branch

Enclosure

cc: Bill Moore, President
Rinchem Company, Inc.

Rinchem Company Inc.

Draft Permit

Comments

The facility closure plan (Attachment F) in the proposed draft permit does not adequately address the types of decontamination equipment to be utilized during closure procedures, procedures for cleaning the equipment and removing contaminated soils, methods for sampling and testing the surrounding soils, and criteria for determining the extent of decontamination required. A more detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during closure is needed in order to more effectively demonstrate protection of human health and the environment from the post-closure escape of hazardous waste or constituents.

120 Carlito Rd., NW
Albuquerque, New Mexico 87107
September 21, 1987

Mr. C. Kelley Crossman
NMEID (Hazardous Waste Bureau)
P. O. Box 968
Santa Fe, New Mexico 87504-0968

RECEIVED
SEP 2 2 1987
HAZARDOUS WASTE SECTION

Re: Part B RCRA Permit for Rinchem Company, Inc
Waste Management Service - Hazardous Waste

Dear Sir:

I am hereby complying to your fact sheet regarding "Procedures for Requesting A Hearing." Consider this written notice of opposition to the proposed decision and a request for a hearing. The nature of the issue proposed to be raised in the hearing are as follows:

A. The location of Rinchem Company, Inc at 6133 Edith Blvd. NE, Albuquerque, New Mexico to temporarily store hazardous waste impacts upon the density of the surrounding area regarding human lifestyle and health and welfare.

B. Impacts upon the entire North valley regarding persons such as myself to protect the rural character of the neighborhoods and to help insure quality of life as well as property values.

C. The location of this facility has a direct influence and in opposition to what local Government entities are attempting to correct which is protecting the underground pollution of the existing aquifier.

D. The location will create dangerous transportation problems in an already conjested roadway (two lane Edith Blvd. which is approximately 22 feet wide).

E. Opposition to Rinchem management language that "State of the Art" handling is to be initiated when toxic waste accidents are happening in the best "State of the Art" conditions.

F. Opposition to required insurance minimums of $1,000,000.00 liability in todays business environment seems ludicrous.

G. Absolute objection to State, County and City's desperation to find a company to handle the surmounting hazardous waste materials, no matter where it is located or for that matter regardless of what it costs.

H. Existing knowledge that if the permit is issued, the applicant, in the future, can apply for a new permit to add additional toxic materials to be handled through this present location. Concern exists that knowing any facility, once entrenched, makes it easier to expand without public notice.

In closing, I would like to add that my experience regarding hazardous waste and the many E.P.A. (Environmental Protection Agency) and E.I.D. seminars have found solutions but are not to be found at 6133 Edith Blvd., NE

As of today I will be circulating petitions in the North valley of Albuquerque requesting the Environmental Improvement Division of the State of New Mexico to deny Rinchem's Hazardous Waste Application at this location. In addition, I am further requesting that this proposed hearing be held at the Taft Middle School Gymnasium,

Thank you and I hope to be hearing from your Office soon.

Sincerely,

Robert B Pete Craig

RBC:jnc

cc: Hon. Rep. Raymond Sanchez, Speaker of the House of Representatives, State of New Mexico
Hon. Sen. Tito Chavez, Senate, State of New Mexico
Hon. Commissioner Lenton Malry, Chairman, Bernalillo Co. Commission
Hon. Commissioner Henry Gabaldon, District 1, Bernalillo Co. Commission
Rene Kimball, Albuquerque Journal, P.O. Drawer J, Albuq., NM 87103

PETITION

WE, THE UNDERSIGNED, BEING RESIDENTS OF THE NORTH VALLEY OF ALBUQUERQUE, NEW MEXICO, HEREBY PETITION THE E.I.D. (ENVIRONMENTAL IMPROVEMENT DIVISION) STATE OF NEW MEXICO, TO DENY THE APPLICATION FOR A HAZARDOUS WASTE FACILITY TO BE LOCATED AT 6133 EDITH BLVD. NE AND OPERATED BY RINCHEM, INC. THE UNDERSIGNED FEAR THIS LOCATION WILL IMPACT ON OUR HEALTH AND WELFARE, PROPERTY VALUES, AND IN GENERAL OUR VERY LIFESTYLE WHICH IS PRESENTLY BEING THREATENED BY UNWARRANTED AND UNWANTED URBAN EXPANSION.

	NAME	ADDRESS	TEL. NO.
1.			
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22.			
23.			

Copy
Petition Only

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

MAYOR
KEN SCHULTZ

CHIEF ADMINISTRATIVE OFFICER
GENE ROMO

DEPUTY CAO PUBLIC SERVICES
FRANK MARTINEZ

DEPUTY CAO PLANNING/DEVELOPMENT
BILL MUELLER

September 18, 1987

RECEIVED
SEP 22 1987
HAZARDOUS WASTE SECTION

Mr. C. Kelly Crossman
New Mexico Environmental Improvement Division
Hazardous Waste Bureau
Santa Fe, NM 87504

Dear Mr. Crossman:

I have been informed that a public hearing is likely to be held in reference to Rinchem Company Inc.'s request for a permit to operate a hazardous waste storage facility. Would you please notify me when and where this public hearing will be held.

I appreciate your consideration in this notification.

Sincerely

Charles Lee

Charles Lee
Assistant to Deputy CAO

CL/mt
0740

UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

Ecological Services
Suite D, 3530 Pan American Highway NE
Albuquerque, New Mexico 87107

RECEIVED
HAZARDOUS WASTE SECTION

September 3, 1987

Mr. C. Kelley Crossman
Environmental Supervisor
Hazardous Waste Bureau
New Mexico Environmental Improvement
P. O. Box 968
Santa Fe, New Mexico 87504-0968

Dear Mr. Crossman:

This responds to Public Notice's No. 13 and No. 15 both dated August 9, 1987. Public Notice No. 13 is a notice of Intent to Terminate Interim status by closure of a Hazardous Waste Disposal facility for Public Service Company of New Mexico's, Person Generating Station. Public Notice No. 15 is a notice of proposed issuance of a final permit to Rinchem Company Inc. for the storage of hazardous waste.

We have reviewed the public notices for resource issues of concern to our agency. The chemicals utilized at both sites are potentially hazardous to fish and wildlife resources. Should exposure occur, the Fish and Wildlife Service does not have the capability to evaluate the impact of these compounds to resources under our jurisdiction. Therefore, we reserve comments regarding these hazardous waste facilites.

Thank you for the opportunity to review the proposed hazardous waste permits. If you have any questions concerning our comments please contact Tom O'Brien at (505) 883-7877 or FTS 474-7877.

Sincerely yours,

John C. Peterson
Field Supervisor

cc:
Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Regional Administrator, Environmental Protection Agency, Dallas, Texas
Regional Director, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, Albuquerque, New Mexico

HAZARDOUS WASTE COMPLIANCE INSPECTION REPORT

Inspector:_____ Date of Inspection:_____

Facility: RINCHEM COMPANY, INC.
6133 Edith Blvd, NE
Albuquerque, NM 87107

I.D. NO: NMD 002208627

Required Notices (II.B.1. pg 12)

1. Has the facility received hazardous waste from a foreign source? ____Yes ____No

   a. Date first received. ----------
   b. If yes, was a notice filed with the Director at least four (4) weeks in advance? ____Yes ____No

2. Has the owner/operator informed all applicable generators in writing that the facility has the appropriate permits and will accept their wastes? ____Yes ____No

   If yes, is a copy of this written notice retained in the operating record? (II.K.1. pg 13) ____Yes ____No

Waste Analysis (Atch A)

1. Is a copy of the waste analysis plan maintained at the facility? ____Yes ____No
2. Is the waste analysis plan being implemented as specified in the permit? ____Yes ____No
3. Are copies of all analyses being retained in the operating record? (II.K.1. pg 13) ____Yes ____No
4. Is the plan the same as in the permit? ____Yes ____No

Security (Atch B)

1. Does the facility provide adequate security to minimize the possibility for the unauthorized entry of persons or livestock onto the active portions of the facility? (II.D. pg. 12) ____Yes ____No

   If no, describe the situation at the facility.

   a. Is the alarm monitoring system on all doors, windows, the fire alarm, sprinkler and temperature control systems operational? (Atch C) ____Yes ____No

   b. Is the fence around the yard and building in good condition? ____Yes ____No

      Describe deficiencies

c. Is the fence six feet high, chain link topped with concertina (barbed) wire? ____Yes ____No

d. Are gates to the yard locked when not in use? ____Yes ____No

e. When gates are open are they under surveillance? ____Yes ____No

Describe deficiencies: include a drawing indicating any inadequacies in the facility's security system.

3. Is a sign with the legend, "Danger - Unauthorized Personnel Keep Out," posted at the entrance and at other locations in sufficient numbers to be seen from any approach to the the active portion? See attachment B page 44 for sign locations. ____Yes ____No

Is it written in English and Spanish and legible from at least 25 feet? ____Yes ____No

If alternative wording is used, describe:

General Inspection Requirements (II.E. pg 12)

1. Does the owner/operator maintain a copy of the approved inspection schedule at the facility? (Atch C) ____Yes ____No

2. Does the owner/operator have an inspection log? ____Yes ____No

a. If yes, does it include:

1. Date and time of inspection? ____Yes ____No

2. Name of inspector? ____Yes ____No

3. Notation of observations? ____Yes ____No

4. Date and nature of repairs or remedial action? ____Yes ____No

b. Are inspections conducted according to the approved schedule? ____Yes ____No

c. Are there any malfunctions or other deficiencies noted inthe inspection log that remain uncorrected? ____Yes ____No

Describe:

d. Are inspection logs maintained at the facility for three (3) years? ____Yes ____No

e. Are the inspection forms the same as the ones in permit Attachment C, figures 11 through 14? ____Yes ____No

f. Has the spillage collection sump been inspected after precipitation events of one inch water equivalent? (Atch C pg 50) ____Yes ____No

Personnel Training (II.F. pg 12)

1. Does the owner/operator maintain a copy of the approved personnel training program at the facility? (Atch D) ____Yes ____No

   a. Does the training plan match that in the permit? ____Yes ____No

   b. Have facility personnel successfully completed a program of classroom or on-the-job training? ____Yes ____No

   c. Have the appropriate individuals received instruction in the following:

      1. Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment; ____Yes ____No

      2. Operation of communication or alarm systems; ____Yes ____No

      3. Response to fires, explosions and groundwater contamination incidents; ____Yes ____No

      4. General hazardous waste management procedures? ____Yes ____No

   c. Is the program directed by a person trained in hazardous waste management procedures? ____Yes ____No

      Individual's name: _____

   d. Is a training review given annually? ____Yes ____No

   e. Does the owner/operator keep the following records:

      1. Job title, job description and the name of employee for each position at the facility related to hazardous waste management; ____Yes ____No

      2. Description of the type and amount of introductory and continuing training to be provided for each position; and, ____Yes ____No

      3. Documentation that training has been given to employees? ____Yes ____No

   f. Are training records for current employees being maintained until closure? ____Yes ____No

   g. Are training records for previous employees maintained for three (3) years from employee's date of separation? ____Yes ____No

Requirements for Ignitable, Reactive or Incompatible Waste (III.E & III.F.)

1. Does the facility handle ignitable, or reactive, or incompatible waste(s)? (pg 19) ____Yes ____No

   [Circle appropriate type(s) of waste(s)

a. If yes, is waste separated and confined from sources of ignition or reaction (e.g.,open flames, smoking, cutting and welding, hot surfaces, frictional heat), sparks (static electrical or mechanical), spontaneous ignition (e.g. from heat producing chemical reactions) and radiant heat? ____Yes ____No

b. Are smoking and open flame confined to specifically designated locations? ____Yes ____No

c. Are "No Smoking" signs posted in hazardous areas where ignitable or reactive wastes are handled? ____Yes ____No

d. Is waste handled in a manner which generates extreme heat, pressure, violent reaction, toxic fumes or other dangers to human health or the environment? ____Yes ____No

Preparedness and Prevention (Atch E)

1. Does the facility have on hand the equipment listed in Atch E? ____Yes ____No

   If no, describe equipment not on hand at the facility.

2. Is there evidence of fire, explosion or contamination of the environment? ____Yes ____No

   If yes, explain.

3. Is the facility equipped with:

   a. Internal communications or alarm system? ____Yes ____No

      1. Is it readily accessible in case of emergency? ____Yes ____No

      2. Is it operational? ____Yes ____No

   b. Telephone or two-way radio to call emergency response personnel? ____Yes ____No

   c. Portable fire extinguishers, fire control equipment, spill control equipment and decontamination equipment? ____Yes ____No

      1. Is this equipment tested to assure its proper operation? ____Yes ____No

      2. Is this located as shown in Attachment E, Fig. CP A-1? ____Yes ____No

4. Do employees have direct access to alarms or communications devices whenever hazardous waste is handled? ____Yes ____No

5. Whenever only one employee is on the premises during facility operation,does he have immediate access to a telephone (available at the scene) or two-way radio (hand held) to call emergency assistance? ____Yes ____No

6. Is there sufficient aisle space to allow unobstructed movement of personnel and equipment?(e.g. adequate aisle space in between barrels to check for leakage, corrrosion and proper labeling, etc.) ____Yes ____No

7. Does the owner/operator maintain a record of arrangements with the local authorities to familiarize them with characteristics of the facility? (e.g., layout of facility, properties of hazardous waste handled and associated hazards, places where facility personnel would normally be working, entrances to roads inside facility, posssible evacuation routes)? ____Yes ____No

8. Has the owner/operator notified local authorities of any changes in the hazardous waste management program which might affect their response to emergencies? ____Yes ____No

<u>Contingency Plan and Emergency Procedures</u> (Atch E)

1. Does the owner/operator maintain on-site a copy of the approved contingency plan? ____Yes ____No

2. Have copies of the plan been submitted to all local authorities? ____Yes ____No

3. Has the plan been amended as necessary to reflect changes in the facility and/or personnel? ____Yes ____No

   Have the changes been approved by the EID? ____Yes ____No

4. Does the facility have a designated hazardous waste emergency coordinator? ____Yes ____No

   If yes, give name and title:_____

5. Is the listing in Attachment E on pg 5 current? ____Yes____No

6. Has an incident occurred which required implementation of the contigency plan? ____Yes ____No

   a. If yes, did the emergency coordinator notify the Director in writing within 15 days? (II.K.2. pg 15) ____Yes ____No

      1. If yes, did this report include:

         a. name, address, and telephone number of the owner/ operator; ____Yes ____No

         b. name, address and telephone number of the facility; ____Yes ____No

         c. date, time and type of incident; ____Yes ____No

         d. name and quantity of materials involved; ____Yes ____No

         e. extent of injuries; ____Yes ____No

         f. assessment of actual or potential hazards to human

health or the environment; and, ____Yes ____No

g. estimated quantity and disposition of recovered material resulting from the incident ____Yes ____No

2. Provide narratives describing such incidents or attach a copy of the above report. Include only those incidents occurring since the last inspection.

Manifest System (II.J. pg 13)

1. Does the owner/operator:

a. sign and date each copy of the manifest; ____Yes ____No

b. note any significant discrepancies in writing on each copy of the manifest; ____Yes ____No

c. immediately give the transporter at least one copy of the signed manifest; ____Yes ____No

d. within 30 days, send a copy of the signed manifest to the generator; and, ____Yes ____No

e. retain a copy of each manifest at the facility for at least three years? ____Yes ____No

2. Has the facility received waste from a rail (bulk shipment) transporter? ____Yes ____No

If yes,

a. Did a shipping paper accompany the waste? ____Yes ____No

b. Does the shipping paper contain all information required on the manifest, excluding EPA I.D. numbers, generators certification and signature? ____Yes ____No

c. Did the owner/operator sign and date the shipping paper and return one copy to the transporter? ____Yes ____No

d. Did the owner/operator receive the manifests from the generator in time to sign, date and return it within 30 days? ____Yes ____No

If no, is a copy of the shipping paper signed, dated and returned to the generator? ____Yes ____No

e. Does the owner/operator retain copies of both the shipping paper and the manifest for at least three years? ____Yes ____No

3. Has the owner/operator discovered significant manifest discrepancies? ____Yes ____No

a. If yes,

1. Has the owner/operator attempted to reconcile the discrepancy with the generator or transporter? ____Yes ____No

2. If the discrepancy is not resolved within 15 days of waste receipt, has the owner/operator submitted a letter to the Director describing the discrepancy and attempts to reconcile it along with a copy of the manifest? ____Yes ____No

Record Keeping and Reporting (II.K. pg 13)

1. Does the owner/operator maintain a written operating record? ____Yes ____No

   a. If yes, does it contain as applicable:

      1. Description and quantity of each hazardous waste and the methods and dates of its treatment, storage or disposal at the facility; ____Yes ____No

      2. Location and quantity of each hazardous waste at each location; ____Yes ____No

         a. Is this information cross-referenced with specific manifest numbers; ____Yes ____No

      3. Results of waste analyses; ____Yes ____No

      4. Reports of incidents involving implementation of the contingency plan; ____Yes ____No

      5. Records and results of required inspections; ____Yes ____No

      6. Monitoring, testing or analytical data; ____Yes ____No

      7. Closure cost estimates, (enter amount on pg 10) ____Yes ____No

      8. Is the closure estimate current? (II.K.1.h. pg 14) ____Yes ____No

      9. Notices to generators of the site's ability to accept particular wastes? ____Yes ____No

2. Has the owner/operator submitted biennial reports by March 1st of even numbered years? (II.K.2. pg 15) ____Yes ____No

   a. Is the latest report on file at the facility? ____Yes ____No

3. Were all records furnished upon request and made available on the day of inspection? (I.E.7. pg 8) ____Yes ____No

Containers (III.C.3. pg 18)

1. Are containers in good condition? ____Yes____No
   If no, explain in narrative.

2. Are containers or inner liners compatible with the hazardous waste? ____Yes____No

   If no, explain in narrative.

3. Are containers closed during storage? ____Yes____No

4. Are containers opened, handled or stored in a manner which may rupture the container or cause it to leak? ____Yes____No

   If yes, explain in narrative.

5. Are containers holding ignitable or reactive wastes located 15 meters (50 feet) from the facility's property line? (III.E. pg 19) ____Yes____No

6. Is there evidence that incompatible wastes have been placed in the same container? ____Yes____No

7. Are incompatible wastes in storage separated by 60 inches distance, forming an aisle, or barriers?(III.F. pg 19) ____Yes____No

8. Does the owner/operator maintain the proper number of containers in the storage area? ((III.B.2. pg 18) ____Yes____No

   Permit limit: 500 drums aggregate total

   Number stored on day of inspection: _____

9. Does the facility store hazardous waste containing free liquids? ____Yes____No

   a. If no, go to question 10.
   b. If yes, answer questions 9.b.1. - 9.b.6.

      1. Does the area have a base which is free of cracks, gaps and sufficiently impervious to contain leaks, spills and accumulated precipitation? ____Yes____No

      2. Is the based sloped to drain accumulated liquids away from the containers? ____Yes____No
         (Check for standing water, etc.)

         OR

         Are containers protected from contact with accumulated liquids? ____Yes____No

      3. Does the owner/operator maintain sufficient containment as specified in the permit? ____Yes____No

Containment required:
Empty spill collection sump
Clear spill collection channels and drains

Describe inadequacies:

4. Is run-on into the containment system prevented by a cover over all waste handling areas? ____Yes____No

5. Are accumulated liquids removed from the containment area so as to prevent overflow? ____Yes____No

   a. Note any evidence of overflow.

   b. Describe in narrative how liquids are managed after being removed from the containment area.

10. For storage areas not containing free liquids:

   a. Is the area sloped to drain accumulated precipitation away from containers? ____Yes____No

   OR

   b. Are containers protected from contact with accumulated liquids? _____Yes___

No

11. Are wastes stored outside the building? ____Yes ____No

12. Do quantities of individual wastes stored exceed the amounts given in Attachment I? ____Yes ____No

<u>Closure</u> (Atch F)

1. Is a copy of the approved closure plan kept at the facility? ____Yes ____No

2. Have revisions been made to the plan as necessary? ____Yes ____No

   If yes, was a request made to the Director for closure plan modification approval prior to such changes? ____Yes ____No

3. Have closure activities begun at the facility? ____Yes ____No

   If yes,

   a. Was the Director notified at least 180 days prior to the date the owner/operator expected to begin closure? ____Yes ____No

   b. Were all wastes treated, disposed of on-site or removed for off-site disposal within the time limits specified in the permit? ____Yes ____No

   c. Were closure activities conducted as written in the

approved closure plan? ____Yes ____No

d. Were all closure activities completed within the time limit specified in the permit? ____Yes ____No

4. When closure was completed, did the owner/operator submit to the Director certification by the owner/operator and an independent registered professional engineer? ____Yes ____No

Permit Compliance

1. Does the permittee properly operate and maintain the systems for waste treatment and control? (I.E.6. pg 8) ____Yes ____No
2. Was access allowed to all areas of the facility? (I.E.8. pg 8) ____Yes ____No
3. Is the facility the same as shown in Attachment H? (I.E.10. pg 9) ____Yes ____No
4. Has the ownership changed from Rinchem, Company, Inc.? (I.E.13. pg 9) ____Yes ____No

   If yes, who is the new owner?

5. Complete the following worksheet:

Estimated closure cost: $ _____ Date of estimate _____

Closure Financial Assurance Mechanisms

Mechanism	Guarantor Name & Address	Effective Date	Amount of Coverage

Total Coverage $ _____

Liability Coverage Mechanism

Mechanism	Guarantor Name & Address	Effective Date	Coverage

Total Coverage $ _____

3

STATE OF NEW MEXICO
HEALTH & ENVIRONMENT

MEMORANDUM

DATE: 1/5/88

TO: Kelley Crossman, Hazardous Waste Section

FROM: Pat Anderson + Tracy Hughes, Office of General Counsel

SUBJECT: Linchem Permit

We have completed our review of the most recent Linchem permit, and feel that it now addresses the previous concerns we had from a legal viewpoint. There is one small "typo" in I. C. - terminated is spelled terminated. Otherwise the permit should be ready for issuance.

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

OFFICE OF GENERAL COUNSEL
Post Office Box 968
Santa Fe, New Mexico 87504-0968
(505) 827-2990

GARREY CARRUTHERS
Governor
LARRY GORDON
Secretary
CARLA L. MUTH
Deputy Secretary

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

M E M O R A N D U M

TO: C. Kelley Crossman, Supervisor, Hazardous Waste Bureau

FROM: Patrick J. Anderson, Assistant General Counsel,
Health and Environment Department
Tracy M. Hughes, Assistant General Counsel,
Health and Environment Department

DATE: December 31, 1987

SUBJECT: Rinchem Company, Inc. Storage Permit

The Environmental Improvement Division (EID) has made the decision to grant a hazardous waste storage permit to Rinchem Company, Inc. (Rinchem). Since this is the first permit of this nature to be issued, the Office of General Counsel has reviewed it and has suggested changes for legal adequacy and enforceability. In addition, the draft letters to commenters and to Rinchem were reviewed.

It is assumed that HWMR-4 will go into effect prior to the earliest possible effective date of the permit. Thus, HWMR-4 will be the set regulations governing the permit.

One initial comprehensive recommendation for the permit is that all regulatory citations be rechecked to assure that they are correct in light of the change from HWMR-3 to HWMR-4. As you will recall, we have discussed determination of the effective date of the permit in light of Section 303.G of HWMR-3. The draft permit sets an effective date of February 1, 1988. However, it is our opinion that the soonest the permit will become final and effective is after an appeal period of thirty days from receipt of the permit by Rinchem, (if there is no appeal). Consequently, the permit should not specify an effective date other than by reference to Section 303.G.

The term of the permit can be for a period not to exceed ten (10) years, (Section 302.H. HWMR-3). The term of the permit should be stated as running for the desired time period from the effective date (e.g. This permit shall run for a term of ten (10) years from the effective date

thereof, as determined by Section 303.G of HWMR-4.). This is more cumbersome than simply setting an effective and expiration date, however, given Section 303.G, it does not appear possible to set a specific effective or expiration date in advance. This is especially true since any adversely-affected person may appeal the EID Director's decision and thereby delay (or even cancel) the permit. permit para. I. E. 3. rewritten

These are substantial changes and should be reflected in the permit itself and the letter to Rinchem. We have included specific suggested language in those documents. rewritten.

On December 23, 1987, we (Lou Rose, Tracy Hughes, Kelley Crossman and Pat Anderson) discussed other changes in the draft permit while going through it page-by-page. Those changes have been outlined in red ink in the draft permit and will not be repeated in this memo given the time constraints of this matter. Also, you requested a legal opinion on certain changes as part of this memo. revisions made

Module I. C. - Permit Review - Provides for a review of the permit by EID after five years. Sections 302.F and M. of HWMR-3 provide for reviews of the permit at any time under specific circumstances. However, the proposed permit review provision in Module I.C. does not appear to be authorized by HWMR-3. During our discussions, you had indicated that EPA is putting similar conditions (five year reviews) in the permits it has issued. Please speak to their permit drafters to identify their source of authority. It is also significant to note that, with respect to Module I.C., there is no affirmative action required of Rinchem. Consequently, if the review is not conducted by EID, there will be no adverse consequence to Rinchem. Lastly, it may be best simply to advise Rinchem in the permit approval letter that EID intends to perform a comprehensive review of the permit status and Rinchem's history of compliance five years after the permit effective date. 40 CFR 270.41(a)(3) 52 FR 45799 Dec 1, 1987

The draft permit provision under Module I. E.3 on permit extension beyond the permit's original expiration date is not authorized under HWMR-3. Further, the provision is in direct conflict with 302.H, which specifically states that permits shall be effective for a fixed term not to exceed 10 years. Consequently, this provision must be removed from the permit. I E 3 rewritten

In Module II. K.2.b, the reporting time for any permit noncompliance which may endanger human health or the environment has been changed. This provision would require immediate notification to be consistent with HWMR Section 206.B.10.M.(4).(b). rewritten

Module 11.K.2.d of the draft permit requires additional reports to be submitted by Rinchem to EID, if required by Sections 206.D.1.j.(9) or 206.D.1.k.(7) of HWMR-3. However, in our previous discussions, you have indicated, and we have agreed, that Section 206.D.1 does not apply to Rinchem because they do not have any of the types of units as listed under Section 206.D.1.a. - Applicability. Given this position on the applicability of Section 206.D.1, it does not appear that EID could require Rinchem to submit the reports specified under Sections 206.D.1.j.9 or 206.D.1.k.(7). This is especially true because both subsection j. d k. refer to actions required under Section 206.D.1.

deleted the option to report GW contamination caused by others.

Paragraph II.M - Spills - outlines certain actions required of Rinchem in the event of a spill or leak. We propose the following language to expand the possible required action in order to be consistent with the 1987 amendment to Section 74-4-4.2.B NMSA 1978:

M. RELEASES OF HAZARDOUS WASTES OR CONSTITUENTS

II. M. revised to read as

The permittee shall take corrective action, as required by Section 74-4-4.2.B NMSA 1978 (as amended), for all releases of hazardous wastes or constituents from any solid waste management unit at its facility. Corrective action may include, but shall not be limited to, the following: decontamination and/or removal of all releases, spills and leaks; immediate cleanup of release or spillage of hazardous waste, or constituent residue or listed chemicals which become wastes; prevention of surface water or ground-water contamination which could result from a release or spill; and, cleanup of any surface water or ground water contamination which results from a release or spill.

We have attached a draft letter to Mr. Bill Moore, President of Rinchem. The remaining suggested changes are marked in red ink on the draft documents. Please contact us if you have any questions.

PJA:TMH/mmb
Enclosures

xc: Jack Ellvinger, Hazardous Waste Bureau
Kirkland Jones, Deputy Director, EID

9/24/87

REQUEST FOR LEGAL SERVICES

NAME OF CASE: Rinchem operating permit

REQUEST MADE BY: OKC Crossman, Env Supvr, RCRA permits unit, Haz Waste Bureau
Name, Title, and Bureau

APPROVAL OF BUREAU CHIEF: Jack Ellington APM I
(Signature)

RECEIVED
DEC 18 1987
GROUND WATER/HAZARDOUS WASTE BUREAU

DATE OF REQUEST: Dec 16, 1987

PERSON ATTORNEY SHOULD CONTACT: Crossman No. x 2923

PRIORITY: XX EMERGENCY (explain) Action date coord. with EPA
_____ NORMAL
_____ LOW

DUE DATE (Deadline) Director's signature by Dec. 30, 87

NATURE OF REQUEST:

Please provide a memo or narrative description, and attach any other documentation explaining the assistance sought.
See staff coordination sheets

PLEASE FILL IN AS APPLICABLE:

SPECIAL INSTRUCTIONS: _____

To be completed by Deputy General Counsel

This matter has been referred to Pat Anderson on 12/17/87
with the following instructions please work with Tragan this

(Where applicable) This matter has been transferred to _____

on _____ with the following instructions _____

Internal #
300-87

Lori W Rose
Deputy General Counsel

Date Completed _____

Hooker

N

NEW MEXICO PIRG

new mexico
public interest research group

Box 66, Student Union Building
University of New Mexico
Albuquerque, New Mexico 87131

(505) 277-2758

December 15, 1987

RECEIVED
DEC 17 1987
HAZARDOUS WASTE
COMPLIANCE BRANCH

Mr. Sam Becker, P.E., Chief
Hazardous Waste Compliance Branch (6H-C)
U.S. Environmental Protection Agency, Region VI
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Dear Mr. Becker,

Pursuant to the guidelines for public notice and participation as set forth in the Resource Conservation and Recovery Act, I am writing to request a formal public hearing on the application by Rinchem Company Incorporated for a permit to operate an expanded hazardous waste storage and transfer facility. There are several outstanding issues to be considered prior to any final action being taken on the permit application, issues which can only be resolved through a formal public hearing. Because those issues have not significantly changed since they were raised before the New Mexico Environmental Improvement Division in October, I have simply attached them to this request rather than restate them here.

Mr. Becker, I am far from alone in my concern that a formal public hearing is needed on Rinchem's permit application prior to final agency approval or disapproval. Indeed, it was because of widespread concerns in the community in which Rinchem is located that the New Mexico Public Interest Research Group became involved in the matter of Rinchem's permit application in the first place. Evidence of that concern is the seventy signatures collected over a two day period by NMPIRG in the community surrounding the Rinchem facility. Those signing the petition circulated by NMPIRG are opposed to the siting of the Rinchem facility in its current North Valley location for a number of reasons, including traffic problems and the possible impact on ground water in the area. I have enclosed copies of those signatures with this letter.

NMPIRG is not opposed to the permitting of a hazardous waste storage and transfer facility, and we fully understand the need for such a facility in the Albuquerque area. We are opposed to the siting of the proposed facility in a low-lying area of Albuquerque's North Valley with shallow ground water supplies and nearby residential populations. A formal public hearing on Rinchem's application may not resolve these issues to everyone's satisfaction, but it would be invaluable as a means of educating all concerned about the numerous issues raised by Rinchem's application, not the least of which are the shortcomings in state and federal regulations when it comes to siting these kinds of facilities.

I understand that the decision to hold a formal public hearing is a discretionary one, but I hope that you will find these comments and the names and comments contained herein to be reason enough for holding that hearing. Thank you for your consideration of this important matter.

RECEIVED
DEC 28 1987
GROUND WATER/HAZARDOUS WASTE
BUREAU

Sincerely,

Kevin Bean

Kevin Bean
NMPIRG

September 23, 1987

Mr. C. Kelly Crossman
Environmental Supervisor
Hazardous Waste Bureau
N.M. Environmental Improvement Division
P.O. Box 968
Santa Fe, NM 87505-0968

Dear Mr. Crossman,

I am writing in response to the E.I.D.'s request for public comments on the application by Rinchem Company Incorporated for a permit to operate an expanded hazardous waste storage and transfer facility. My objective in submitting these comments is to secure from the E.I.D. a commitment to host a formal public hearing on Rinchem's application for that permit. A formal public hearing, I believe, is needed to fully and adequately address the following issues:

-Transportation. The transportation of hazardous materials to and from the proposed facility has received only the most ruidimentary analysis in Rinchem's permit application. The applicant provides, for example, some information on the average number of vehicles traveling on Edith Boulevard between Montano Boulevard and Osuna Road per hour, and on the number of tractor/trailer and small truck shipments to the facility on a monthly basis, but has failed to provide any information on the accident rates at the Montano or Osuna and Edith Boulevard intersections or on the primary transportation routes that will be used in bringing hazardous materials to and from the facility and the condition of those routes. Such an analysis is needed to more accurately assess the potential for accident en route to or from the facility, and to determine if that potential is significant enough to preclude the operation of the proposed facility at its present location.

-Financial Surety. I am concerned that the $8 million per year limit on financial liability is too low to provide coverage for a "worst case" accident scenario. Indeed, even if a catastrophic accident such as a fire or a flood on the Rinchem premises is discounted, the more likely possibility of an accident off-site during transportation to or from the facility could still run into the millions of dollars in clean-up costs and restitution to affected individuals. The $8 million per year limit, moreover, is the total amount of coverage available; the much smaller amounts of $1 million and $3 million for short and long-term release incidents, with a maximum coverage rate of two such incidents per year, are clearly inadeqate to cover all possible accident scenarios.

-Jurisdictional Authority. Rinchem is currently operating as a warehouse and chemical supply distribution center, as well as a small-scale hazardous waste storage and transfer facility. Should they receive the permit for the expanded hazardous waste storage and transfer operations, those operations will constitute a larger percentage of their business but will not displace their current operations as a warehouse and chemical distributor. Will the E.I.D. retain regulatory oversight over both of those operations, or will some other regulatory agency be responsible for the non-hazardous waste aspects of Rinchem's business operations? If so, what mechanisms are in place to insure inter-agency coordination and cooperation? An additional concern is the proposed annexation by the City of Albuquerque of the area of Bernalillo County in which Rinchem is located. Until such processes are completed, the question of regualtory oversight cannot be answered.

-E.P.A. Permitting Timeline. The United States Environmental Protection Agency is not expected to complete its review of Rinchem's application as it pertains to the 1984 amendments to the Resource Recovery and Conservation Act until somewhere around the end of October. It seems premature, therefore, for the E.I.D. to issue a decision on Rinchem's application until the E.P.A. completes its review. I would be in favor of a joint E.I.D./E.P.A. public hearing following the completion of the E.P.A.'s review.

I feel compelled, Mr. Crossman, to make one final comment on Rinchem's application. As you are aware, the County Commission, in coordination with the City of Albuquerque, is in the process of developing an industrial siting policy that would help to protect the vulnerable ground water resources in the inner valley areas from contamination. Clearly Rinchem, as a handler of significant quantities of hazardous and toxic materials, will be subject to such a policy once that policy is developed and implemented. Although I realize that this issue is outside of the realm of what is specifically required under the E.I.D.'s permitting guidelines, I urge you to take that issue, as well as the concerns I have outlined above, into consideration in my request for a formal public hearing on Rinchem's application.

Thank you for your consideration of these comments.

Sincerely,

Tom Rear

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

We, the undersigned, as residents of Albuquerque's North Valley who are concerned about the potential impacts that a Hazardous Waste Storage and Transfer Facility would have on the cultural and environmental resources of our area, particularly with regards to the potential contamination of the shallow ground water underlying much of the North Valley, do hereby express our opposition to the placement of the state's Hazardous Waste Storage and Transfer Facility at its proposed location at 6133 Edith Blvd. NE. Furthermore, we do hereby urge the City Council to adopt a Hazardous Waste/Industrial Siting Policy that will expressly forbid companies that generate hazardous wastes or that use substantial quantities of toxic materials in their production processes from locating in low-lying areas of the valley where the ground water is highly susceptible to contamination.

SIGNATURE	PRINTED NAME	ADDRESS (include zip code)	PHONE
[illegible]	JOSEPH ZAMORA	5316 CYPRESS DR SW	872-5321
[illegible]	M THERESA ENCINIAS	1509 ATRISCO DR NW	836-5303
[illegible]	DAN MEDRANO	1501 ATRISCO DR NW	831-6036
[illegible]	OFELIA HERRERA	1421 Hilda Ct NW	831-3231
[illegible]	Alan Dale Ramsden	1328 Atrisco NW 87105	831-1221
[illegible]	Arthur R. Buckner	1200 Atrisco Dr N.W	831-1588
[illegible]	M. Padilla	1032 ATRISCO DR. NW	836-577[illegible]
[illegible]	Richard Silva	1115 ATRISCO NW	836-0989
[illegible]	Jean Montano	1211 Atrisco N.W.	836-5709
[illegible]	Ron Dinkel	901 Palisades Dr NW	831-2912
[illegible]	GEORGE E. ORTIZ	900 PALISADES NW	831-0551
[illegible]	[illegible]	716 Palisades	[illegible]
[illegible]	Sardi Ortiz	[illegible] Palisades NW	836-[illegible]
[illegible]	Melissa L. Griego	716 Palisades Dr NW	836-6622
[illegible]	TERI ANN [illegible]	617 57th St. NW	831-1441
[illegible]	MARY CHRIS Griego 716 Palisades NW →		836-6622
[illegible]	RICARDO GONZALES	704 Palisades NW	831-9311
[illegible]	[illegible] Tom Gonzales	704 Palisades	"
[illegible]	PAULINE	"	"

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

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SIGNATURE	PRINTED NAME	ADDRESS (include zip code)	PHONE
M. Tabor	M. Tabor	1432 Crescent NW	
Mina Ruggles	Mina Ruggles	1449 Crescent NW.	
Tom Salas	Tom Salas	1307 Crescent NW 87105	831-1854
H. L. Gordon	H. L. GORDON	1617 Bluffside Pl NW	831-4615
Roy Trickett	Roy TRICKETT	915 GREEN VALLEY NW	345-[illegible]
Warren Gray	Warren Gray	6735 Green Valley Pl NW.	344-4809
V. E. Gray	V. EILEEN GRAY	" " "	" "
R. Cain	Randel Cain	908 GREEN Valley Pl NW	344-4570
Jo Carrillo	JO CARRILLO	913 Green Valley NW	344-144
Cheryl Schultz	Cheryl Schultz	6742 Green Valley Pl NW	345-572
Joyce Kreptl	Joyce Kreptl	917 Green Valley NW	344-6503
Richard Bauling	Richard Bauling	931 Green Valley NW	345-136[illegible]

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

We, the undersigned, as residents of Albuquerque's North Valley who are concerned about the potential impacts that a Hazardous Waste Storage and Transfer Facility would have on the cultural and environmental resources of our area, particularly with regards to the potential contamination of the shallow ground water underlying much of the North Valley, do hereby express our opposition to the placement of the state's Hazardous Waste Storage and Transfer Facility at its proposed location at 6133 Edith Blvd. NE. Furthermore, we do hereby urge the City Council to adopt a Hazardous Waste/Industrial Siting Policy that will expressly forbid companies that generate hazardous wastes or that use substantial quantities of toxic materials in their production processes from locating in low-lying areas of the valley where the ground water is highly susceptible to contamination.

SIGNATURE	PRINTED NAME	ADDRESS (include zip code)	PHONE
N/A	REGINA S. BCHAVEZ	6721 GUADALUPE TR NW	345-1464
	JENNIFER KNORTHUP	" " "	" "
N/A	Ginny Kistler	[illegible]	344-2030
	MARC C LEIB	7201 Guadalupe Tr.	898-1275
Absent with go	Ken DeLapp	7313 Guadalupe Tr. NW	8985793
will go & bring friends	Scott W Jordan	6901 Guadalupe TR	344-5773
	MARIANNE GRANOFF	6717 Guadalupe NW	345-47
will go	Kim Maple	" "	344-8034

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

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SIGNATURE	PRINTED NAME	ADDRESS (include zip code)	PHONE
[illegible]	Asa R. Edwards	5222 Guadalupe Tr N.W.	344-7019
[illegible]	Betty-Mae Hartman	1338 Douglas MacArthur NW	344-7083
[illegible]	Alberto J. Ortiz	1308 Douglas MacArthur N.W	344-7490
[illegible]	Steve Solano	1113 Douglas MacArthur	344-0771
[illegible]	Herbert A. Hulett	1321 Douglas MacArthur	344-0768
[illegible]	Ralph Montoya	1323 Douglas MacArthur NW	345-7055
[illegible]	Allen Ferrel	1329 Douglas MacArthur N.W.	345-3214
[illegible]	Jeanie McClellan	1329 Douglas MacArthur NW	345-3214
[illegible]	Steve Jungbluth	5200 Guadalupe Trl. NW	344-1771
[illegible]	D.E. Lichty	1613 Bayita Ln.	345-423[illegible]
~~[illegible]~~			
[illegible]	Lisa M. Enfield	1615 Bayita Ln NW	344-6525
Margaret C Davis		1621 Bayita Ln NW	344-7096

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

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SIGNATURE	PRINTED NAME	ADDRESS (include zip code)	PHONE
Muriel McClelland	MURIEL McCLELLAND	913 SANDIA RD. NW	345-1512
[illegible]	Paulette Davis	1025 Sandia Rd. NW	345-9245
Carla Lepke	Carla Lepke	1024 Sandia Rd NW	344-55[illegible]
Lucinda C. Ortega	Lucinda C. Ortega	1012 Sandia Rd. NW	344-087[illegible]
Dean Neff	DEAN NEFF	1000 SANDIA RD. N.W.	345-962[illegible]
[illegible]	Les Fen Conwom	924 Sandia Rd NW	344-6667
Eugene H. Neau	Eugene H. Neau	919 Sandia Rd NW	345-934[illegible]
Magda Garcia-Wright	Magda Garcia-Wright	813 Sandia NW	344-4670
David Boyd	DAVID BOYD	5704 SANDIA ST NW	345-2000

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

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[illegible]	JENNIFER KNORTHUP	" " "	" "
[illegible]	Ginny Kistler	6913 GUADALUPE TR, N.W.	344-2[illegible]
[illegible]	Marc C Leib	7201 Guadalupe Tr.	898-12[illegible]
[illegible]	Ken DeLapp	7323 Guadalupe Tr. NW	8985793
[illegible]	Scott W Jordan	6901 Guadalupe Tr	3445773
[illegible]	MARIANNE GRANOFF	6717 Guadalupe NW	345-47[illegible]
[illegible]	Kim G Maple	6709 Guadalupe Tr NW	344-8[illegible]

A PETITION IN SUPPORT OF A HAZARDOUS WASTE/INDUSTRIAL SITING POLICY

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SIGNATURE	PRINTED NAME	ADDRESS (include zip code)	PHONE
Gloria Duney		2208 MARIE PL NW.	24-2985
Rebecca A Flores	Rebecca A Flores	2205 Marie Pl NW	243-3206
Ignacio P. Lopez	IGNACIO P. LOPEZ	2204 Marie Pl. NW.	242 846.
Mary Gomez	Mary Gomez	2201 Marie Pl NW	243-2388
Carlos Atencio	Carlos Atencio	2208 Beryl Ct. NW	243-0551
Samuel Candelaria	Samuel Candelaria	2220 Beryl Ct NW	243-3682
Juanita Rutledge	Juanita Rutledge	2337 Beryl Ct NW	242-2121
Mary Baldonado	Mary Baldonado	2330 " " "	247-8062
Jose Rey	JOSE REY	2309 BERYL CT NW	242-8459
Pearl Martinez	Pearl Martinez	2225 Beryl Ct. N.W	243-9052
Sandra White	L. Sandra White	2212 Beryl Ct. NW	242-5899
Karen W. Hunt	KAREN W. HUNT	2208 FREDERICK PL NW 87104	243-7198
mr + mrs Benjamin A Serna	SERNA	2205 FREDERICK pl NW 87104	2428315
Mr & Mrs Henry Proo	MARY PROO	2217 FREDERICK PL NW.	248-8827

Neighbors Question Waste Storage Plan

By Rene Kimball

JOURNAL STAFF WRITER

State and federal agencies have proposed the issuance of permits that would allow a North Valley business to operate a hazardous waste transfer and storage station, despite continued objections from neighbors.

The state Environmental Improvement Division and the U.S. Environmental Protection Agency have each proposed to issue a final permit for the station to Rinchem Co. Inc., at 6133 Edith NW.

EID is expected to take action on the permit by early next year, officials said. EPA will accept public comments on the permit until Dec. 15.

Rinchem already operates a facility in which chemicals are sold and hazardous wastes are stored temporarily. It wants to expand operations to store hazardous wastes indefinitely.

State EID officials said the agency has decided not to hold a public hearing on the permit request even though some neighbors asked for a hearing. Two informational meetings for the public were held in Albuquerque in September.

Area resident Pete Craig said he submitted to EID petitions that oppose the permit with more than 400 neighbors' signatures.

He said he asked for a public hearing on the permit, citing negative impacts on property values, a dangerous transportation situation and the requirement of too little liability insurance, in his opinion.

Craig said he fears groundwater contamination could occur if the hazardous wastes spilled.

John O'Connor, president of the North Valley Neighborhood Association, said his group also is concerned about the proposed facility, primarily because of the possibility of traffic accidents involving trucks carrying drums of chemicals.

"If there's a traffic accident and one or two of them fall off, we have a problem," O'Connor said. "It seems Albuquerque needs the facility, but I don't think that's the place for it. It ought to be away from traffic. It ought to be away from neighborhoods in case of accidents."

Kelley Crossman, EID's hazardous waste permits program manager, has said Rinchem has a reputation for being a well-run, responsible company. Rinchem president Bill Moore said his company is highly concerned about excellence, because of the unquestionable risks in his business.

EID director Michael Burkhart said a review of the technical aspects of Rinchem 's permit application showed it to be sound.

He said many of the objections voiced involved the facility's location, but that such concerns are a local zoning matter.

Rinchem's plant is located in an area of the county zoned for industrial development.

Crossman said there is little chance groundwater would be polluted by an undetected spill.

The chemical wastes would be stored in drums inside a building with cement floors and curbs to contain accidental leaks, he said.

Jack Ellvinger, program manager of EID's hazardous waste bureau, said in a Nov. 10 letter to concerned citizens that the agency estimates one truck accident related to Rinchem will occur every 83 years.

"This risk level is not deemed significant in the permit consideration," he said.

If the permit is granted, Rinchem could store up to 500 55-gallon drums of hazardous waste.

The wastes would be primarily organic solvents for recycling and organic solvents and oils for incinerating, according to an EID official.

Moore said all wastes stored at the facility would be shipped out of state for disposal once a compatible truckload of chemicals is collected.

Abq Journal Nov 12, 1987 pg B-3

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 13, 1987

Mr. William Bennent
Environmental Health Department
City of Albuquerque
P. O. Box 1293
Albuquerque, NM 87103

Dear Mr. Bennent:

Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. The letter summarizes the comments we received on this application and the EID's viewpoint on each comment. I believe that each comment was fairly evaluated for technical merit and applicability of the state law and regulations. I would appreciate your sharing the enclosures with anyone you believe may also be interested.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

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Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
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GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 13, 1987

Mr. Ronald G. Olguin
Bernalillo County Manager
One Civic Plaza NW
Albuquerque, NM 87103

Dear Mr. Olguin:

Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. The letter summarizes the comments we received on this application and the EID's viewpoint on each comment. I believe that each comment was fairly evaluated for technical merit and applicability of the state law and regulations. I would appreciate your sharing the enclosures with anyone you believe may also be interested.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

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HEALTH AND ENVIRONMENT
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GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 13, 1987

Mr. Gene Clemment
Bernalillo County Environmental Department
One Civic Plaza NW
Albuquerque, NM 87103

Dear Mr. Clemment:

Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. The letter summarizes the comments we received on this application and the EID's viewpoint on each comment. I believe that each comment was fairly evaluated for technical merit and applicability of the state law and regulations. I would appreciate your sharing the enclosures with anyone you believe may also be interested.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

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HEALTH AND ENVIRONMENT
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GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 13, 1987

Councilor Vincent E. Griego
City of Albuquerque
P. O. Box 1293
Albuquerque, NM 87103

Dear Councilor Griego:

Thank you for your letter of September 25, 1987 transmitting your concerns about the Rinchem permit application and the letter from the Harwood Lateral Neighborhood Association. Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. The letter summarizes the comments we received on this application and the EID's viewpoint on each comment. I believe that each comment was fairly evaluated for technical merit and applicability of the state law and regulations. I would appreciate your sharing the enclosures with anyone you believe may also be interested, and especially the Harwood Lateral Neighborhood Association. They did not provide me a mailing address so I am unable to correspond with them directly.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

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GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 13, 1987

Ms. Linda Stewart, Policy Analyst
City of Albuquerque Council Staff
P. O. Box 1293
Albuquerque, NM 87103

Dear Ms.Stewart:

Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. The letter summarizes the comments we received on this application and the EID's viewpoint on each comment. I believe that each comment was fairly evaluated for technical merit and applicability of the state law and regulations. I would appreciate your sharing the enclosures with anyone you believe may also be interested.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

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(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 13, 1987

Mr. Charles Lee
Assistant to the Deputy CAO
City of Albuquerque
P. O. Box 1293
Albuquerque, NM 87103

Dear Mr. Lee:

Thank you for your letter of September 18, 1987 concerning a public meeting on the Rinchem permit application. The Director has decided that no issues requiring another public hearing to resolve were raised during the public comment period and that therefore another meeting is not scheduled. Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. The letter summarizes the comments we received on this application and the EID's viewpoint on each comment. I believe that each comment was fairly evaluated for technical merit and applicability of the state law and regulations. I would appreciate your sharing the enclosures with anyone you believe may also be interested.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

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HEALTH AND ENVIRONMENT
DEPARTMENT

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(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 12, 1987

Mr. Henry Gabaldon
Bernalillo County Commissioner
115 Tyrone Avenue N.W.
Albuquerque, NM 87107

Dear Commissioner Gabaldon:

Enclosed for your information are copies of a news release and a letter sent to everyone who commented on the Rinchem hazardous waste storage permit application. Mr. Pete Craig informed me that you are interested in this permit application and provided your address. I would appreciate your sharing the enclosures with anyone you believe may also be interested.

If you have any specific questions after reading the enclosures please feel free to write or call me at 827-2923.

Sincerely,

C Kelley Crossman

C. Kelley Crossman
Environmental Supervisor

HED NEWS

NEW MEXICO HEALTH AND ENVIRONMENT DEPARTMENT • Larry Gordon, Secretary • Carla L. Muth, Deputy Secretary

ENVIRONMENTAL IMPROVEMENT DIVISION, Michael J. Burkhart, Director

PUBLIC INFORMATION OFFICE
Post Office Box 968
Santa Fe, New Mexico 87504-0968
Phone (505) 827-2841

FOR IMMEDIATE RELEASE:

CONTACT:

November 10, 1987

Kelley Crossman 827-2923

SANTA FE, NEW MEXICO -- The state Environmental Improvement Division is expected to act on granting a permit to an Albuquerque facility to operate a hazardous waste storage facility by early 1988, officials announced.

EID Director Michael J. Burkhart said EID has reviewed the technical aspects of the permit application submitted by Rinchem, Inc., who has requested a permit o operate as a hazardous waste storage facility. "We have found the technical components of the application to be sound in terms of Rinchem's plans to store waste on their premises prior to consolidating the wastes for shipment to recycling facilities, disposal sites or other waste transfer stations," Burkhart stated.

Rinchem Company, Inc. presently may store any regulated waste it receives on site for a maximum ten day period, according to Kelley Crossman, EID Hazardous Waste Permits Program Supervisor. The majority of waste is organic solvents to be recycled or incinerated. Other wastes handled include waste chemicals and aqueous solutions containing heavy metals, alkaline materials and oil.

Under the permit conditions, Rinchem anticipates storing primarily two types of waste for a period exceeding ten days, organic solvents for recycling and organic

(more)

solvents and oils for incinerating, Crossman said. Limited quantities of waste chemicals may also be stored. The maximum permitted capacity for storage of wastes on site is 500 drums although, generally, the volume of waste in storage is expected to be 10 to 50 drums, he noted. All of the hazardous waste is stored in 55 gallon drum containers, Crossman said.

Crossman also said there is a low probability of release of the contents of the drums, which are stored inside a building on cement floors with curbing to contain accidental leaks. There is a contingency plan to recover any waste that might accidentally spill and, in addition, a one million dollar accident insurance is part of the condition of issuance of the permit, Crossman added. "EID has greater enforcement authority over the operation under the requirements of the permit than it has with the present operation of the facility," Crossman stated.

Burkhart said EID considered public written comments submitted to the division during the public comment period, which ended September 15, 1987. "Many of the comments concerned the location of a facility that handles materials that are of a hazardous nature, but this is a zoning matter and the authority for zoning resides with local government," Burkhart stated. "From a technical point of view, the operation of the facility for temporary storage of hazardous waste should have no negative impact on the environment."

Burkhart noted a permit must be issued both by the federal Environmental Protection Agency in accordance with the Hazardous and Solid Waste Amendments of 1984 and the EID under the New Mexico Hazardous Waste Management Regulations. EPA's public comment period ends on December 15, 1987. Final decisions on the permits will be made following the close of the EPA comment period.

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GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

November 10, 1987

Dear Concerned Citizen:

In accordance with Section 303. A. of the New Mexico Hazardous Waste Management Regulations, the Director of the Environmental Improvement Division of the New Mexico Health and Environment Department has decided that another public hearing on the application for a hazardous waste storage permit submitted by Rinchem Company, Inc. will not be held. The Division has carefully considered all comments received on the permit application and incorporated a few changes to the draft permit as a result. No substantive relevant issues were raised which would require a public hearing by the EID to resolve. The majority of the comments concerned the suitability of the area for commercial development. This is a zoning question which is not within EID's authority to rule upon. The changes incorporated into the permit specify the maximum quantity of waste to be stored, enhance the decontamination procedures in the closure plan and specify some additional recordkeeping. The changes do not materially impact the permit and therefore do not require further public comment. The Director has, however, decided to withhold a final decision until after December 15, 1987, the end of the comment period for the EPA portion of the permit. Persons desiring to raise any relevant issue should address all correspondence to Mr. C. Kelley Crossman, Environmental Supervisor; Hazardous Waste Management Section, (EID); P. O. Box 968; Santa Fe, NM 87504-0968. Commentors who include a return address will be added to the mailing list for future information on the Rinchem application.

The most frequently raised issue in the comments received to date was the impact on the shallow groundwater in the vicinity of the site. While EID shares the concern for the quality of the State's groundwater, this type of facility has a minimal impact on the groundwater as there is little likelyhood of an undetected release which would reach the watertable. For this reason the EPA and State regulations do not specifically require groundwater monitoring or protection for a container storage facility such as that proposed by Rinchem. The fact that Rinchem will handle all wastes over a concrete surface designed to collect and contain spills makes the potential for groundwater contamination remote.

Several commentors expressed concern for the transportation of hazardous wastes both on Edith and within the city in general. EID's analysis of the latest available national statistics on truck accident rates in urban areas led to an estimate of one hazardous waste truck accident related to Rinchem every 83 years. This risk level is not deemed significant in the permit consideration. Transportation routes within the city and county in general are within the jurisdiction of the local authorities and beyond EID's authority to regulate. Therefore EID may not take a position on this issue.

One comment on the degree of decontamination and clean-up proposed in the closure plan was made. The EID agrees that this area within the closure plan could be improved upon and will incorporate appropriate changes in the final permit.

One comment concerned the possibility that the Rinchem permit, if issued, would be unilaterally expanded without offering any opportunity for the public to comment thereon. This would violate specific provisions of the Hazardous Waste Management Regulations which require the Division to notify the public and solicit comments, in the same manner as processing a new permit. The present list of chemicals, as well as the quantity, would not be subject to change by the Division unless the proper procedures were followed. It is important to note however, that Rinchem is presently, and will continue to be, a legally registered transporter of hazardous wastes. As such, they may transport, and temporarily store for up to ten days, any hazardous waste material covered by the regulations. This will not change with issuance or denial of the permit.

One final observation should be made. Rinchem is presently, and will continue to be, a legally registered transporter of hazardous wastes. As such they are required by the Hazardous Waste Management Regulations to meet minimal requirements, primarily paperwork and recordkeeping. As a permitted facility they will be required to conduct regular facility inspections and personnel training, contingency planning, post closure surety to insure funds are available for final cleanup and closure, and to store only regulated quantities of specific chemicals. These requirements are enforcable by the EID under the Hazardous Waste Act. The chemicals which would be authorized by the permit are primarily industrial solvents. Limited quantities of toxic materials would be permitted; most of the chemicals to be stored are listed because of their ignitability.

We appreciate your concern and assure you that careful consideration of all relevant environmental factors has gone into our evaluation of this permit application. For your convenience the permit application and proposed permits will remain available for review at the reference desk of the Albuquerque main library at 501 Copper NE. We trust that the above discussion is acceptable and adequately addresses your concerns. Should you wish to raise any relevant issues, please respond as explained in the opening paragraph above. If you have any questions, please contact Mr. Crossman at the address given.

Sincerely,

Jack K Ellvinger

Jack Ellvinger
Program Manager

cc: Ms. Tanga Winkle, US EPA (6H-HS)
Michael J. Burkhart, Director, EID
Kirkland Jones, Deputy Director, EID

PNM PUBLIC SERVICE COMPANY OF NEW MEXICO
ALVARADO SQUARE ALBUQUERQUE, NEW MEXICO 87158

December 16, 1987

RECEIVED
DEC 22 1987
GROUND WATER/HAZARDOUS WASTE BUREAU

C. Kelly Crossman
Hazardous Waste Bureau
New Mexico Environmental
Improvement Division
Post Office Box 968
Santa Fe, NM 87504-0968

Dear Mr. Crossman:

Subject: Rinchem, Inc., Albuquerque, NM
Permit Application to Operate a
Transfer and Storage Facility

We support the application for a permit by Rinchem, Inc. to operate a transfer and storage facility for hazardous wastes. It is often very difficult for many of the small and not so small generators to obtain satisfactory disposal of hazardous waste substances. Rinchem, Inc. has proven its ability to provide this service to business in New Mexico. Approval of their application will allow them to provide better service, ultimately providing greater protection to human health and the environment of New Mexico.

Sincerely yours,

Herbert L. Plum
Sr. Regulatory Coordinator

HLP:dll

87350AS10050

The University of New Mexico

OCCUPATIONAL SAFETY
Medical Building 3, #137
Albuquerque, NM 87131
Telephone (505) 277-2753

September 10, 1987

Mr. C. Kelley Crossman
New Mexico Environmental Improvement Division
Hazardous Waste Bureau
P.O. Box 968
Santa Fe, NM 87504-0968

Dear Mr. Crossman:

I would like to express my support for the issuance of Rinchems Part B permit for Hazardous Waste Storage. It seems likely that if this permit is denied that no other company will try again,and that New Mexico will continue without such a facility.

I do not believe that the opinions of a few vocal, but obviously misinformed, individuals should be allowed to stop this permit from being issued.

Sincerely,

Curtis Verploegh

Curtis Verploegh
Hazardous Waste Manager, UNM

CV:dj

NEW MEXICO HAZARDOUS WASTE MANAGEMENT SOCIETY
P. O. BOX 40353
ALBUQUERQUE, NEW MEXICO 87196

September 4, 1987

C. Kelley Crossman
Environmental Supervisor
Hazardous Waste Bureau
Environmental Improvement Division
P.O. Box 968
Santa Fe, New Mexico 87504-0968

Dear Mr. Crossman:

The New Mexico Hazardous Waste Management Society is an organization of over 150 hazardous waste professionals located throughout New Mexico. Members are associated with industry, private consulting firms, as well as all levels of government. The Society has actively participated in New Mexico hazardous waste programs such as the State Emergency Planning and Community Right - to - Know and the New Mexico Hazardous Waste Storage and Transfer Facility Feasibility Study.

We have reviewed the permit application submitted by Rinchem Company Inc. for the temporary storage of hazardous waste at their facility located at 6133 Edith NE, Albuquerque, New Mexico. As you know, New Mexico is presently without any commercial hazardous waste storage and transfer facility. The lack of such a facility distracts from proper hazardous waste management programs, leads to illegal disposal, and promotes improper hazardous waste storage at the generator's facilities.

The Rinchem Company Inc. permit application, as well as their past operating history, support their intent to provide a well run facility. Such a facility will greatly benefit proper hazardous waste management practices by local and state-wide generators of hazardous waste.

The New Mexico Hazardous Waste Management Society strongly supports the Rinchem Company Inc. application for a permit to store hazardous waste and recommends its approval.

Sincerely,

Donna M. Lacombe

Donna M. Lacombe
President

cc: Bill Moore, President
Rinchem Company Inc.

RECEIVED
NOV 17 1987
GROUND WATER/HAZARDOUS WASTE BUREAU

2412 Arbor Rd NW
Albuquerque, NM 87107

11/14/87

Dear Mr Grossman:

With regard to the letter of 11/10 in reference to the Ranchers Permit Application, I realize that the Hazardous Waste Management Section fully intends to proceed as indicated. However I would be remiss if I did not share with you my reactions that it is just plain crazy to proceed in an activity that has some possibility, even if slim, of contaminating our groundwater, simply because the law

permits it and because there is "... little likelihood of an undetected release ..." It would seem that the issue of detection is not the determining variable; if we continue to expose our air, water, and soil to contamination because the law permits, we are going to run out of clean air, water, & soil & then what is the law going to do to help us? I suggest that the consequences will impact not only us addle-brained environmentalists, but also your food & drink.

Sincerely yours.

Leon L Yan

MEMORANDUM OF MEETING OR CONVERSATION

☒ Telephone ☐ Personal	Time 2:30	Date 11/9/87

Originating Party	Other Parties
Pete Craig	Greg Gordon EED

Subject Rinchem permit

Discussion wanted to know decision on Rinchem
told him there was to be no meeting
that no issues of cause had been
raised tried that press release and letter
was coming out
transferred call to Mike Burkhardt's
office.

Pete Craig will contact his people,
representatives and attorney if he
cannot

Conclusions or Agreements

Distribution
CKC
JE
Rinchem - repository

Signed AGGordon

RINCHEM PERMIT
PUBLIC COMMENT SUMMARY
10 / 27 / 87

FORM LETTERS CALLING FOR A FORMAL HEARING

88 Signed, with return address
44 Signed, with no return address
2 Unsigned

134 TOTAL (received by October 13, 1987)

ENDORSEMENTS

New Mexico Hazardous Waste Management Society
University of New Mexico
Telephone call from a neighbor

WRITTEN COMMENTS (5 letters) and POTENTIAL RESPONSE

In the floodplain
Building is elevated above 100 year flood levels
Near irrigation laterals
There are no planned releases
Heavy traffic on Edith Blvd
Normally 12,500 vehicles per day, Rinchem contributes 6 to 8 vehicles per month of hazardous waste traffic, 60 to 80 total per month.
Thorough traffic analysis is needed
Attached analysis estimates 1 accident every 83 years
Withhold decision until after EPA comment period
Grant committment to decide by December
Financial surety for accidents is inadequate ($1 million/occurrance, $2 mil/year)
These are the regulatory levels, Director may require more for cause. No cause indicated
Monitoring jurisdiction for this business activity is uncertain
EID will monitor the hazardous waste activity, fire marshall and OSHA monitor the chemical warehouse business
Groundwater is shallow and contaminated in the area
Rinchem monitors the groundwater and the data show no impact
Future zoning changes being considered
Grandfather period is 56 years, County authority
State support for this permit is based on the Jacobs study
This application was processed independently of the Jacobs study
State objective is to reduce illegal dumping and there is no proof this permit will meet that objective
True but not relevant to the permit evaluation
Closure plan inadequately addresses decontamination
Will revise closure plan to enhance decontamination
The location impacts on surrounding lifestyle, health and welfare
The area is zoned for commercial development under county authority

Addition of future permitted wastes will be done without public notice
Permit modifications require public notice by regulation. Presently Rinchem may handle any hazardous waste as a transporter; under the permit may store only certain ones.
Request future hearing be held at Taft Middle School Gymnasium
Will attempt to do so but decision is up to the school

VERBAL COMMENTS FROM PUBLIC MEETINGS

Why do we not also limit the amount of hazardous materials present on the site?
The EID has no jurisdiction to do so. Such jurisdiction, if it exists, would be with the fire marshall or the county
Why do we only require $ 1 million of accident insurance?
This is the regulatory amount found in Section 206.D.3.h.(1)
Why do we not limit the transportation of hazardous wastes through town?
The EID does not have such authority
Why do we ignore the groundwater contamination in the area?
This type of facility has little likelyhood of a release to groundwater, therefore the groundwater regulations do not apply to a container storage facility
Why are we considering issuing Rinchem a permit at this location when they are a potential responsible party under CERCLA at their old location?
There is no regulatory basis upon which a permit may be held hostage to support another site legal action or investigation. The performance record of the applicant at the present location is good.
Will Rinchem have difficulties moving the wast on if there are disposal problems, bans or limitations?
They may have difficulty in this manner. It is a business decision to accept waste without firm disposal plans. They will be limited in the total amount of wastes stored on site so such problems will impact their business and probably not occur often.
Will Rinchem serve the small generators and consequently help the city solve a disposal problem?
The company may choose which customers to accomodate but may not store wastes which do not appear in the permit.
Is this decision based on convenience and would this site have been chosen if a worst-case scenario had been considered?
The application may have been based on convenience as Rinchem has an existing business and facility at this location. There was no convenience to the city or state considered in evaluating the application.
Will Rinchem accept household wastes and consequently help the city solve a disposal problem?
Household wastes are presently exempt from regulation as hazardous waste. It will be Rinchem's choice to accept non-regulated wastes.
Why are we considering approving this business in the midst of a populated area?
The location of a business is primarily a zoning question and zoning authority resides with the local government. Hazardous waste disposal activities do entail a long-range risk analysis under the HSWA authority.

AUTHORITY OF EID DIRECTOR (303.A.4.)

May choose to hold public hearing
Shall consider comments with due consideration and weight he deems appropriate
May make reasonable conditions to the permit
May adjust financial surety levels (206.3.h.(4)

ALTERNATIVES

1. Disapprove the permit
   BASIS Inappropriate area, local opposition, proximety to groundwater, transportation concerns
   DEFECT Local zoning authority permits such business, no relevant groundwater regulations, low probability of release, business may continue as a transporter

✓ 2. Hold formal public hearing
   BASIS Public request, spirit of openness
   DEFECT Requires transcription service, hearing officer (i.e., budget impact)

3. Hold another informational meeting
   BASIS Public request, spirit of openness
   DEFECT Less than formal hearing requested, no transcript of comments

4. Respond to commentors only in writing
   BASIS Allowed by regulations, no technical criteria for evaluating most comments
   DEFECT Public image tarnished, appearance of advocacy

5. Hold a joint EID, City and County public informational meeting
   BASIS Divided jurisdiction over the issues raised, spirit of public participation
   DEFECT Potential appearance of collusion or advocacy, lack of formal hearing record

6. Make a presentation to city and / or county councils
   BASIS Divided jurisdictions, elected representatives, land use planning efforts
   DEFECT Not invited, appearance of advocacy

7. Propose changes to the permit and renotify public for comments
   BASIS Large public input, Director's authority
   DEFECT Delay in permit decision, potential challenge by public or applicant, protests may not be addressable

8. Approve the permit with modifications and respond to comments directly and with a press release
   BASIS Only one substantive relevant technical issue raised, Director's authority
   DEFECT Appearance of advocacy, potential for challenge, ignores city official's request for hearing and reconsideration

9. Hold a joint EID, Rinchem, City and County public informational meeting

BASIS Provide all the principals in the permitting process for the public to question.

DEFECT Potential appearance of collusion or advocacy, lack of formal hearing record

RECOMMENDED ACTIONS

1 Add groundwater monitoring of the existing well to the permit conditions.

2. Add a ceiling on truckload shipments per month.

3. Increase accident insurance requirement.

4. Put out press release on comments received, changes made, and another public meeting.

5. Hold a joint EID, City and County informational meeting with informal notes.

6. Defer final decision until after the meeting.

PROPOSED EFFECTIVE DATE, IF APPROVED

February 1, 1988 (Estimated effective date for HSWA permit issued by EPA)

cc:
Kirk Jones
Jack Ellvinger

Comments from Rinchem not yet received.
CFC

EPA HSWA permit public notice o/a Oct 31

RINCHEM TRAFFIC ACCIDENT ANALYSIS

ASSUMPTIONS

1. The Albuquerque urban area extends for a 25 mile radius around Rinchem.
2. Urban accident rates apply.
3. Trips are roundtrips, 50 miles total.
4. 100 hazardous materials trips occur each month.
5. New Mexico has twice the national accident rate.
6. Twenty percent of the trips involve hazardous waste.

DATA (1984 statistics *)

1. Urban accident rate is 149 accidents per 100 million vehicle miles.
2. Truck accidents were 6.3 million.
3. Vehicle accidents were 18.8 million.
4. Rinchem reports 60 to 80 trips per month.
5. Rinchem estimates ten percent of the trips involve hazardous waste.

CALCULATIONS

$$\frac{(149 \text{ accidents}) \times (2) \times (6.3 \text{ million truck acc.})}{(100{,}000{,}000 \text{ vehicle miles}) \times (18.8 \text{ million vehicle acc})} = \frac{1 \text{ truck accident}}{1{,}000{,}000 \text{ vehicle miles}}$$

$$\frac{(100 \text{ trips}) \times (50 \text{ miles}) \times (1 \text{ accident})}{(\text{month}) \times (\text{trip}) \times (1{,}000{,}000 \text{ miles})} = \frac{0.005 \text{ accident}}{\text{month}}$$

= 1 accident every 200 months

= 1 accident every 16 years

$$\frac{(1 \text{ accident}) \times (20 \text{ percent})}{(16 \text{ years})} = 1 \text{ accident every 83 years involving hazardous waste}$$

* *Statistical Abstract of the United States*
107th Edition, 1987
U.S. Department of Commerce
Bureau of the Census

303. Permitting Procedures.

A. Permit Issuance.

1. Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

2. If the Director decides to prepare a draft permit, he shall prepare a draft permit that contains all conditions, compliance schedules, monitoring requirements and technical standards for treatment, storage, and/or disposal provided for in 302.A.4., 302.F., 302.H., 302.I., and 302.J.

3. All draft permits for facilities or activities prepared by the Division under 303.A.2. shall be accompanied by a fact sheet and shall be based on the administrative file. Copies of the fact sheet shall be sent to the applicant, any state or federal agency as applicable and, on request, to any other person.

4. The Director shall give public notice that a draft permit has been prepared or that a permit application has been tentatively denied and shall allow at least 45 days for public comment and review. During this comment period, whenever a written notice of opposition to a draft permit and a request for a hearing is received from an affected individual, a public hearing may be held. The Division, acting in conjunction with the applicant, will respond to these requests in an attempt to resolve those issues giving rise to such opposition. If such issues can be resolved to the satisfaction of the opponent, the affected individual may waive his request for a public hearing. In such case the public hearing need not be held. The Director may also hold a public hearing at his discretion.

5. No ruling shall be made on permit issuance without an opportunity for all interested persons to be given a reasonable chance to submit significant data, views or arguments orally or in writing and to examine witnesses testifying at any public hearing. The comment period specified in 303.A.4. shall automatically be extended to the close of any public hearing.

6. The Director shall give due consideration and the weight he deems appropriate to all comments received during a public comment period and to all relevant facts and circumstances presented at any public hearing

7. When ruling on permit issuance, the Division may disapprove in whole or in part, or make reasonable conditions to any permit, if it appears that the proposed action will not meet the requirements of these regulations.

8. At the time that any final permit decision is issued, the Director shall issue a response to comments. This response shall:

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

b. Briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

9. The response to comments shall be available to the public.

10. The approval of a permit does not relieve any person from the responsibility of complying with applicable state or federal laws and regulations.

11. The Director shall notify the permittee by certified mail of any impending permit action and of any scheduled public hearing date.

modification under 303.B. for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Director may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the Director to determine a level of financial responsibility other than that required by 206.D.3.h.(1) or (2). Any request for a variance for a permitted facility will be treated as a request for a permit modification under 302.M.1.e.(3) and 303.B.

206. D. 3. h. (4) Adjustments by the Director.

If the Director determines that the levels of financial responsibility required by 206.D.3.h.(1) or (2) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Director may adjust the level of financial responsibility required under 206.D.3.h.(1) or (2) as may be necessary to protect human health and the environment. This adjusted level will be based on the Director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Director determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with 206.D.3.h.(2). An owner or operator must furnish to the Director, within a reasonable time, any information which the Director requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under 302.M.1.e.(3) and 303.B.

(5) Period of coverage.

An owner or operator must continuously provide liability coverage for a facility as required by 206.D.3.h. until certifications of closure of the facility, as specified in 206.D.2.f., are received by the Director.

(6) Financial test for liability coverage.

(a) An owner or operator may satisfy the requirements of 206.D.3.h. by demonstrating that he passes a financial test as specified in 206.D.3.h.(6). To pass this test, the owner or operator must meet the criteria of (i) or (ii) below:

(i) The owner or operator must have:

A. Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and

B. Tangible net worth of at least $10 million; and

C. Assets in the United States amounting to either:

1. At least 90 percent of his total assets; or

2. At least six times the amount of liability coverage to be demonstrated by this test.

(ii) The owner or operator must have:

A. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's; and

B. Tangible net worth of at least $10 million; and

C. Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

D. Assets in the United States amounting to either

1. At least 90 percent of his total assets; or

CITY OF ALBUQUERQUE ACCIDENT RECORD

EDITH BETWEEN MONTANO AND OSUNA

DATA

Total accidents on Edith between Osuna and Montano = 166

Time period of record Jan 85 - Jun 87 = 30 months

Traffic volume, lowest of 5 counts = 11,067 vehicles per hour

ASSUMPTIONS

High volume times 6AM to 9 PM = 15 hours

Annual workdays 365 - 52 sundays - 5 holidays = 309

Monthly workdays = 26

Rinchem monthly traffic = 100 vehicles

Rinchem hazardous waste traffic = 20% = 20 vehicles

CALCULATIONS

$$\frac{(11{,}067 \text{ vehicles})}{(\text{hour})} \times \frac{(15 \text{ hours})}{(\text{day})} \times \frac{(26 \text{ workdays})}{(\text{month})} = \frac{4{,}316{,}130 \text{ vehicles}}{\text{month}}$$

$$\text{Rinchem share} = \frac{100 \text{ vehicles per month}}{4{,}316{,}130 \text{ vehicles per month}} = 0.000023$$

(166 total accidents) x (0.000023) = 0.004 accident in 30 months

= 0.00013 accident per month

= 1 accident each 7500 months

= 1 accident each 625 years

OCT. 28 1987

DIVISION OF GOVERNMENT RESEARCH
INSTITUTE FOR APPLIED RESEARCH SERVICES
THE UNIVERSITY OF NEW MEXICO ☐ ALBUQUERQUE, NEW MEXICO 87131
ROBERT U. ANDERSON, DIRECTOR 505—277-3305

RECEIVED
HAZARDOUS WASTE SECTION

EH-16-87
Kelly Crossman

October 6, 1987

To: John Fenner, Chief, Traffic Safety Bureau, and Howard Graff

From: Chad Wisler CW

Subject: Intersection Analysis of Crashes at Edith Blvd NE between Osuna Rd NE and Montano Rd NE for January, 1985 through June, 1987

Enclosed are five copies of the intersection analysis reports on crashes involving Edith Blvd NE and intersections between Osuna Rd NE and Montano Rd NE. They include:

A) An index and crash summary of the selected intersections.
B) A table showing fatal and injury crashes and percent fatal and injury crashes at each intersection.
C) Detailed crash summary reports on each individual intersection.

As expected Edith Blvd NE and Montano Rd NE had the largest number of crashes at 89 for the selected time period. Out of these 89 crashes, 43 or 48.3 percent were either fatal or injury crashes.

The intersection of Edith Blvd NE and Osuna Rd NE gathered 40 crashes during the selected time period. Out of these 40 crashes, 16 or 40 percent were either fatal or injury crashes.

1987 data are incomplete and subject to change.

Enclosures
Id: 1174
Keywords: EDITH, Problem ID, C8587, Intersection
CW:rb

I. Selected Albuquerque Intersections
Index to tables
January, 1985 through June, 1987
1987 Data is Incomplete and Subject to Change

Produced by the Division of Government Research,IARS,UNM
Under a grant from the New Mexico Traffic Safety Bureau
Grant # 1-TR-88-01-01-01

Intersection		Crashes	Page
Edith Blvd Ne	El Ensueno Cir Ne	3	1
Edith Blvd Ne	El Paraiso Rd Ne	1	2
Edith Blvd Ne	Mission Ave Ne	5	3
Edith Blvd Ne	Montano Rd Ne	89	4
Edith Blvd Ne	Mullen Rd Ne	2	5
Edith Blvd Ne	Muscatel Ave Ne	6	6
Edith Blvd Ne	Osuna Rd Ne	40	7
Edith Blvd Ne	Reese St Ne	1	8
Edith Blvd Ne	Tahoe Pl Ne	4	9
Edith Blvd Ne	Vineyard Rd Ne	15	10
El Ensueno Cir Ne	Edith Blvd Ne	3	1
El Paraiso Rd Ne	Edith Blvd Ne	1	2
Mission Ave Ne	Edith Blvd Ne	5	3
Montano Rd Ne	Edith Blvd Ne	89	4
Mullen Rd Ne	Edith Blvd Ne	2	5
Muscatel Ave Ne	Edith Blvd Ne	6	6
Osuna Rd Ne	Edith Blvd Ne	40	7
Reese St Ne	Edith Blvd Ne	1	8
Tahoe Pl Ne	Edith Blvd Ne	4	9
Vineyard Rd Ne	Edith Blvd Ne	15	10

II. Selected Albuquerque Intersections
In descending order by number of crashes
January, 1985 through June, 1987
1987 Data is Incomplete and Subject to Change

Produced by the Division of Government Research, IARS, UNM
Under a grant from the New Mexico Traffic Safety Bureau
Grant # 1-TR-88-01-01-01

Intersection		Crashes
Edith Blvd Ne	Montano Rd Ne	89
Edith Blvd Ne	Osuna Rd Ne	40
Edith Blvd Ne	Vineyard Rd Ne	15
Edith Blvd Ne	Muscatel Ave Ne	6
Edith Blvd Ne	Mission Ave Ne	5
Edith Blvd Ne	Tahoe Pl Ne	4
Edith Blvd Ne	El Ensueno Cir Ne	3
Edith Blvd Ne	Mullen Rd Ne	2
Edith Blvd Ne	El Paraiso Rd Ne	1
Edith Blvd Ne	Reese St Ne	1
		166

III. Selected Albuquerque Intersections
In descending order by percent fatal or injury crashes
January, 1985 through June, 1987
1987 Data is Incomplete and Subject to Change

Produced by the Division of Government Research, IARS, UNM
Under a grant from the New Mexico Traffic Safety Bureau
Grant # 1-TR-88-01-01-01

Intersection		Crashes	Fatal and Injury Crashes	Percent Fatal and Injury Crashes
Edith Blvd Ne	Reese St Ne	1	1	100.0
Edith Blvd Ne	Vineyard Rd Ne	15	8	53.3
Edith Blvd Ne	Mullen Rd Ne	2	1	50.0
Edith Blvd Ne	Tahoe Pl Ne	4	2	50.0
Edith Blvd Ne	Montano Rd Ne	89	43	48.3
Edith Blvd Ne	Osuna Rd Ne	40	16	40.0
Edith Blvd Ne	El Ensueno Cir Ne	3	1	33.3
Edith Blvd Ne	Muscatel Ave Ne	6	2	33.3
Edith Blvd Ne	Mission Ave Ne	5	1	20.0
Edith Blvd Ne	El Paraiso Rd Ne	1	0	0.0

Selected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & El Ensueno Cir Ne
January, 1985 through June, 1987

Division of Government Re. .arch, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Other vehicle	3	100%	0	0%	0	0%	3	100%
Total	3	100%	0	0%	0	0%	3	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	1	33%	0	0%	0	0%	1	33%
Property damage only	2	67%	0	0%	0	0%	2	67%
Alcohol								
Not involved	3	100%	0	0%	0	0%	3	100%
Involved	0	0%	0	0%	0	0%	0	0%
Month								
January	1	33%	0	0%	0	0%	1	33%
February	1	33%	0	0%	0	0%	1	33%
March	0	0%	0	0%	0	0%	0	0%
April	0	0%	0	0%	0	0%	0	0%
May	0	0%	0	0%	0	0%	0	0%
June	0	0%	0	0%	0	0%	0	0%
July	0	0%	0	0%	0	0%	0	0%
August	0	0%	0	0%	0	0%	0	0%
September	0	0%	0	0%	0	0%	0	0%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	1	33%	0	0%	0	0%	1	33%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	2	67%	0	0%	0	0%	2	67%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	0	0%	0	0%	0	0%	0	0%
Thursday	0	0%	0	0%	0	0%	0	0%
Friday	1	33%	0	0%	0	0%	1	33%
Saturday	0	0%	0	0%	0	0%	0	0%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	1	33%	0	0%	0	0%	1	33%
12 to 15	0	0%	0	0%	0	0%	0	0%
15 to 18	1	33%	0	0%	0	0%	1	33%
18 to 21	1	33%	0	0%	0	0%	1	33%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Failure to yield	1	33%	0	0%	0	0%	1	33%
Follow too close	1	33%	0	0%	0	0%	1	33%
Driver inattention	1	33%	0	0%	0	0%	1	33%
Highway element								
Non-intersection	1	33%	0	0%	0	0%	1	33%
Intersection related	2	67%	0	0%	0	0%	2	67%
Light								
Daylight	2	67%	0	0%	0	0%	2	67%
Dark(not lighted)	1	33%	0	0%	0	0%	1	33%
Weather								
Clear	3	100%	0	0%	0	0%	3	100%

Selected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & El Paraiso Rd Ne
January, 1985 through June, 1987

Division of Government Re. .rch, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Fixed object	1	100%	0	0%	0	0%	1	100%
Total	1	100%	0	0%	0	0%	1	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	0	0%	0	0%	0	0%	0	0%
Property damage only	1	100%	0	0%	0	0%	1	100%
Alcohol								
Not involved	1	100%	0	0%	0	0%	1	100%
Involved	0	0%	0	0%	0	0%	0	0%
Month								
January	0	0%	0	0%	0	0%	0	0%
February	0	0%	0	0%	0	0%	0	0%
March	0	0%	0	0%	0	0%	0	0%
April	1	100%	0	0%	0	0%	1	100%
May	0	0%	0	0%	0	0%	0	0%
June	0	0%	0	0%	0	0%	0	0%
July	0	0%	0	0%	0	0%	0	0%
August	0	0%	0	0%	0	0%	0	0%
September	0	0%	0	0%	0	0%	0	0%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	0	0%	0	0%	0	0%	0	0%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	0	0%	0	0%	0	0%	0	0%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	0	0%	0	0%	0	0%	0	0%
Thursday	0	0%	0	0%	0	0%	0	0%
Friday	1	100%	0	0%	0	0%	1	100%
Saturday	0	0%	0	0%	0	0%	0	0%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	0	0%	0	0%	0	0%	0	0%
12 to 15	0	0%	0	0%	0	0%	0	0%
15 to 18	1	100%	0	0%	0	0%	1	100%
18 to 21	0	0%	0	0%	0	0%	0	0%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Driver inattention	1	100%	0	0%	0	0%	1	100%
Highway element								
Intersection related	1	100%	0	0%	0	0%	1	100%
Light								
Daylight	1	100%	0	0%	0	0%	1	100%
Weather								
Clear	1	100%	0	0%	0	0%	1	100%

Selected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Mission Ave Ne
January, 1985 through June, 1987

Division of Government Research, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Other vehicle	2	100%	2	67%	0	0%	4	80%
Fixed object	0	0%	1	33%	0	0%	1	20%
Total	2	100%	3	100%	0	0%	5	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	0	0%	1	33%	0	0%	1	20%
Property damage only	2	100%	2	67%	0	0%	4	80%
Alcohol								
Not involved	1	50%	3	100%	0	0%	4	80%
Involved	1	50%	0	0%	0	0%	1	20%
Month								
January	1	50%	0	0%	0	0%	1	20%
February	0	0%	0	0%	0	0%	0	0%
March	0	0%	0	0%	0	0%	0	0%
April	0	0%	0	0%	0	0%	0	0%
May	0	0%	1	33%	0	0%	1	20%
June	1	50%	2	67%	0	0%	3	60%
July	0	0%	0	0%	0	0%	0	0%
August	0	0%	0	0%	0	0%	0	0%
September	0	0%	0	0%	0	0%	0	0%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	0	0%	0	0%	0	0%	0	0%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	0	0%	0	0%	0	0%	0	0%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	1	50%	1	33%	0	0%	2	40%
Thursday	0	0%	1	33%	0	0%	1	20%
Friday	0	0%	0	0%	0	0%	0	0%
Saturday	1	50%	1	33%	0	0%	2	40%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	1	50%	0	0%	0	0%	1	20%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	0	0%	0	0%	0	0%	0	0%
12 to 15	0	0%	2	67%	0	0%	2	40%
15 to 18	1	50%	1	33%	0	0%	2	40%
18 to 21	0	0%	0	0%	0	0%	0	0%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Alcohol involved	1	50%	0	0%	0	0%	1	20%
Follow too close	0	0%	2	67%	0	0%	2	40%
Improper turn	1	50%	0	0%	0	0%	1	20%
Mechanical defect	0	0%	1	33%	0	0%	1	20%
Highway element								
Non-intersection	1	50%	1	33%	0	0%	2	40%
Intersection related	1	50%	2	67%	0	0%	3	60%
Light								
Daylight	1	50%	3	100%	0	0%	4	80%
Dark(not lighted)	1	50%	0	0%	0	0%	1	20%
Weather								
Clear	2	100%	2	67%	0	0%	4	80%
Raining	0	0%	1	33%	0	0%	1	20%

Crash class	1985		1986		1987		Total	
Overturn	1	3%	0	0%	0	0%	1	1%
Other non-collision	0	0%	1	3%	0	0%	1	1%
Other vehicle	27	87%	31	94%	23	92%	81	91%
Parked vehicle	0	0%	0	0%	1	4%	1	1%
Pedalcyclist	1	3%	0	0%	0	0%	1	1%
Fixed object	2	6%	1	3%	1	4%	4	4%
Total	31	100%	33	100%	25	100%	89	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	18	58%	15	45%	10	40%	43	48%
Property damage only	13	42%	18	55%	15	60%	46	52%
Alcohol								
Not involved	29	94%	29	88%	24	96%	82	92%
Involved	2	6%	4	12%	1	4%	7	8%
Month								
January	2	6%	3	9%	10	40%	15	17%
February	7	23%	1	3%	0	0%	8	9%
March	1	3%	6	18%	2	8%	9	10%
April	4	13%	2	6%	6	24%	12	13%
May	2	6%	3	9%	1	4%	6	7%
June	3	10%	3	9%	4	16%	10	11%
July	3	10%	6	18%	1	4%	10	11%
August	1	3%	2	6%	1	4%	4	4%
September	2	6%	6	18%	0	0%	8	9%
October	4	13%	0	0%	0	0%	4	4%
November	0	0%	0	0%	0	0%	0	0%
December	2	6%	1	3%	0	0%	3	3%
Day								
Sunday	2	6%	3	9%	2	8%	7	8%
Monday	6	19%	8	24%	5	20%	19	21%
Tuesday	3	10%	4	12%	2	8%	9	10%
Wednesday	4	13%	6	18%	3	12%	13	15%
Thursday	4	13%	4	12%	2	8%	10	11%
Friday	8	26%	1	3%	11	44%	20	22%
Saturday	4	13%	7	21%	0	0%	11	12%
Hour								
0 to 3	1	3%	0	0%	1	4%	2	2%
3 to 6	0	0%	1	3%	0	0%	1	1%
6 to 9	3	10%	6	18%	3	12%	12	13%
9 to 12	4	13%	8	24%	9	36%	21	24%
12 to 15	8	26%	6	18%	6	24%	20	22%
15 to 18	6	19%	9	27%	4	16%	19	21%
18 to 21	4	13%	3	9%	2	8%	9	10%
21 to 24	5	16%	0	0%	0	0%	5	6%

80%

15 hrs

82%

Top contributing factor	1985		1986		1987		Total	
Alcohol involved	2	6%	3	9%	1	4%	6	7%
Passed red light	2	6%	5	15%	2	8%	9	10%
Passed stop sign	0	0%	0	0%	1	4%	1	1%
Failure to yield	6	19%	8	24%	6	24%	20	22%
Excessive speed	3	10%	0	0%	1	4%	4	4%
Too fast for conditions	2	6%	2	6%	2	8%	6	7%
Left of center	1	3%	0	0%	0	0%	1	1%
Follow too close	4	13%	4	12%	3	12%	11	12%
Improper turn	1	3%	1	3%	2	8%	4	4%
Improper overtaking	1	3%	0	0%	0	0%	1	1%
Improper lane change	0	0%	1	3%	0	0%	1	1%
Defective brakes	2	6%	0	0%	0	0%	2	2%
Mechanical defect	1	3%	0	0%	1	4%	2	2%
Driver inattention	4	13%	6	18%	5	20%	15	17%
Improper driving	1	3%	0	0%	0	0%	1	1%
Other-no error	0	0%	2	6%	1	4%	3	3%
No indication	1	3%	1	3%	0	0%	2	2%
Highway element								
Intersection	15	48%	17	52%	14	56%	46	52%
Non-intersection	12	39%	11	33%	3	12%	26	29%
Intersection related	3	10%	5	15%	8	32%	16	18%
Driveway access	1	3%	0	0%	0	0%	1	1%
Light								
Daylight	21	68%	27	82%	23	92%	71	80%
Dawn	0	0%	2	6%	0	0%	2	2%
Dusk	2	6%	1	3%	1	4%	4	4%
Dark(lighted)	1	3%	3	9%	1	4%	5	6%
Dark(not lighted)	7	23%	0	0%	0	0%	7	8%
Weather								
Clear	27	87%	29	88%	20	80%	76	85%
Raining	2	6%	3	9%	0	0%	5	6%
Snowing	2	6%	0	0%	5	20%	7	8%
Wind	0	0%	1	3%	0	0%	1	1%

elected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Mullen Rd Ne
January, 1985 through June, 1987

Division of Government Research, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Other vehicle	0	0%	1	100%	1	100%	2	100%
Total	0	0%	1	100%	1	100%	2	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	0	0%	1	100%	0	0%	1	50%
Property damage only	0	0%	0	0%	1	100%	1	50%
Alcohol								
Not involved	0	0%	1	100%	1	100%	2	100%
Involved	0	0%	0	0%	0	0%	0	0%
Month								
January	0	0%	0	0%	0	0%	0	0%
February	0	0%	0	0%	0	0%	0	0%
March	0	0%	0	0%	0	0%	0	0%
April	0	0%	0	0%	0	0%	0	0%
May	0	0%	0	0%	1	100%	1	50%
June	0	0%	0	0%	0	0%	0	0%
July	0	0%	0	0%	0	0%	0	0%
August	0	0%	0	0%	0	0%	0	0%
September	0	0%	1	100%	0	0%	1	50%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	0	0%	0	0%	0	0%	0	0%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	0	0%	0	0%	0	0%	0	0%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	0	0%	1	100%	0	0%	1	50%
Thursday	0	0%	0	0%	1	100%	1	50%
Friday	0	0%	0	0%	0	0%	0	0%
Saturday	0	0%	0	0%	0	0%	0	0%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	0	0%	1	100%	0	0%	1	50%
12 to 15	0	0%	0	0%	1	100%	1	50%
15 to 18	0	0%	0	0%	0	0%	0	0%
18 to 21	0	0%	0	0%	0	0%	0	0%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Follow too close	0	0%	1	100%	0	0%	1	50%
Improper turn	0	0%	0	0%	1	100%	1	50%
Highway element								
Intersection	0	0%	1	100%	1	100%	2	100%
Light								
Daylight	0	0%	1	100%	1	100%	2	100%
Weather								
Clear	0	0%	1	100%	1	100%	2	100%

Selected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Muscatel Ave Ne
January, 1985 through June, 1987

Division of Government Research, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Other vehicle	2	100%	3	100%	1	100%	6	100%
Total	2	100%	3	100%	1	100%	6	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	0	0%	1	33%	1	100%	2	33%
Property damage only	2	100%	2	67%	0	0%	4	67%
Alcohol								
Not involved	2	100%	3	100%	1	100%	6	100%
Involved	0	0%	0	0%	0	0%	0	0%
Month								
January	0	0%	1	33%	1	100%	2	33%
February	0	0%	1	33%	0	0%	1	17%
March	0	0%	0	0%	0	0%	0	0%
April	0	0%	0	0%	0	0%	0	0%
May	1	50%	0	0%	0	0%	1	17%
June	0	0%	0	0%	0	0%	0	0%
July	1	50%	0	0%	0	0%	1	17%
August	0	0%	0	0%	0	0%	0	0%
September	0	0%	1	33%	0	0%	1	17%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	0	0%	0	0%	0	0%	0	0%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	0	0%	1	33%	0	0%	1	17%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	0	0%	1	33%	0	0%	1	17%
Thursday	1	50%	0	0%	0	0%	1	17%
Friday	1	50%	1	33%	1	100%	3	50%
Saturday	0	0%	0	0%	0	0%	0	0%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	0	0%	0	0%	0	0%	0	0%
12 to 15	1	50%	0	0%	0	0%	1	17%
15 to 18	1	50%	3	100%	1	100%	5	83%
18 to 21	0	0%	0	0%	0	0%	0	0%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Failure to yield	1	50%	2	67%	0	0%	3	50%
Too fast for conditions	0	0%	0	0%	1	100%	1	17%
Follow too close	1	50%	1	33%	0	0%	2	33%
Highway element								
Intersection	0	0%	2	67%	1	100%	3	50%
Non-intersection	2	100%	1	33%	0	0%	3	50%
Light								
Daylight	2	100%	3	100%	1	100%	6	100%
Weather								
Clear	2	100%	3	100%	0	0%	5	83%
Snowing	0	0%	0	0%	1	100%	1	17%

ected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Osuna Rd Ne
January, 1985 through June, 1987

Crash class	1985		1986		1987		Total	
Overturn	0	0%	1	8%	1	9%	2	5%
Other vehicle	14	88%	11	85%	8	73%	33	83%
Parked vehicle	0	0%	1	8%	1	9%	2	5%
Animal	1	6%	0	0%	0	0%	1	3%
Fixed object	1	6%	0	0%	1	9%	2	5%
Total	16	100%	13	100%	11	100%	40	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	7	44%	4	31%	5	45%	16	40%
Property damage only	9	56%	9	69%	6	55%	24	60%
Alcohol								
Not involved	16	100%	11	85%	10	91%	37	93%
Involved	0	0%	2	15%	1	9%	3	8%
Month								
January	0	0%	0	0%	6	55%	6	15%
February	3	19%	2	15%	0	0%	5	13%
March	2	13%	2	15%	3	27%	7	18%
April	1	6%	1	8%	0	0%	2	5%
May	1	6%	2	15%	1	9%	4	10%
June	1	6%	2	15%	0	0%	3	8%
July	1	6%	2	15%	1	9%	4	10%
August	0	0%	1	8%	0	0%	1	3%
September	1	6%	0	0%	0	0%	1	3%
October	4	25%	0	0%	0	0%	4	10%
November	1	6%	0	0%	0	0%	1	3%
December	1	6%	1	8%	0	0%	2	5%
Day								
Sunday	2	13%	1	8%	1	9%	4	10%
Monday	0	0%	3	23%	1	9%	4	10%
Tuesday	2	13%	1	8%	2	18%	5	13%
Wednesday	2	13%	2	15%	1	9%	5	13%
Thursday	4	25%	1	8%	2	18%	7	18%
Friday	5	31%	2	15%	3	27%	10	25%
Saturday	1	6%	3	23%	1	9%	5	13%
Hour								
0 to 3	0	0%	1	8%	0	0%	1	3%
3 to 6	0	0%	0	0%	2	18%	2	5%
6 to 9	0	0%	2	15%	0	0%	2	5%
9 to 12	6	38%	2	15%	4	36%	12	30%
12 to 15	2	13%	3	23%	3	27%	8	20%
15 to 18	3	19%	2	15%	2	18%	7	18%
18 to 21	3	19%	2	15%	0	0%	5	13%
21 to 24	2	13%	1	8%	0	0%	3	8%

77%

71%

Top contributing factor	1985		1986		1987		Total	
Alcohol involved	0	0%	2	15%	1	9%	3	8%
Passed red light	2	13%	2	15%	0	0%	4	10%
Failure to yield	3	19%	3	23%	2	18%	8	20%
Excessive speed	1	6%	1	8%	0	0%	2	5%
Follow too close	4	25%	0	0%	2	18%	6	15%
Improper turn	0	0%	1	8%	1	9%	2	5%
Improper overtaking	1	6%	0	0%	0	0%	1	3%
Defective brakes	0	0%	1	8%	0	0%	1	3%
Mechanical defect	1	6%	0	0%	1	9%	2	5%
Avoid other vehicle	0	0%	1	8%	0	0%	1	3%
Driver inattention	2	13%	2	15%	3	27%	7	18%
None	2	13%	0	0%	1	9%	3	8%
Highway element								
Intersection	5	31%	8	62%	4	36%	17	43%
Non-intersection	7	44%	4	31%	6	55%	17	43%
Intersection related	3	19%	1	8%	1	9%	5	13%
Driveway access	1	6%	0	0%	0	0%	1	3%
Light								
Daylight	11	69%	11	85%	9	82%	31	78%
Dawn	0	0%	0	0%	1	9%	1	3%
Dark(lighted)	1	6%	1	8%	1	9%	3	8%
Dark(not lighted)	4	25%	1	8%	0	0%	5	13%
Weather								
Clear	16	100%	10	77%	11	100%	37	93%
Raining	0	0%	3	23%	0	0%	3	8%

lected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Reese St Ne
January, 1985 through June, 1987

Division of Government Research, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Other vehicle	0	0%	0	0%	1	100%	1	100%
Total	0	0%	0	0%	1	100%	1	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	0	0%	0	0%	1	100%	1	100%
Property damage only	0	0%	0	0%	0	0%	0	0%
Alcohol								
Not involved	0	0%	0	0%	1	100%	1	100%
Involved	0	0%	0	0%	0	0%	0	0%
Month								
January	0	0%	0	0%	1	100%	1	100%
February	0	0%	0	0%	0	0%	0	0%
March	0	0%	0	0%	0	0%	0	0%
April	0	0%	0	0%	0	0%	0	0%
May	0	0%	0	0%	0	0%	0	0%
June	0	0%	0	0%	0	0%	0	0%
July	0	0%	0	0%	0	0%	0	0%
August	0	0%	0	0%	0	0%	0	0%
September	0	0%	0	0%	0	0%	0	0%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	0	0%	0	0%	0	0%	0	0%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	0	0%	0	0%	0	0%	0	0%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	0	0%	0	0%	0	0%	0	0%
Thursday	0	0%	0	0%	1	100%	1	100%
Friday	0	0%	0	0%	0	0%	0	0%
Saturday	0	0%	0	0%	0	0%	0	0%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	0	0%	0	0%	0	0%	0	0%
12 to 15	0	0%	0	0%	1	100%	1	100%
15 to 18	0	0%	0	0%	0	0%	0	0%
18 to 21	0	0%	0	0%	0	0%	0	0%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Follow too close	0	0%	0	0%	1	100%	1	100%
Highway element								
Non-intersection	0	0%	0	0%	1	100%	1	100%
Light								
Daylight	0	0%	0	0%	1	100%	1	100%
Weather								
Clear	0	0%	0	0%	1	100%	1	100%

Selected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Tahoe Pl Ne
January, 1985 through June, 1987

Division of Government Research, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Other vehicle	0	0%	2	100%	1	100%	3	75%
Fixed object	1	100%	0	0%	0	0%	1	25%
Total	1	100%	2	100%	1	100%	4	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	1	100%	1	50%	0	0%	2	50%
Property damage only	0	0%	1	50%	1	100%	2	50%
Alcohol								
Not involved	1	100%	2	100%	1	100%	4	100%
Involved	0	0%	0	0%	0	0%	0	0%
Month								
January	0	0%	0	0%	0	0%	0	0%
February	0	0%	0	0%	0	0%	0	0%
March	0	0%	0	0%	0	0%	0	0%
April	0	0%	1	50%	0	0%	1	25%
May	0	0%	0	0%	0	0%	0	0%
June	0	0%	0	0%	1	100%	1	25%
July	0	0%	1	50%	0	0%	1	25%
August	0	0%	0	0%	0	0%	0	0%
September	1	100%	0	0%	0	0%	1	25%
October	0	0%	0	0%	0	0%	0	0%
November	0	0%	0	0%	0	0%	0	0%
December	0	0%	0	0%	0	0%	0	0%
Day								
Sunday	0	0%	0	0%	0	0%	0	0%
Monday	0	0%	0	0%	0	0%	0	0%
Tuesday	0	0%	0	0%	0	0%	0	0%
Wednesday	0	0%	0	0%	1	100%	1	25%
Thursday	1	100%	1	50%	0	0%	2	50%
Friday	0	0%	1	50%	0	0%	1	25%
Saturday	0	0%	0	0%	0	0%	0	0%
Hour								
0 to 3	0	0%	0	0%	0	0%	0	0%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	0	0%	0	0%	0	0%	0	0%
12 to 15	1	100%	0	0%	0	0%	1	25%
15 to 18	0	0%	2	100%	1	100%	3	75%
18 to 21	0	0%	0	0%	0	0%	0	0%
21 to 24	0	0%	0	0%	0	0%	0	0%

Top contributing factor	1985		1986		1987		Total	
Failure to yield	0	0%	1	50%	0	0%	1	25%
Left of center	0	0%	0	0%	1	100%	1	25%
Improper turn	0	0%	1	50%	0	0%	1	25%
Improper driving	1	100%	0	0%	0	0%	1	25%
Highway element								
Intersection	0	0%	2	100%	1	100%	3	75%
Non-intersection	1	100%	0	0%	0	0%	1	25%
Light								
Daylight	1	100%	2	100%	1	100%	4	100%
Weather								
Clear	0	0%	2	100%	1	100%	3	75%

Selected Albuquerque Intersections
Statistics for crashes at Edith Blvd Ne & Vineyard Rd Ne
January, 1985 through June, 1987

Division of Government Research, IARS, UNM
For the New Mexico Traffic Safety Bureau
October 6, 1987

Crash class	1985		1986		1987		Total	
Overturn	1	11%	0	0%	0	0%	1	7%
Other vehicle	8	89%	4	80%	0	0%	12	80%
Fixed object	0	0%	1	20%	1	100%	2	13%
Total	9	100%	5	100%	1	100%	15	100%
Severity								
Fatal	0	0%	0	0%	0	0%	0	0%
Injury	7	78%	1	20%	0	0%	8	53%
Property damage only	2	22%	4	80%	1	100%	7	47%
Alcohol								
Not involved	7	78%	5	100%	1	100%	13	87%
Involved	2	22%	0	0%	0	0%	2	13%
Month								
January	0	0%	0	0%	0	0%	0	0%
February	0	0%	1	20%	0	0%	1	7%
March	0	0%	0	0%	0	0%	0	0%
April	1	11%	1	20%	1	100%	3	20%
May	2	22%	0	0%	0	0%	2	13%
June	1	11%	0	0%	0	0%	1	7%
July	1	11%	2	40%	0	0%	3	20%
August	1	11%	0	0%	0	0%	1	7%
September	0	0%	1	20%	0	0%	1	7%
October	0	0%	0	0%	0	0%	0	0%
November	2	22%	0	0%	0	0%	2	13%
December	1	11%	0	0%	0	0%	1	7%
Day								
Sunday	1	11%	0	0%	0	0%	1	7%
Monday	1	11%	1	20%	0	0%	2	13%
Tuesday	0	0%	2	40%	0	0%	2	13%
Wednesday	0	0%	0	0%	0	0%	0	0%
Thursday	2	22%	1	20%	0	0%	3	20%
Friday	5	56%	1	20%	0	0%	6	40%
Saturday	0	0%	0	0%	1	100%	1	7%
Hour								
0 to 3	1	11%	0	0%	0	0%	1	7%
3 to 6	0	0%	0	0%	0	0%	0	0%
6 to 9	0	0%	0	0%	0	0%	0	0%
9 to 12	1	11%	4	80%	0	0%	5	33%
12 to 15	4	44%	1	20%	0	0%	5	33%
15 to 18	2	22%	0	0%	1	100%	3	20%
18 to 21	1	11%	0	0%	0	0%	1	7%
21 to 24	0	0%	0	0%	0	0%	0	0%

86%

86%

Top contributing factor	1985		1986		1987		Total	
Alcohol involved	2	22%	0	0%	0	0%	2	13%
Failure to yield	3	33%	0	0%	0	0%	3	20%
Too fast for conditions	1	11%	0	0%	0	0%	1	7%
Left of center	0	0%	1	20%	0	0%	1	7%
Follow too close	1	11%	1	20%	0	0%	2	13%
Driver inattention	2	22%	2	40%	1	100%	5	33%
Other-no error	0	0%	1	20%	0	0%	1	7%
Highway element								
Intersection	1	11%	0	0%	0	0%	1	7%
Non-intersection	8	89%	4	80%	1	100%	13	87%
Intersection related	0	0%	1	20%	0	0%	1	7%
Light								
Daylight	8	89%	5	100%	1	100%	14	93%
Dark(not lighted)	1	11%	0	0%	0	0%	1	7%
Weather								
Clear	9	100%	5	100%	1	100%	15	100%

For Charles Lee
CAO Office

10/01/87

RECEIVED
OCT 16 1987
MAYOR/CAO
OFFICE

MRGCOG COUNTS
DATABASE INFORMATION SYSTEM

SELECTED COUNTS

DATE	DOW	ON STREET	FSQ#	CROSS STREET	FSQ#	D.	GEOG	COUNT ID.	COUNT TYPE	H.C. REF.	A.M. PEAK	A.M. D.S.	P.M. PEAK	P.M. D.S.	DIR. 1 TOTAL	DIR. 2 TOTAL	BOTH DIR. TOTAL
05/14/86	4	EDITH	20300	MONTANO	41680	N	7	4GA	2WAY	86-1	987	54S	1231	51N	6705N	6538S	13243
04/30/85	3	EDITH	20300	MONTANO	41680	N	7	4GA	2WAY	85-1	956	54S	1224	55N	6442N	6017S	12459
09/09/85	2	EDITH Monday	20300	PASEO DEL NORTE	46015	S	7	12HA	2WAY	85-1	620	62S	736	66N	3896N	3324S	7220
07/16/84	2	EDITH	20300	MONTANO	41680	N	7	4GA	2WAY	84-1	801	54S	1003	62N	5939N	5482S	11421
09/22/83	5	EDITH	20300	ALAMEDA	665	S	7	D2-11	NDIR	83-1	110	X	154	X	X	X	1461
06/08/83	4	EDITH	20300	MONTANO	41700	N	7	4GA	NDIR	83-1	823	X	1042	X	X	X	11067
12/10/80	4	EDITH	20300	LOS RANCHOS	37100	S	7	X	NDIR	80-1	377	X	505	X	X	X	4668
06/10/87	4	EDITH	20300	MONTANO	41680	N	7	4GA	2WAY	87-1	1009	54S	1271	55N	7389N	6830S	14219

Reference Rimchem's application for Hazardous Waste permit

25 total

R

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

2 p.m.

RINCHEM DRAFT PERMIT PUBLIC MEETING
SEPTEMBER 9, 1987

A copy of the papers on the final decision regarding Rinchem's permit application will be sent to everyone attending this public meeting. Please sign in and give us your complete name and address. Thank you.

NAME	ADDRESS	ZIP CODE
1. Mike Chavez	Bern Co Envir Health Dept ~~[illegible]~~	87105
2. R.B. Pete Craig	P.O. Box 6574 North Valley Resident	87197
3. Kenneth Burns	GE Aircraft Engine 336 Woodward Road SE	87102
4. MILO G. MYERS	NM HAZ. WASTE MAN. SEC. 40 13612 Durant NE	87112
5. Fred Miller	14606 S. 33rd St Phoenix, AZ 85044	
6. Sarah Hetzel	6019A Edith NE Alb NM 87107	
7. Betty J. Humphry	P.O. Box 9200 Albuq N.M. 87119	
8. GARY J. LASSWELL	AEHD P.O. Box 1293	87103
9. Bill Bennett	Alb Env. Health, P.O. Box 1293	87103
10. JACK HOOPES	JEC-INC 301 Central Ave NE Albuq NM	87108
11. WM. PAUL ROBINSON	SRIC POBx4524 ABQ	87106
12. CURTIS VERPLEGH	UNM DEPT. OCC. SAFETY ABQ.	87107 277-2753
13. ALAN WECKEL	6625 BLUEWATER RD. NW	ALB. NM 87105
14. Tim Kimball	6311 Edith Rd NW	Alb. NM 87107
15. Marc Seider	EPA 1445 Ross Avenue	Dallas, Tx 75206
16. [illegible]	8409 Comanche Pl NE	Alb 87111
17. [illegible]	3801 Carlisle	COAT

RINCHEM DRAFT PERMIT PUBLIC MEETING SEPTEMBER 9, 1987, page 2

	NAME	ADDRESS	ZIP CODE
18.	Rene Kimball	Abq Journal Po Drawer J	87103
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NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

7:30 pm

RINCHEM DRAFT PERMIT PUBLIC MEETING
SEPTEMBER 9, 1987

A copy of the papers on the final decision regarding Rinchem's permit application will be sent to everyone attending this public meeting. Please sign in and give us your complete name and address. Thank you.

NAME	ADDRESS	ZIP CODE
1. Janice D. Calvert	1029 Guadalupe del Prado, N.W.	87107
2. [illegible]	1116 Monroe St SE	87105
3. Kevin Bean	Box 66, SUB, UNM, Albq.	87131
4. Cliff Pierson-Reeves	1013 Lynch Ct NW	87104
5. Steven Ruffennach	631 San Lorenzo NW	87107
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on other list

13 total

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
Santa Fe, New Mexico 87504-0968

HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

6:30 p.m.

RINCHEM DRAFT PERMIT PUBLIC MEETING
SEPTEMBER 9, 1987

A copy of the papers on the final decision regarding Rinchem's permit application will be sent to everyone attending this public meeting. Please sign in and give us your complete name and address. Thank you.

NAME	ADDRESS	ZIP CODE
1. Laura D. Calvert	1029 Guadalupe del Prado, N.W.	87107
2. [illegible]	1116 Monroe SE SE	87108
3. Trevin Bean	Box 66 SUB, UNM, Alb.	87131
4. Bill Bennett	Alb. Env. Health Dept.	87103
5. Kay M. Grotbeck	8812 Harwood	87111
6. Carolyn Palmer	918 La Senda Lane NW	87107
7. Byron Kesner	5309 Camino Montano NE	ABQ, NM 87111
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NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

Post Office Box 968
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HAZARDOUS WASTE BUREAU
(505) 827-2929

GARREY CARRUTHERS
Governor

LARRY GORDON
Secretary

CARLA L. MUTH
Deputy Secretary

September 9, 1987

Dear Concerned Citizen:

Thank you for taking the time to attend today's meeting. The Hazardous Waste Management Section, through a public participation program, is attempting to inform and involve the public in its decisions regarding the handling of hazardous wastes. One aspect of this program is the repository on a designated facility. There is such a repository on Rinchem in the section for government papers in this Main Library. The mailing and this meeting on Rinchem are other aspects of this program.

The Hazardous Waste Management Section is also beginning to update and revise its mailing list. If you wish to have your name placed on that list, please return the lower portion of this letter with the requested information by January 1, 1988. The mailing list will be divided into areas of interest, so please be sure to check off the appropriate area. Also, if you represent an organization, please indicate the organization and your position.

Again, thank you for attending this meeting and taking the time to inform yourself as well as to express any concerns you may have on the proposed decision on Rinchem's permit application.

Yours truly,

Elizabeth Gordon

Elizabeth Gordon
Environmental Scientist

Return by January 1, 1988 to: Elizabeth Gordon, Hazardous Waste Bureau, EID, P.O. Box 968, Santa Fe, New Mexico 87504-0968.

Area of Interest:

Regulatory__
Permits__
Closures__

Name: _____
Address: _____
_____
_____
_____zip code _____

Organization: _____
Position: _____

RINCHEM DRAFT PERMIT PUBLIC MEETING SEPTEMBER 9, 1987

LAWS AND REGULATIONS

- RCRA
- HSWA
- 40CFR
- NMHWA
- HWMR-3

PERMITTING ACTIONS

- APPLICATION
- REVIEW
- PUBLIC PARTICIPATION

DRAFT PERMIT

- MODULE I STANDARD CONDITIONS
- MODULE II GENERAL CONDITIONS
- MODULE III SPECIFIC CONDITIONS
- ATTACHMENTS DETAILED PLANS

WRITTEN COMMENTS MAY BE MADE UNTIL SEPTEMBER 15, 1987. SEND TO:

Mr. C. Kelley Crossman
Hazardous Waste Bureau (EID)
P. O. Box 968
Santa Fe, NM 87504-0968

FACT SHEET

INTENT TO PERMIT THE RESOURCES CONSERVATION AND RECOVERY ACT (RCRA) PART B APPLICATION

FACILITY NAME:	Rinchem Company, Inc.
EPA I.D. NUMBER:	NMD 002208627
LOCATION:	6133 Edith Blvd., N.E. Albuquerque, N.M. 87107
ACTIVITY:	Hazardous Waste Storage
LANDOWNER:	RCI Services Company
FACILITY OPERATOR:	Rinchem Company, Inc. William W. Moore, President

Reasons Supporting Decision To Issue A Permit

On August 5, 1986, the Part B RCRA permit application was received from Rinchem Company, Inc. Rinchem is requesting a permit pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6901, *et.seq.*) and the New Mexico Hazardous Waste Act (Sections 74-1-1 *et. seq.* NMSA, 1978 as amended 1987).

Rinchem Company Inc. is a distributor of organic and inorganic chemicals and is proposing to offer a waste management service to their various clients. The storage facility is to be used to temporarily store for more than ninety days hazardous waste generated by various commercial customers of Rinchem Company, Inc. and as proposed in the permit conditions. Those wastes may include any of the following listed or classes of wastes:

EPA Hazardous Waste Number	Wastes Types	EPA Hazardous Characteristic
F001 thru F005	Halogenated and non-halogenated solvents	Toxic, Ignitable or Toxic-Ignitable

P005 & P022	Alcohols & Carbon disulfide	Acute Hazardous
U001 thru U239	Toxic Wastes	Ignitable, Toxic-Ignitable
D001	EP Toxic	Ignitable

The Division proposes to issue a permit based on the provisions of HWMR-3 and under the Acts stated above for the operation of a hazardous waste storage facility.

The administrative records for this decision consist of permit application (Part A and Part B), a fact sheet, information contained in the permit application and related correspondence. The Administrative records may be reviewed at either the Environmental Improvement Division (EID) Central Office library at the Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, New Mexico or the Albuquerque Main Public Library at Fifth and Copper, Albuquerque, New Mexico.

COMMENT PERIOD

All persons, including the applicant, who believe that the tentative decision to issue an operating permit is inappropriate, must raise all ascertainable issues and submit all available arguments and factual grounds supporting their position by September 25, 1987. Comments should be sent to the EID, at the address below.

PROCEDURES FOR REQUESTING A HEARING:

A public hearing may be held if the EID receives by September 25, 1987, written notice of opposition to the proposed decision and a request for a hearing. Any request for a hearing shall be in writing and state the nature of the issue proposed to be raised in the hearing. Requests for a hearing may be submitted to the EID and must include the requestor's name and address.

All correspondence should be sent to the following address:

Mr. C. Kelley Crossman
NMEID (Hazardous Waste Bureau)
P.O. Box 968
Santa Fe, N.M. 87504-0968