INTRODUCTION

The purpose of this manual is to serve as a directive for the prevention, control, and abatement of environmental pollution from Department of Agriculture facilities, administered lands, and activities. The manual provides objectives, policy, responsibilities, and technical standards and requirements under which the Department plans to manage the various environmental programs to achieve compliance with applicable pollution control standards.

The manual is divided into chapters with respect to the various media programs, including air, water, drinking water, hazardous waste, solid waste, hazardous substances, mixed hazardous and low-level radioactive waste, toxic substances, noise, pollution prevention, and oil pollution. The manual also contains chapters on overall Departmental policy, administration, planning, programming and budgeting.

Each manual chapter is divided into sections describing the purpose, scope, objectives, and agency responsibilities for the individual environmental programs under discussion. Each chapter also describes the basic substantive and procedural standards and general requirements and authorities that agencies must meet to achieve compliance when applicable.

USERS OF THIS MANUAL ARE REMINDED THAT THERE IS NO ADEQUATE SUBSTITUTE FOR THE ACTUAL STATUTES AND REGULATIONS. The manual is meant to be used as an introduction to the extensive and complex statutory and regulatory schemes. Agencies must keep appraised of the current statutes and regulations and refer to them to gain a full understanding of their obligations and responsibilities. Furthermore, agencies must consult with the Office of the General Counsel when issues regarding these statutes and regulations arise.

The technical regulations and standards are very dynamic in nature. The Environmental Protection Agency (EPA) periodically revises and updates environmental regulations and guidance documents. Also, applicable environmental standards and requirements established by individual States may be more stringent than the Federal standards and requirements. Therefore, USDA agencies should contact appropriate regulatory agencies in the earliest phase of individual project planning to determine the requirements for any particular facility or activity.

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U.S. DEPARTMENT OF AGRICULTURE

WASHINGTON, D.C. 20250

DEPARTMENTAL MANUAL	**Numb** 5600
SUBJECT: Environmental Pollution, Prevention, Control, and Abatement Manual	**DATE:** June 25, 1999
	OPI: Office of the General Counsel

1 PURPOSE

This amendment supersedes the first ten pages of the same title issued on December 9, 1992. This manual, as amended, establishes Departmental policy, requirements, and procedures for the prevention, control, and abatement of environmental pollution concerning Department of Agriculture facilities, administered lands, and activities.

2 EXPLANATION OF CHANGES

This amendment adds new authorities, establishes the USDA Hazardous Materials Policy Council, and changes the title of the Hazardous Waste Management Group to the Hazardous Materials Management Group.

3 FILING INSTRUCTIONS (Changes have been made to this document)

Remove Pages	Insert Pages
Introduction dated 12-9-92	Introduction dated
Table of Contents i-iv dated 12-9-92	Table of Contents i-iv
1-9 dated 12-9-92	1 & 2 dated x-xx-xxxx
3 & 3-1 dated	
4 dated	
5 & 6 dated	
7 & 7-1 through 7-8 dated	
8 dated	

4 MAINTENANCE OF MANUAL

The Chairman of the Hazardous Materials Policy Council will be responsible for the issuance of any amendments to this manual. The manual will be updated on a continuing basis related to significant changes in standards that may be necessary to achieve compliance with new or revised requirements.

5 AGENCY SUPPLEMENTATION

Consistent with USDA policies, agencies may supplement this manual with agency policy and direction as necessary. However, agency supplements may not be issued on white or yellow paper. Copies of all agency supplements should be forwarded to the Hazardous Materials Management Group for review and approval by the Hazardous Materials Policy Council.

PREVENTION, CONTROL, AND ABATEMENT OF AIR, WATER, AND OTHER POLLUTION CONCERNING FEDERAL FACILITIES, ADMINISTERED LANDS, AND ACTIVITIES

Chapter I

1 PURPOSE

This chapter prescribes Department of Agriculture (USDA) policies, responsibilities, and procedures for complying with applicable environmental laws, regulations, Executive Orders, and the Governmental Performance and Results Act (GPRA) in relation to protection, preservation, and restoration of the environment including preventing pollution through waste minimization, source reduction, and recycling.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law, contractors, cooperators, and others performing work for USDA must comply with all applicable substantive and procedural requirements related to the prevention, control, and abatement of pollution.

3 AUTHORITIES

The following authorities are the major statutes and Executive Orders relating to the prevention, control, and abatement of pollution. This list is

not intended to be exhaustive. Other authorities may be applicable to a particular matter.

a Clean Air Act (CAA), as amended, 42 USC 7401, et seq.

b Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (also know as "Superfund"), as amended, 42 USC 9601, et seq.

c Emergency Planning and Community Right-to-Know Act (EPCRA), 42 USC 11001, et seq.

d Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 USC 136, et seq. (including the Food Quality Protection Act of 1996 (FQPA))

e Federal Water Pollution Control Act (FWPCA) (also known as “Clean Water Act”), as amended, 33 USC 1251, et seq.

f Noise Control Act, as amended, 42 USC 901, et seq.

g Oil Pollution Act (OPA), as amended, 33 USC 2701, et seq.

h Pollution Prevention Act, 42 USC 13101, et seq.

i Resource Conservation and Recovery Act (RCRA), as amended, 42 USC 6901, et seq.

j Safe Drinking Water Act (SDWA), as amended, 42 USC 300f, et seq.

k Toxic Substances Control Act (TSCA), as amended, 15 USC 2601, et seq.

l Executive Order 11738, providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, Grants, or Loans, September 10, 1973, 38 FR 25161 (September 12, 1973).

m Executive Order 12088, Federal Compliance with Pollution Control Standards, October 13, 1978, 43 FR 47707 (October 17, 1978).

n Executive Order 12372, Intergovernmental Review of Federal Programs, July 14, 1982, 47 FR 30959, (July 16, 1982), as amended by Executive Order 12416, April 8, 1983, 48 FR 15587 (April 11, 1983).

o Executive Order 12580, Superfund Implementation, January 23, 1987, 52 FR 2923 (January 29, 1987), as amended by Executive Order 13016 (CERCLA Section 106 Order Authority), August 28, 1996, 61 FR 45871 (August 30, 1996).

p Executive Order 12777, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990, October 18, 1991, 56 FR 54757 (October 22, 1991).

q Executive Order 12843, Procurement Requirements and Policies for Federal Agencies for Ozone-depleting Substances, April 21, 1993, 58 FR 21881 (April 23, 1993).

r Executive Order 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, August 3, 1993, 58 FR 41981 (August 6, 1993).

s Executive Order 13101, Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition, September 14, 1998, 63 FR 49643 (September 16, 1998).

t Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations, February 11, 1994, 59 FR 7629 (February 16, 1994), as amended by Executive Order 12948, January 30, 1995, 60 FR 6381 (February 1, 1995).

u Office of Management and Budget Circular A-11, Preparation and Submission of Budget Estimates, June 1989.

4 OBJECTIVES

The USDA is committed to planning, developing, and implementing all programs and projects so as to minimize adverse impacts on the quality of the environment and to restore impacted resources in concert with the Department's overall mission. To achieve this goal, USDA and component agencies will:

a Minimize the acquisition, storage, and use of hazardous, toxic, and extremely hazardous substances, consistent with mission requirements;

b Manage the use, storage, discharge or disposal of pollutants and hazardous and toxic substances generated by agency facilities in compliance with applicable regulations and requirements and conduct agency activities in compliance with applicable pollution control laws;

c Respond appropriately, including notification of appropriate agencies, in the event of unpermitted or accidental releases to the environment;

d Conserve the use of natural and man-made resources throughout the USDA;

e Maintain and restore the natural and man-made environment;

f Demonstrate initiative in developing and implementing programs that contribute to the Nation's goal of protecting human health and welfare of all persons, and preserving the quality of the environment;

g Incorporate environmental considerations in program development and project planning at the earliest stages of implementation, including environmental justice considerations, providing States and the interested public, where appropriate, an opportunity to comment on activities with real or potentially significant environmental effects;

h Coordinate programs and projects with other Federal, State, and local agencies;

i Provide leadership in enacting, adopting, and implementing environmental goals and concepts; and

j Minimize the generation of solid and hazardous waste, including biological waste, through affirmative pollution prevention, source reduction, and recycling activities.

5 POLICY

It is the policy of USDA to plan, design, construct, operate and maintain its facilities, manage its lands, and conduct its activities in a manner to provide leadership in the National effort to protect human health and welfare and to restore and protect the quality of our air, water, soil, forests, and other natural resources. In carrying out this policy, USDA agencies shall comply with Executive Order 12088 and the following general principles:

a Consider the effects of any proposed action on human health and the environment, including disproportionately high and adverse human health or environmental effects of the proposed action on minority populations and low income populations, as early as possible during the planning process and provide the interested public, where appropriate, timely opportunity to review such actions and to comment if the human health or environmental effects may be significant or the proposed action may be controversial. Compliance requirements and human health and environmental effects will be evaluated and incorporated in the decision making process concurrently with technical and economic factors;

b Develop and implement programs and activities within the overall USDA mission in a manner that minimizes environmental pollution or degradation;

c Design/construct, review and monitor facilities and activities to ascertain that they are in compliance with applicable Federal, State, or local pollution control standards;

d Coordinate thorough and timely reviews with Federal, State, and local pollution control agencies;

e Procure and use material and energy resources in a manner that minimizes the use of hazardous and toxic substances, prevents pollution, reduces generation of hazardous and nonhazardous waste, and is in keeping with National energy conservation policies;

f Minimize solid and hazardous waste to the maximum extent feasible. Waste that cannot be prevented should be recycled or reclaimed; waste that cannot be recycled or reclaimed should be treated in an environmentally safe manner. Disposal should be employed as a last resort;

g Restore damaged environments through environmental response, restoration, or other cleanup efforts;

h Identify and require potentially responsible parties to clean up hazardous substance contamination on or affecting lands and natural resources within USDA jurisdiction, custody, or control through enforceable agreements under CERCLA; and

i Comply with USDA's Biological Safety Policy, including the USDA Safety and Health Manual, and 42 CFR Part 72, Interstate Shipment of Etiologic Agents, at facilities transferring or receiving select biological agents.

Additional policy is contained in the chapters covering individual program areas.

6 DEFINITIONS

Throughout this manual, terms having specific meanings are used. Many key terms are listed in the Glossary. For those terms that have not been included in the Glossary, refer to the appropriate statute, the Code of Federal Regulations, or other applicable authority.

7 RESPONSIBILITIES

a General

The Delegations of authority, as outlined herein, reflect assignments made in

7 CFR Part 2, which set forth delegations of authority from the Secretary and general officers. Under Secretaries, Assistant Secretaries and Agency Heads will continue to be responsible for the day-to-day operations of their agencies in resolving environmental problems and for achieving compliance as required by applicable pollution control statutes and implementing regulations. They will

coordinate, interact and report accomplishments through established Departmental procedures and the Hazardous Materials Policy Council, particularly for areas where programs may overlap.

b Deputy Secretary of Agriculture will:

Maintain the Hazardous Materials Policy Council (Council) which shall exercise primary responsibility to direct and coordinate pollution prevention, control, and abatement within USDA, with the assistance of the Hazardous Materials Management Group (HMMG). The Council will be chaired by an appointee of the Secretary and consist of senior policy representatives of the affected mission areas and agencies and the Office of the General Counsel (OGC). The Council Chairman shall coordinate USDA Hazardous Materials Management and Federal Facilities Compliance Program (HMM Program) direction with the assistance of an Executive Director. The Council Executive Director shall also serve as the Director of the HMMG.

c Hazardous Materials Policy Council will:

(1) Provide leadership in hazardous materials management and Federal facilities compliance for USDA;

(2) Be served by a Chairman, appointed by the Secretary, who shall coordinate HMM Program direction with the assistance of an Executive Director;

(3) Ensure that all affected mission areas and agencies are involved in the Department's environmental pollution prevention, control, and abatement program;

(4) Represent USDA in consulting or working with the Environmental Protection Agency (EPA), the Council on Environmental Quality (CEQ), the Domestic Policy Council, and others to develop policies relating to hazardous materials management and Federal facilities compliance;

(5) Provide environmental coordination and consultative assistance to USDA Under and Assistant Secretaries and Agency Heads to help them develop environmental strategies on pollution prevention, control, and abatement issues to meet the requirements of USDA policies and the law;

(6) Ensure that each affected agency has a designated environmental coordinator and necessary staff who are involved with HMMG in the day-to-day activities necessary to meet the Department's pollution prevention, control, and abatement program goals;

(7) Provide HMM Program management and direction to the HMMG and approve the annual work plan of activities for HMMG and evaluate HMMG performance;

(8) Provide oversight to ascertain that applicable environmental pollution prevention, control, and abatement laws and regulations are observed in the acquisition, construction, operation, and disposal of real property;

(9) Consult with EPA, other appropriate Federal agencies, and others in developing pollution prevention, control, and abatement policies and programs;

(10) Represent USDA when coordinating with other Federal agencies in developing environmental policy and regulations concerning pollution prevention, control, and abatement;

(11) Review and evaluate data submitted by agencies on the extent of environmental pollution affecting USDA. Coordinate actions to mitigate or control adverse impacts with Under and Assistant Secretaries and Agency Heads;

(12) Provide guidance to USDA agencies, through HMMG, on instructions and policies from agencies outside of the Department relating to environmental pollution prevention, control, and abatement;

(13) Provide administrative management guidance on environmental aspects of management and disposal of toxic and hazardous wastes;

(14) Provide guidance, with the assistance of HMMG, and through the Office of Budget and Program Analysis (OBPA), to USDA agencies on programming and budgeting for environmental pollution prevention, control, and abatement;

(15) Determine allocations among USDA agencies from the USDA Hazardous Waste central account with staff assistance from OGC, HMMG and affected agencies;

(16) Formulate HMM Program policy and management changes;

(17) Monitor and review agency program budget requests for HMM related activities, prior to submission to OBPA, in consultation with the Office of the Chief Financial Officer and OBPA;

(18) Monitor and review agency program fund expenditures for HMM Program accomplishments;

(19) Coordinate, through the Council Chairman, with the Assistant Secretary for Administration, the presentation of the USDA Hazardous Waste Management appropriation budget request to the Office of Management and Budget (OMB) and Congress; and

(20) Review and approve Department HMMG Program accomplishment reports required by Congress, OMB, and EPA.

d Hazardous Materials Management Group will:

(1) Act as technical and program staff to the Hazardous Materials Policy Council;

(2) Be supervised by a Director, who shall also serve as the Executive Director of the Hazardous Materials Policy Council;

(3) Assist the Department and its agencies in ensuring proper hazardous materials management and Federal facilities compliance in all their activities;

(4) Represent, along with other Council members' staffs and OGC, the Hazardous Materials Policy Council in inter-governmental groups and with other organizations and agencies relating to environmental issues and proposed legislation dealing with hazardous materials management and Federal facilities compliance;

(5) Develop HMM Program policy and guidance recommendations;

(6) Provide leadership, program advice and direction, and program and technical assistance to agencies and their field units;

(7) Monitor, review, and evaluate HMM Program activities and compliance Department-wide;

(8) Provide training, technology and information transfer on HMM Program activities;

(9) Provide the lead assistance role in the preparation of HMM Program budget and accomplishment reports to Congress,

OMB, and EPA and the preparation of replies to Congressional inquires;

(10) Compile overall HMM Program reports, inventories, and statistics based on USDA agency submissions;

(11) Monitor new developments in pollution prevention, control, and abatement and coordinate technology transfer to USDA agencies;

(12) Advise USDA agencies to help them develop environmental policies and strategies for the Department's unique activities regarding pollution prevention, control, and abatement;

(13) Maintain oversight and report progress on the design and construction of pollution control facilities for USDA installations;

(14) Coordinate technical assistance to USDA agencies on the pollution control aspects of construction and real property maintenance activities; and

(15) Represent USDA on the National Response Team on hazardous spills and oil spills pursuant to CERCLA, the Clean Water Act, OPA, Executive Order 12580, Executive Order 12777, and the National Contingency Plan.

e Under Secretary for Natural Resources and Environment will:

(1) Recommend actions and policies that enable agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) Represent USDA in consulting or working with EPA, CEQ, and other organizations or agencies on matters relating to Forest Service and Natural Resources Conservation Service environmental activity and natural resources;

(4) Represent USDA on Regional Response Teams on hazardous spills and oil spills pursuant to CERCLA, the Clean Water Act, OPA, Executive Order 12580, Executive Order 12777, and the National Contingency Plan;

(5) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(6) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies;

(7) With respect to any release or threatened release of hazardous substances affecting natural resources under USDA trusteeship or lands or facilities under USDA jurisdiction, custody, or control, exercise the functions delegated to the Secretary by Executive Order 13016, with the concurrence of the General Counsel,

relating to hazardous substance response, including entering into administrative orders on consent with, and issuing unilateral administrative orders to, responsible parties;

(8) With respect to lands and facilities under his or her authority, exercise the functions of the Federal Land Manager pursuant to the Clean Air Act; and

(9) Serve on the Hazardous Materials Policy Council.

f Under Secretary for Research, Education, and Economics will:

(1) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) Represent USDA when coordinating with other Federal agencies in developing environmental policy and regulations for FIFRA and TSCA;

(4) Coordinate USDA environmental quality technology-based research activities;

(5) Advise USDA agencies in the development of environmental policies and strategies for the Department's unique activities, such as those related to FIFRA and TSCA;

(6) Serve as a USDA Environmental Executive responsible for coordinating waste prevention, recycling, and the

procurement, acquisition and use of recycled products and environmentally preferable products, including biobased products, and services pursuant to Executive Order 13101;

(7) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(8) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies; and

(9) Serve on the Hazardous Materials Policy Council.

g Under Secretary for Farm and Foreign Agricultural Services will:

(1) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) Recommend actions and policies of the loan and grant programs under his or her authority concerning compliance with the

Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996;

(4) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(5) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies; and

(6) Serve on the Hazardous Materials Policy Council.

h Under Secretary for Rural Development will:

(1) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) Recommend actions and policies of the loan and grant programs under his or her authority concerning compliance with the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996;

(4) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(5) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies; and

(6) Serve on the Hazardous Materials Policy Council.

i Under Secretary for Food Safety will:

(1) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(4) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies;

(5) Exercise primary responsibility to regulate drug, pesticide, and environmental contaminants in food products as covered by FIFRA and TSCA. Actions are implemented by the Food Safety and Inspection Service through a Memorandum of Understanding with the Food and Drug Administration and EPA; and

(6) Serve on the Hazardous Materials Policy Council.

j Under Secretary for Marketing and Regulatory Programs will:

(1) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(4) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies; and

(5) Serve on the Hazardous Materials Policy Council.

k Assistant Secretary for Administration will:

(1) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement;

(2) Consult with EPA and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority;

(3) Formulate administrative regulations and procedures to procure equipment and material that will comply with all applicable environmental standards;

(4) Serve as a USDA Environmental Executive responsible for coordinating waste prevention, recycling, and the procurement, acquisition and use of recycled products and environmentally preferable products, including biobased products, and services pursuant to Executive Order 13101;

(5) Review and approve exemptions for USDA contracts, grants, agreements, and loans from the requirements of the Clean Air Act and the Clean Water Act pursuant to Executive Order 11738 and 40 CFR 15.5(c) based upon a determination that the

paramount interests of the United States so require;

(6) Present, in coordination with the Council Chairman, the USDA Hazardous Waste Management appropriation budget request to OMB and Congress;

(7) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580 relating to hazardous substance response and restoration, including entering into administrative orders on consent with potentially responsible parties;

(8) With respect to lands and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12088 relating to compliance with applicable pollution control standards and entering into compliance agreements with EPA and State environmental enforcement agencies;

(9) Provide administrative support to the HMMG; and

(10) Serve on the Hazardous Materials Policy Council.

l Office of the General Counsel will:

(1) Interpret Federal, State, and local laws and regulations regarding environmental pollution prevention, control, and abatement and provide legal advice and guidance, including providing representation and legal advice in connection with inter-Governmental groups and other parties, to the Secretary, Deputy Secretary, Under and Assistant Secretaries, and USDA agencies on compliance with and enforcement of applicable pollution prevention, control, and abatement laws;

(2) Serve on the Hazardous Materials Policy Council; and

(3) Concur in all administrative orders on consent and unilateral administrative orders issued by USDA under Executive Order 12580, as amended by Executive Order 13016, relating to hazardous substance response and restoration.

m Agency Heads will:

(1) Ensure that all necessary actions are taken for the prevention, control, and abatement of environmental pollution for all Federal facilities and activities under their jurisdiction;

(2) Comply with all applicable pollution prevention, control, and abatement standards and regulations;

(3) Cooperate with EPA, and State and local agencies in the prevention, control, and abatement of environmental pollution;

(4) Coordinate with other agencies on implementation plans for corrective action measures to meet applicable pollution control standards;

(5) Develop improvement plans and provide follow-up reports as necessary to achieve and maintain compliance with applicable pollution control standards;

(6) Include adequate funds for compliance with applicable environmental pollution prevention, control, and abatement standards in agency budgets; and

(7) Serve on the Hazardous Materials Policy Council at the discretion of his or her respective Under or Assistant Secretary.

All activities associated with prevention, control, and abatement of environmental pollution shall comply with applicable requirements of the individual statutes and Executive Orders covered in this manual and all other applicable environmental statutes and Executive Orders.

CLEAN AIR PROGRAM

Chapter II

1 PURPOSE

To provide direction for implementing a USDA Clean Air Program; to define actions to identify and evaluate facilities at USDA installations, USDA activities, and USDA contractors and permittees which may be in noncompliance with the Clean Air Act as amended; and to implement corrective actions where necessary to achieve facility compliance, activity compliance, and contracted or permitted activity compliance with air quality standards and State Implementation Plans.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law, contract, or other provisions, contractors performing work for USDA and permittees must comply with the legal requirements for the prevention, control, and abatement of pollution which are outlined in this chapter. This chapter also includes requirements which are specific to Federal land manager responsibilities.

3 OBJECTIVES

Objectives of this program are to:

a Identify, control, and monitor air pollution sources -under the jurisdiction of USDA agencies: determine the types and quantities of pollution emissions from these sources: and control pollution levels in compliance with applicable regulations.

b Procure commercial equipment and vehicles that meet applicable regulations. Exceptions may be engines or vehicles currently excluded by the EPA.

c Ensure that facilities are designed, operated, and maintained to meet Clean Air program standards and requirements.

d Monitor ambient air quality in the vicinity of USDA agency activities in accordance with applicable regulations.

e Control emissions from mobile sources under USDA agency control according to applicable regulations.

f Cooperate with EPA, and State and local authorities to achieve the objectives of the Clean Air Act.

g Develop requirements for specific installations and other USDA agency activities in participation with other Federal, State and local authorities.

h Obtain permits for air pollutant sources as required and use trained/licensed operators as necessary.

i Review Prevention of Significant Deterioration (PSO) permit applications to assure protection of public lands from adverse air pollution effects and prevent deterioration of air quality associate d with public lands.

j Certify to cognizant regulatory agencies that USDA activities are in compliance with the Clean Air Act and State Implementation Plans (SIPs).

4 POLICY

It is USDA policy that agencies shall comply with all Federal, State, interstate, and local requirements, administrative authorities. and processes and sanctions regarding the control and abatement of air pollution from any facilities or activities under their jurisdiction. This applies to both substantive and procedural requirements. This also applies to the payment of fees which are directly related to the facility review or permitting process. it is also USDA policy to affirmatively implement Federal land manager responsibilities.

5 DEFINITIONS

See Glossary or refer to the statute or Code of Federal Regulations, 40 CFFI Parts I through 99, for definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Develop a program to ensure that agency activities comply with all

requirements of applicable regulatory agencies, including obtaining

any necessary air quality permits. and fully redeem Federal land

manager requirements under the Clean Air Act.

(2) Ensure that air resource staff and program managers are properly trained.

(3) Conduct periodic reviews of field installation and activity air pollution prevention and abatement programs to evaluate:

(a) Adequate protection of human health and welfare.

(b) Compliance with applicable regulations.

(4) Ensure that adequate funding for compliance is requested in the agency budget.

(5) Cooperate with State and local air quality agencies to ensure that:

(a) Monitoring and control of air pollution from fixed and mobile sources meets applicable Federal, State and local standards.

(b) USDA activities do not cause or contribute to the exceedance of any Federal, State or local air quality standards.

(c) USDA activities comply with State or local implementation plans for the attainment of air quality standards.

(6) As Federal land manager, ensure that there is adequate monitoring

and evaluation of permit applications so that Federal lands are

protected from adverse effects of air pollution, especially in the

mandatory Class I areas.

(7) Cooperate with EPA in appropriate research and studies.

(8) Where land or vegetation conditions are found to be adversely affected by air poilution, cooperate with State and local agencies and EPA in seeking mitigation or remediation.

(9) Assist the States, as appropriate, in their development of State Implementation Plans, and cooperate in redesignation of lands from Class 11 to Class 1.

7 CLEAN AIR ACT

a General

The basic purpose of the Clean Air Act is to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population. The Clean Air Act recognizes that prevention and control of air pollution at its source is the primary responsibility of State and local governments. The EPA provides assistance to State and local governments in their development of standards and requirements for air pollution prevention and control.

The Clean Air Act was amended on November 15, 1990 (Public Law 10 1 -549). These amendments represent the fifth major effort by Congress to address clean air legislation. The first Clean Air Act, passed in 1967, provided authority to establish air quality standards. The Clean Air Act of 1970 was more comprehensive, and laid the foundation for regulatory efforts to date. In 1974, the Energy Supply and Coordination Act modified certain air quality requirements to balance energy needs following the Arab oil embargo of 1973. In 1977, Congress enacted amendments to the 1970 Act which included Prevention of Significant Deterioration (PSO), with specific Federal land

manager responsibiliti03 that affect some USDA agencies, and non-attainment requirements applicable to new sources.

The 1990 amendments to the Act substantially revise and expand the statute as follows:

(1) The attainment and maintenance of National Ambient Air Quality

Standards (NAAGS) will require a new round of State implementation Plans (SIPs): State and regional transportation plans must conform with the SIPs, ano deadlines are established for each non-attainment area to ensure the attainment of all air quality standards within 20 years.

(2) Motor vehicle emissions are further restricted, the production and use of clean alternative fuels (methanol, ianol and reformulated gasoline) is mandated and the inclusion of on-board -.)or recovery/evaporative emissions controls is specified.

(3) The air toxics provisions of the National Emissions Standards for Hazardous Air Pollutants have been extensively revised and expanded. The list of toxics subject to regulation was increased to 189 designated substances. Maximum Achievable Control Technology is required for specific industrial categories.

(4) The acid rain provisions mandate controls to dramatically reduce acid rain precursors. Market mechanisms are established to allow for trading in control credits to promote cost competitiveness.

(5) The protection of stratospheric ozone is mandated by the phase-out of ozone-depleting chemicals (chlorofluorocarbons, halons, methyl chloroform, carbon tetrachloride and hydrochlorofluorocarbons).

(6) New Federally-required air permits are established for certain emissions sources. Enforcement provisions are strengthened and fine limits established for violations.

Implementing regulations incorporating the 1990 amendments are being developed and promulgated by the EPA.

There are also regional, State and local laws and regulations setting standards for air pollution prevention and control with which Federal facilities must comply as directed herein. State and local governments have the responsibility for managing the clean air program and for developing State requirements for implementing national standards. The EPA and the States have joint responsibility for enforcement actions. For an individual facility or activity, USDA agencies should refer to specific State standards or requirements which may be applicable. Agencies should also seek technical assistance from States and the EPA in determining compliance actions which may be needed.

The EPA has or will issue regulations, standards, and guidance which provide for establishing the following:

(1) Maintenance and attainment of National Primary and Secondary Ambient Air Quality Standards.

(2) State implementation Plans.

(3) Performance standards for new stationary sources.

(4) National emission standards for hazardous air pollutants.

(5) inspection and monitoring.

(6) Emission standards for mobile sources, including motor vehicle emission and fuel standards.

(7) Prevention of significant deterioration of air quality.

(8) The phase-out of ozone depleting chemicals.

(9) Requirements for reducing acid rain precursors by cutting national emissions of sulfur dioxide and nitrogen oxides.

(10) Best available controls for some area sources.

b Air Quality Standards

National standards and requirements have been promulgated for prevention and control of air pollution from various sources, both stationary and mobile.

Applicable standards are summarized herein.

(1) National Primary and Secondary Ambient Air Quality Standards.

National primary ambient air quality standards define levels of air quality which the Administrator of EPA judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define the levels of air quality that are necessary to protect the public welfare. The protection of public welfare involves the prevention of adverse impacts to vegetation, property or other elements of the environment.

National primary standards have been issued for carbon monoxide. National primary and secondary standards have been issued for particulate matter smaller than 10 microns, sulfur dioxide, ozone, nitrogen dioxide and lead. States may establish standards that are more stringent than National standards. Detailed requirements are in 40 CFIR Part 50.

Areas that do not meet the National ambient air quality standards are termed to be in non-attainment. The EPA, in consultation with State and local air quality offices, maintains a list of carbon monoxide, ozone and particulate matter (less than 10 Micron) non-attainment areas. This list has been extensively updated to include classification schemes mandated by the 1990 Clean Air Act Amendments. See 40 CFIR Part 81 for additional details.

(2) National Emission Standards for Hazardous Air Pollutants and Clean Air Act Title III Hazardous Air Pollutant Provisions.

Emission standards for hazardous air pollutants from major stationary sources have been issued for a number of pollutants, including mercury, vinyl chloride asbestos and for equipment leaks (fugitive emission sources) under the National Emission Standards for Hazardous Air Pollutants (NESHAPs).

Title ill of the 1990 Clean Air Act Amendments significantly expands the scope of hazardous air pollutant legislation. Title Ill regulates 189 hazardous air pollutants including those regulated under NESHAPS. The Clean Air Act now requires that EPA impose tight controls in accordance with a two phase strategy. The first phase will be based on technology standards and will require hazardous air pollutant emitters to install Maximum Achievable Control Technology (MACT). The MACT standards will be issued starting in late 1992, with compliance mandated within 3 years following promulgation of individual standards. 7he second phase will involve further emission restrictions based on residual risk which could occur if the remaining emissions from a facility create concentrations which might be harmful to exposed individuals. The residual risk standards will be promulgated within 9 years of the corresponding MACT standards. Title Ill also addresses the prevention and response to accidental or catastrophic releases of hazardous air pollutants similar to those previously covered by Title Ill of the Superfund Amendments and Reauthorization. Act (SARA). See 40 *CFR* Part 61 and Title Ill of the 1990 Clean Air Act Amendments for details.

(3) Performance Stangards for New Stationary Sources.

Standards of performance have been issued for numerous types of facilities. Most of these standards may not be applicable to the Department's operations. However, standards should be reviewed to determine applicability for a particular facility. This should include coordination with State and local agencies. However, standards for incinerators are included in this category, and could be applicable to some USDA facilities. The standards include data on particulate matter requirements. monitoring of operations, and test methods and procedures. See 40 *CFR* Part 60 for details.

(4) Emission Standards for Mobile Sources.

Mobile sources such a I S aircraft and automobiles are subject to standards that have been issued by the EIPA. Title Ill of the 1990 Clean Air Act Amendments imposes significant restrictions on vehicular emissions including stricter tail pipe standards for all vehicles to be phased in during the mid-1 990s, the use of clean fuels for fleet vehicles sold in some ozone non-attainment areas, and the development and use of either reformulated or oxygen-limited gasolines in approximately 50 urban areas. National Mobile Source Standards have also been established under Title III of the 1990 Clean Air Act Amendments to more strictly regulate emissions of non-methane hydrocarbons, carbon monoxide and nitrogen oxides. Standards for control of air pollution from motor vehicles and motor vehicle engines, and aircraft and aircraft engines, are contained in 40 CFR Parts 85, 86, and 87, and Title III of the 1990 Clean Air Act Amendments.

(5) Prevention of Significant Deterioration.

The Clean Air Act provides for the protection of air quality from actual and potential adverse effects which may

reasonably be anticipated to occur from pollutants which originate as emissions to the ambient air, notwithstanding attainment and maintenance of all National ambient air quality standards. The Prevention of Significant Deterioration (PSD) program is particularly important in preserving and protecting the air quality and visibility in Class 11 attainment areas and mandatory Class I areas: compliance with the national ambient air quality standards is required regardless of the area classification. USDA agencies have specific responsibilities under PSD requirements. See 40 CFR Part 51 and the individual State Implementation Plans for additional details on PSO requirements.

(6) Source Surveillance.

State Implementation Plans contain provisions for testing, inspections, investigations, and detection, and procedures for maintaining records and submitting reports. Specific requirements are generally contained within the operating permit for the source, if applicable. See 40 CFR Part 51 for details.

(7) State Implementation Plans (SIPs).

These plans serve as the basic vehicle for implementation maintenance, and enforcement of air quality standards. These plans, which are developed by States and approved by the EPA, provide the control strategies for attainment and maintenance of the National standards.

SlPs will be undergoing extensive revisions over the next several years to incorporate air quality attainment provisions mandated by the 1990 Clean Air Act Amendments. The time allotted for attainment of air quality standards is determined by the severity of the nonattainment. Attainment deadlines range from November 15, 1993 for

moderate non-attainment areas to November 15, 2010 for extreme non-attainment areas. SIPs also establish requirements for compliance standards for individual sources, emission limitations, review procedures for new sources and source modifications, air pollution emergency episodes, and source surveillance including inspections monitoring, and testing.

SIPs provide for ail areas of a State to be designated as attainment, non-attainment, or unclassified. Attainment areas are further classified as Class I, II or Ill. Class I areas were designated by Congress and include international parks national wilderness areas, memorial parks greater than 5,000 acres, and national parks greater than 6,000 acres. Those Class I areas where visibility has been determined to be. an important value are listed in 40 CFR Part 8 1 , Subpart 0. Class I areas are of particular importance to the Federal land manager who has a direct affirmative responsibility to protect the air quality related values of such areas and to consider, in consultation with EPA, whether a proposed source or modification will have any adverse impact on the lands. Class II areas include all areas not designated as Class I. No Class Ill area, which allows for greater deterioration than Class Il areas, have been designated. The Federal land manager must assess whether or not a permit application will have an adverse impact on values related to air quality in Class I areas.

Federal land managers should also consult with State and local authorities whenever air quality could be affected by a Federal action since SIPs often establish more restrictive compliance criteria than the EPA has promulgated. , Details on approved SIPs are covered in 40 CFR Parts 51 and 52. Details on upcoming SIP revisions are described in Title I of the 1990 Clean Air Act Amendments.

8 COMPLIANCE WITH STANDARDS

a General

Section 118 of the Clean Air Act requires that each Department and/or Agency of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any non-government entity. The above applies to any requirement whether substantive or procedural (including any recordkeeping or reporting requirements. and requirements respecting permits and any other requirements whatsoever). Section 176(c) further reinforces this for non attainment areas and requires an agency to certify that actions comply.

b State Implementation Plans

Federal facilities and actions shall comply with the air pollution standards prescribed by the region. State or community in which they are located. These are detailed in SlPs if regional. State or local standards are not prescribed for a particular location or if the regional, State or local standards are less stringent or would result in non-attainment of the National standards promulgated by the EPA, the more stringent standards shall apply. No Department or agency of the Federal Government shall engage in, support in any way, or provide financial assistance, license or permit, or approve any activity which does not conform to a SIP. The air quality control regions and non-attainment area designations are listed in 40 CFR Part 81.

c Operating Permits

Title V of the 1990 Clean Air Act Amendments establishes requirements for facility-wide operating permits. All air emission requirements applicable to a facility will be incorporated into this permit. These will include emissions limitations, schedules for compliance monitoring requirements and miscellaneous provisions. The maximum

permit term will be five years. Permit applications must be submitted for all affected facilities within 12 months after the EPA-approved State permit programs take effect around the end of 1995.

d Existing Facilities

(1) State Imolementation Plans.

These plans contain legally enforceable compliance schedules establishing dates by which all major stationary and mobile sources of air pollution must be in compliance with any applicable requirement of the plan. All actions necessary to have existing Federal facilities or activities conform with applicable standards shall be in accordance with established compliance schedules.

(2) Time extensions.

Agencies may submit requests for time extensions from established compliance schedule deadlines if necessary technology or alternatives are not available to permit full implementation of control strategies or emission sources will be unable to comply with pollution control requirements. Such requests must be submitted to the appropriate State air quality control agency for review and subsequent action.

(3) Performance Standards

Contact the appropriate State air quality control agency for required performance standards for each existing facility where action is necessary to achieve compliance with applicable requirements.

e New Facilities

(1) General.

New facilities shall be planned, designed, and constructed so that they will not cause a violation of any control strategy or interfere with attainment or maintenance of a National or State standard, whether directly through emissions from the facility or indirectly because of emissions resulting from mobile sources associated with it.

(2) Performance Standards.

Where action is necessary to comply with SIPs and applicable air quality standards the appropriate air quality control office should be contacted at the earliest possible stage of planning with regard to formulation of performance requirements.

9 REPORTING

a Legal and Regulatory Reports

Agencies shall comply with all air pollution reporting requirements in accordance with applicable Federal and State regulations.

b Abatement Project Reports

See Chapter XI for reporting requirements.

10 TECHNICAL ASSISTANCE

Techniques and methods for the protection, enhancement. and attainment of air quality standards are published in 40 CFR Parts 1 through 99. Assistance and technical publications may be obtained from the EPA through Regional Office Federal Facility Coordinators and from State and local air pollution control agencies, or from USDA agency employees with air quality responsibilities from such agencies as the Forest Service.

11 OPERATOR TRAINING

Many States have mandatory certification programs for air quality treatment plant operators, and some may require certification for prescribed burn fire control officers. Where this is the case, operators of Federal facilities must be State certified. Other States have voluntary certification requirements. In these instances, Federal facility operators

should receive the training necessary to meet the levels of proficiency consistent with the requirements of the State in which the facility is located. Agencies should encourage all operators to become State certified even in those States where certification is voluntary.

12 AIR POLLUTION EMERGENCY EPISODES

a General

Departmental agencies shall cooperate fully with State air quality control agencies in the planning and implementation of control procedures to reduce or suspend air contaminant emitting operations at Federal facilities curing potential or existing emergency episodes. In most States, the development of emission reduction plans is required for facilities that operate in areas that may be subject to air pollution emergency episodes.

b Coordination

Departmental agencies shall establish and maintain liaison with EPA Regional, State and local air quality control agencies. Activities at the local level should be conducted through one agency contact who is responsible for the coordination of related air pollution reduction actions within the State control office's jurisdiction. In those States with active local air pollution control agencies (California and Arizona, for example), coordination should first be established at the local level.

c Contingency Plan

Departmental agencies shall furnish such information and assistance, as requested by the State or local agency, necessary for the development of contingency plans to be implemented during air pollution emergency episodes. The contingency plan shall apply to all operations conducted on or at Federal facilities including, but not limited to, incinerators, heating plants, power plants, motor vehicles, and controlled burning.

d Implementation

Departmental agencies shall cooperate fully with the State or local air quality control agency by reducing or ceasing any operation that may contribute to air pollution during

potential or existing emergency episodes, as directed by the State through the SIP or a Memorandum of Understanding.

13 VEHICLES

Government-owned vehicles shall be operated and maintained in the most energy efficient manner and comply with Federal and State emission standards which meet or exceed the Federal fleet requirements for air pollution reduction, and applicable testing programs (see FPMR 101.38).

CLEAN WATER PROGRAM

Chapter III

1 PURPOSE

To provide direction for implementing a USDA water pollution abatement program; to identify and evaluate facilities at USDA installations which may be in noncompliance with the Clean Water Act; and to take corrective actions where necessary to achieve facility compliance with water quality standards and/or State water quality requirements, discharge permits, effluent limitations, implementation plans, and nonpoint source control strategy.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention. control, and abatement of pollution, which are outlined in this chapter.

3 OBJECTIVES+

The USDA water resources management goal is to conserve water resources and protect them from contamination. To achieve this goal, USDA will:

a Control and abate ail sources of pollutants according to applicable Federai, State and local requirements.

b Contribute to the attainment of the National goal to eliminate the discharge of pollutants.

4 POLICY

It is USDA policy to adopt ail measures consistent with applicable laws, regulations, and orders to prevent or control the discharge of pollutants into ground or surface waters. USDA wastewater treatment facilities and nonpoint source activities will be managed: to avoid creating health hazards and nuisance conditions; to restore or maintain the quality of characteristics of water resources: and to prevent future pollution or degradation of surface or ground waters. Where facilities or activities are not in compliance, corrective actions shall be applied, including technical solutions and management actions which provide for restricted use, temporary closure or permanent closure.

5 DEFINITIONS

See Glossary or refer to the statute or Code of Federal Regulations for definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Program and budget funding and personnel resources for all water pollution control projects required to assure timely compliance with all applicable standards.

(2)Identify and quantify ail sources of water pollution: determine proper actions on a program level to eliminate or reduce pollution to acceptable levels.

(3)Provide technical assistance to field installations an wastewater treatment programs and activities.

(4)Monitor field installations to determine effectiveness of water pollution abatement and control programs; recommend corrective measures when necessary.

7 FEDERAL WATER POLLUT10N CONTROL ACT (FWPCA)/CLEAN WATER ACT (CWA)

a General

The basic purpose of the, FWPCA/CWA is to restore and maintain the chemical, physical and biological integrity of the Nation's waters. The Act establishes goals for the eventual elimination of discharge of pollutants into receiving waters, a prohibition an discharge of toxic pollutants in toxic amounts; areawide waste treatment management planning to assure adequate controls of sources of pollutants: and State responsibilities to plan the development and use of land and water resources to prevent, reduce and eliminate pollution. The Act also sets standards and minimum requirements for the control and abatement of water pollution. These requirements are primarily covered in the following sections:

(1) Section 208 - Development and Implementation of Areawide Waste Treatment Management Plans.

(2) Section 301 - Effluent Limitations for Point Source Discharge.

(3) Section 302 - Water Quality Related Effluent Urnitations.

(4) Section 303 - Water Quality Standards and Implementation Plans for States.

(5) Section 306 - National Standards of'Performance.

(6) Section 307 - Toxic and Pretreatment Effluent Standards.

(7) Section 311 - Oil and Hazardous Substance Liability.

(8) Section 314 - Clean Lakes Program.

(9) Section 319 - Nonpoint Source Management Programs.

(10) Section 401 - Certification.

(11) Section 402 - National Pollutant Discharge Elimination System (NPIDES).

(12) Section 403 - Ocean Discharge Criteria.

(13) Section 404 - Permits for Discharge of Dredged or Fill Material into Navigable Waters at Specified Disposal Sites.

b Pollution Abatement and Control Standards

National standards and requirements have been promulgated for prevention and control of water pollution from various sources, both point and nonpoint. Applicable requirements are summarized herein.

(1) Section 208 - States have the primary responsibility for the development and implementation of areawide waste treatment management plans. These plans must include, among many items, the following:

(a) The identification of collection and treatment works necessary, over a 20.year period,- to control point source discharges.

(b) A process to identify, if appropriate, agriculturally- and silviculturally-related nonpoint sources of pollution, including return flows from irrigated agricultural lands and their cumulative effects, runoff from manure disposal areas and from land used for livestock and crop production, and to establish procedures and methods to control such sources to the extent feasible.

(c) A process to identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and to establish procedures and methods to control such sources to the extent feasible.

(d) A process to identify construction-related sources of Pollution and to establish procedures and methods to control such sources to the extent feasible.

(e) A process to control the disposition of all residual waste generated in an area which could affect water quality.

(f) A process to control the disposal of pollutants on land or in subsurface excavations within an area to protect ground and surface water quality.

(2) Section 301 - Covers effluent limitations for point source discharges. 40 CFR Part 25 establishes criteria and standards for the imposition of technology-based treatment requirements in permits under this section. These requirements represent the minimum level of control in accordance with the following statutory deadlines:

(a) Publicly Owned Treatment Works (POTWs).

1 Secondary treatment -- from date of permit issuance.

2 Best practicable waste treatment technology by July 1, 1983.

(b) Dischargers other than POTWs.

1 Best practicable control technology currently available (BPT) -- from the date of permit issuance.

2 For conventional pollutants -- best conventional pollutant control technology (BCT) by July 1, 1984.

3 For certain identified toxic pollutants -- best available technology economically achievable (BAT) by July 1, 1984.

4 For all other toxic pollutants - SAT not later than 3 years after the date such conditions are incorporated into an NPOES permit.

5 For all pollutants which are neither toxic nor conventional - BAT not later than 3 years after the date such conditions are incorporated into an NPOES permit.

Variances and extensions may be available for alternative treatment technology effluent limitations, and for extending compliance deadlines. See 40 CFR Parts 122 through 125 for details.

(3) Section 302 - Provides for establishment of effluent limitations which may be more stringent than technology-based standards under Section 301. These limitations are based on the attainment or maintenance of a water quality which assures protection of public water supplies, agricultural and industrial uses, the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allows recreation activities in or on the water.

(4) Section 303 - Water quality standards developed by States serve the dual purposes of establishing the water quality goals for a specific water body and serving as the regulatory basis for establishment of water quality-based treatment controls and strategies beyond the technology-based levels of treatment. State water quality standards include, among other items, the following:

(a) Designation of water use.

(b) Water quality criteria to protect the designated uses.

(c) An antidegradation policy.

(d) Methods and analyses to support any water quality standards revisions.

See 40 CFR Part 131 for details.

(5) Section 306 - The EPA establishes Federal standards for performance for various categories of new sources. These

standards are primarily based on the application of the best available technology economically achievable including, where practicable, a standard permitting no discharge of pollutants. Performance standards have been developed for many categories of sources. Among those of most interest to USDA agencies are the following:

(a) Pulp and paper mills.

(b) Meat product and rendering processing.

(c) Dairy product processing.

(d) Grain mills.

(a) Feed lots.

(f) Sugar processing.

See 40 CFR Parts 401 through 471 for details.

(6) Section 307 - Toxic pollutants are subject to effluent limitations which result from the application of BAT for the applicable category or class of point sources. Among the toxic pollutants covered are:

(a) Aldrin/dieldrin.

(b) ODT, DIDD, and DOE.

(c) Endrin.

(d) Toxapnene.

(e) Benzidine.

(f) Polychlorinated biphenyis (PCBS).

See 40 CFR Part 129 for details.

(7) Section 311 - Establishes procedures, methods, and other requirements to prevent the discharge of oil or hazardous substances from vessels and onshore and off-shore facilities into or upon navigable waters. Section 311 also provides for administrative penalties, civil penalty actions, removal cost recovery provisions, and Federal removal authority.

Requirements include preparation and implementation of Spill Prevention Control and Countermeasures (SPCC) plans designed to complement existing laws, regulations, standards, and policies pertaining to safety standards, fire prevention, and pollution prevention.

(a) USDA installations with certain nontransportation-related onshore and offshore storage facilities will prepare, maintain, and implement a SPCC plan to prevent and control the accidental discharge of oil.

(b) These installations and activities will prepare and implement a SPCC plan if oil storage facilities meet one of the following criteria:

1 Aggregate aboveground oil storage at the installation is greater than 1,320 gallons.

2 Any single aboveground oil storage tank at the installation is

greater than 660 gallons.

3 Total underground oil storage at the installation is greater than 42,000 gallons.

(c) An inventory of all sources of oil will be contained in the SPCC plan. Measures to prevent and contain an accidental release will be detailed for those sites that are potential sources for harmful discharges.

(d) Completed plans will be fully implemented including required construction, installation of equipment, and training of personnel.

(e) Each SPCC will be certified by a registered professional engineer as having been prepared according to sound engineering practices.

(f) An up-to-date plan will be maintained and available for on-site review- by the EPA.

(g) Plans will be reviewed and amended, as required by the EPA, when:

1 A facility has discharged more than 1,000 gallons of oil into

navigable waters in a single spill event.

2 Two oil spill events have occurred within any 12-month pen od.

3 There is a change in facility design, construction, operation or maintenance which materially affects the potential for discharge of oil to navigable waters.

(h) Minimum plan requirements include:

1 An inventory list of storage, handling, and transfer facilities for which a reasonable possibility exists for a release of oil in harmful quantities.

2 A detailed description of equipment and

countermeasures, including structures and equipment for diversion and containment of discharges, for each listed site.

3 A detailed description of corrective measures needed and procedures to be followed to correct any deficiencies at each site.

See 40 CFR Part 112 and the National Contingency Plan (NCP) (40 CFR Part 300) for additional details. Note, also, that the Oil Pollution Act of 1990 (40 USC 2701, et seq.) mandated that EPA promulgate additional regulations under this Section; as of August 1992, the new regulations had not yet been developed.

(8) Section 314 - Establishes a State program which includes the following:

(a) Identification and classification, according to eutrophic conditions, of all publicly owned lakes in the State.

(b) A description of procedures, processes, and methods (including land use

requirements), to control sources of pollution of such lakes.

(c) A description of methods and procedures in conjunction with appropriate, Federal agencies, to restore the quality of such lakes.

(d) Methods and procedures to mitigate the harmful effects of high acidity, and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity.

(e) A list and description of those publicly owned lakes in each State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with standards, and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition.

(f) An assessment of the status and trends of water quality in lakes in each State, including the nature and extent of pollution from point and nonpoint sources and the extent to which the use of the lakes is impaired as a result of the pollution.

This section also pr vides for EPA to establish and conduct a lake water quality demonstration program throughout the Nation.

(9) Section 319 - Establishes a nonpoint source management program which includes the following assessments and management actions by States.

(a) Identification of those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of the Clean Water Act.

(b) Identification of those categories and subcategories of nonpoint sources which add significant pollution to sections of navigable waters in amounts which cause these sections not to meet applicable standards or goals and requirements.

(c) Description of the process, including intergovernmental coordination and public participation, for identifying best management practices (BMP3) and measures to control each category and subcategory of nonpoint source and to reduce, to the maximum extent practicable, the level of pollution resulting from each source. An identification of the BMP

program which will be undertaken to implement reduction of pollution, taking into account the impact of the practice on ground water quality.

(d) Identification and description of State and local programs for controlling pollution from nonpoint sources.

(e) Identification of regulatory or nonregulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects to achieve implementation of the BMIP program.

(f) Schedule for program implementation.

(g) Authorities for State implementation of the management programs.

(10) Sectign 401 [1] - Provides for State review and certification of any facility or activity which may result in any discharge into navigable waters, to assure that applicable effluent limitations or water quality requirements will not be violated. States may establish conditions which are more stringent than Federal requirements. See 40 CFR Part 121 for details.

(11) Section 402 - Establishes regulations for the National Pollutant Discharge Elimination System (NPOES) program. The NPOES program requires permits for the discharge of pollutants for any point source, including stormwater discharge, into

navigable waters of the United States. There are some exclusions which are important to USDA agencies. The following discharges do not require NPDES permits:

(a) Introduction of sewage, industrial wastes, or other pollutants into publicly owned treatment works by indirect discharge.

(b) Any introduction of pollutants from nonpoint-source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range and forest lands.

(c) Return flows from irrigated agriculture.

However, discharges from concentrated animal feeding operations, concentrated aquatic animal production facilities, discharges to aquaculture projects, and discharges from silvicultural point sources do require NPDES permits.

USDA agencies that discharge or propose to discharge pollutants must apply and have an effective NPDIES permit. This permit establishes conditions for discharge, including effluent limitations, sampling and monitoring requirements, and reporting and recordkeeping requirements. The permit may also specify a schedule of compliance if the existing facility does not meet permit conditions. See 40 CFR Part 122 for details.

(12) Section 403 - Establishes guidelines for issuing NPOES permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the

oceans. See 40 CFR Part 125, Subpart M, for details.

(13) Section 404 - Provides for establishing guidelines for the control of discharges of dredged or fill material into the waters of the United States. The guidelines are applicable to the specification of disposal sites through the following:

(a) Regulatory program of the U.S. Army Corps of Engineers (COE) (see 33 - CFR Parts 320, 323 and 325).

(b) Civil Works Program of the COE (see 33 CFR Part 209.145).

(c) Permit programs of States approved by the EPA (see 40 CFR Parts 122, 123, and 124).

(d) Statewide dredged or fill material regulatory programs with approved BMPs (see 40 CFR Part 35.1560).

(e) Federal construction projects which meet criteria specified in Section 404(r).

Discharges of dredged or fill material are authorized through a permitting process which provides for either a general 404 permit or an individual 404 permit. A general permit authorizes a category of discharges within a geographical area. An-individual permit authorizes a specific point source discharge of dredged or fill material. Permit requirements and details are given in the CFR sections noted herein.

There are certain activities that are not subject to regulations or permitting (see 40 CFR Part 232 for details). With some restrictions, these include:

(a) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices.

(b) Maintenance, including emergency reconstruction of recently damaged components of currently serviceable structures such as dikes, dams, levees, groins, riprap, deadwaters, causeways, bridge abutments or approaches, and transportation structures.

(c) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches.

(d) Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into waters of the United States.

(e) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads

are constructed and maintained in accordance with BMPs to assure that flow and circulation patterns and chemical and biological characteristics of the waters of the U.S. are not impaired, that the reach of the waters of the U.S. are not reduced, and that any adverse effect on the aquatic environment will be minimized. The BMPs shall include those detailed in a State's approved program and additional baseline provisions. See 40 CFR Part 233 for details. Notwithstanding the exemptions noted, these activities may require a 404 permit if associated with modification or conversion of a wetland or other aquatic area.

8 COMPLIANCE WITH STANDAR DS

a General

Section 313 of the Clean Water Act requires Federal agencies to comply both substantively and procedurally with the statute to the same extent as non-government entities.

b Existing Facilities or Activities

(1) NPIDES permits contain legally enforceable compliance schedules which establish dates by which facilities must be in compliance with any applicable requirement of the permit. Facilities that do not have a direct discharge NPOES permit must be in compliance with the established statutory deadlines for technology-based treatment requirements for the particular type of facility and/or pollutant. Dredge and fill activities must be in. compliance with COE permit requirements.

(2) State 208 and water quality plans contain procedures and methods for controlling nonpoint source pollution. The Water Quality Act of 1987, which amended the CWA, reaffirmed that States have primary responsibility for water quality protection. Section 319 requires States to develop a report which describes a process for identifying BMPs to reduce nonpoint source pollution to the maximum extent practicable, and a State management plan to implement such control. As part of this plan, States are to identify Federal actions that are inconsistent with their water quality objectives.

All actions necessary to have existing USDA facilities or activities conform with applicable requirements for point sources shall be in accordance with established compliance schedules. For nonpoint sources, USDA agencies should develop a nonpoint source management strategy in accordance with the USDA nonpoint source water quality policy (DR 9500-7). Agency management strategies should be incorporated into State water quality management plans and regulatory programs, including the activities and programs authorized by Sections 314 and 319. Agencies should cooperate with States in the development of water quality programs for both Federal and non-Federal lands. Where Federal actions are inconsistent with State objectives, USDA agencies will make efforts to accommodate State concerns or, if concerns cannot be accommodated, explain why they cannot be.

c Time Extensions

USDA agencies may submit requests for time extensions from the statutory deadlines or permit compliance schedules based on a number of different factors including installation of innovative technology, modification of secondary treatment requirements, and others. See 40 CFR Part 125 for details.

d Variances

USDA agencies may request variances for technology-based treatment requirements based on water quality, fundamentally different factors, and economics. 40 CFR part 125 contains additional details.

e Performance Standards

Contact the appropriate EPA Regional Office or State Water Quality Control Agency for required performance standards for individual existing facilities or activities where action is needed to achieve compliance.

f New Facilities

(1) General.

Now facilities shall be planned, designed, and constructed so that they will not cause a violation of any effluent limitation, permit condition, or control strategy, or interfere with the attainment or maintenance of Federal or State water quality standards through discharge of pollutants. Nonpoint source-related activities shall be conducted in accordance with an approved nonpoint source management strategy.

(2) Performance Standards.

Where action is necessary to comply with EPA, COE, or State discharge permits or applicable water quality standards, the appropriate EPA Regional Office, Corps District Office, or State water quality control agency should be contacted at the earliest Possible stage of planning with regard to formulation of performance requirements.

9 TECHNICAL ASSISTANCE

Assistance and technical publications may be obtained from the EPA through their Regional Office Federal Facility Coordinator and from State and local water quality control agencies.

10 OPERATOR TRAINING

Many States have mandatory certification programs for wastewater treatment plant operators. Where this is the case, operators of Federal facilities must be State certified. Other States have voluntary certification requirements. In these instances, Federal facility operators should receive the training necessary to meet the levels of proficiency consistent with the

requirements of the State in which the facility is located. Agencies should encourage all operators to become State certified even in those States where certification is voluntary.

11 MONITORING

The minimum frequency of effluent quality tests will be as specified in the NPOES permit or that which is necessary to provide optimum performance of the facility. The frequency of operation and control tests will be established in the 404 permit for dredge and fill activities.

Test results of all control and effluent quality tests will be recorded on applicable EPA. COE, State or USDA agency forms. Forms will be maintained as a record to show compliance with regulations or standards.

Where test results indicate noncompliance or inadequate performance, measures shall be taken to correct the situation.

12 REPORTING

a Legal and Regulatory Reports

USDA agencies shall comply with all water pollution reporting requirements in accordance with applicable Federal and State regulations. Monitoring information required by NPOES or COE permits will be summarized on the applicable form as prescribed in the individual permit. Completed -discharge monitoring reports shall be submitted to the appropriate control agency.

b Abatement Project Reports

See Chapter XI for reporting requirements.

Chapter IV

1 PURPOSE

To provide direction for implementing a USDA Safe Drinking Water program; to identify and evaluate facilities at USDA installations which may not be in compliance with the Safe Drinking Water Act (SDWA); and to take corrective actions where necessary to achieve facility compliance with the National Primary and Secondary Drinking Water regulations, underground injection control programs, and ground water policies and strategies.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution which are outlined in this chapter.

3 OBJECTIVES

The USDA primary objective is to provide safe drinking water for the public and all USDA personnel through compliance with ail standards established by the EPA and all applicable State and local agencies.

4 POLICY

It is USDA policy to adopt all measures consistent with applicable laws, regulations and orders to provide safe and protected drinking water for both the public and Departmental and USDA agency personnel. Where facilities are not in compliance, corrective measures shall be applied, including technical solutions and management actions which may result in making drinking water unavailable for human consumption.

5 DEFINITIONS

See Glossary or refer to the statute or Code of Federal Regulations for definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Program and budget for funding and personnel resources to allow agency installations to provide drinking

water that meets the quality requirements established by Federal, State and local regulations.

(2) Establish and maintain monitoring -programs to assure drinking water systems comply with established criteria in accordance with applicable timeframes.

(3) Conduct field monitoring of USDA agency potable water facilities and recommend corrective actions when necessary.

(4) Cooperate with other Federal, State and local agencies in the evaluation of potable water supply needs.

7 SAFE DRINKING WATER ACT

a General

The basic purpose of the SOWA 'is to assure that the public is provided with safe drinking water. The Act provides for development of regulations which contain criteria, standards, procedures, and requirements for a minimum quality of water which is supplied for public consumption. The Act also provides for States to assume the primary enforcement responsibility for public water systems if they nave an EPA approved program. When States have assumed primacy, they have the lead in implementing the SOWA requirements.

b Drinking Water Standards

National standards and requirements have been promulgated regarding the provision of 'safe drinking water, including protection of aquifers. Applicable regulations are summarized herein.

These regulations apply to ail public water systems, with certain exceptions. A public water system is defined in the SDWA (Section 1401) as a system providing piped water to the public for human consumption, if the system regularly serves at least 25 individuals or at least 15 service connections.

A public water system is exempt from SDWA standards if it:

(1) Consists only of distribution and storage facilities.

(2) Obtains all of its water from, but is not owned or operated by, public water systems to which these regulations apply.

(3) Does not sell water to any person.

(4) Is not a carrier which conveys passengers in interstate commerce.

All of the above conditions must be met for a system to be exempt.

c National Primary Drinking Water Regulations

These regulations define specific contaminants which in the judgment of EPA may have an adverse effect on public health. The regulations establish maximum contaminant levels (MCLs) for certain contaminants and/or treatment techniques for those contaminants for which MCLs have not been determined.

(1) Maximum Contaminant Levels.

MCLs have been established for the following:

(a) Inorganic chemicals.

(b) Organic chemicals.

(c) Turbidity.

(d) Microotoiogicat (Coiiform bacteria).

(e) Radionuclides.

(2) Treatment Techniques.

Treatment techniques have been established for the following:

(a) Giardia lamblia

(b) Legioneila.

(c) Heterotrophic bacteria.

(d) Viruses.

(e) Turbidity.

(f) Acryi-amide and apichlorohydrin.

(3) Other Requirements.

Requirements have also been established for:

(a) Monitoring (including sampling, analytical testing, and frequency).

(b) Reporting.

(c) Public notification.

(d) Recordkeeping.

(e) Control of lead and copper.

See 40 CFR Part 141 for details. State or local regulations may be more restrictive, in which case the more stringent requirements will apply.

d National Secondary Drinking Water Regulations

These regulations control contaminants in drinking water that primarily affect the aesthetic qualities relating to the public acceptance of the water. This would include such qualities as taste and color. Significant concentrations of these contaminants may present health implications as well as aesthetic degradation. These regulations are not Federally enforceable, but are intended as guidelines for States.

Secondary maximum contaminant levels (SMCLs) have been established for a number of contaminants. See 40 CFR Part 143 for details. These levels represent reasonable goals for drinking water quality. The States may establish higher or lower levels which may be appropriate dependent on local conditions, provided that public health and welfare are not adversely affected.

The regulations also establish monitoring and analysis requirements.

e Underground Injection Control (UIC)

These regulations establish minimum requirements for UIC programs which are administered either by States or the EPA. These requirements are divided into several subparts as follows:

(1) General elements of UIC programs, including definitions and classifications.

Injection wells have been classified in 5 categories, see 40 CFR 144.6 for descriptions and definitions.

(2) The following wells are included among those types of injection activities that are covered by the regulations.

(a) Any injection well located on a drilling platform inside a State's territorial waters.

(b) Any dug hole or well that is deeper than its largest surface dimension, where the principle action of the hole is emplacement of fluids.

(c) Any septic tank or cesspool used to dispose of fluids

(d) Any septic tank, cesspool, or other well used by a multiple dwelling, community, or regional system for the injection of wastes.

(3) The following wells are excluded from these regulations:

(a) Injection wells located on a drilling platform or other site that is beyond a State's territorial waters.

(b) Individual or single family residential waste disposal systems such as domestic cesspools or septic systems.

(c) Non-residential cesspools, septic systems, or similar waste disposal systems if such systems:

1 Are used solely for the disposal of sanitary waste.

2 Have the capacity to serve less than 20 persons a day.

(d) Wells used for injection of hydrocarbons, which are of pipeline quality and are gases at standard temperature and pressure, for the purpose of storage.

(e) Any dug hole which is not used for emplacement of fluids underground.

(4) Performance standards applicable to all injection activities, basic elements of UIC programs, and provisions for waiving permit or rule requirements.

Any underground injection is prohibited except as authorized by permit or rule issued under the UIC program. Construction of any well required to have a permit is prohibited until the permit has been issued. In addition, the following are prohibited:

(a) The construction of any Class IV well (in general, Class 11V wells include those used for hazardous or radioactive waste disposal).

(b) The operation or maintenance of any Class IV well not in operation prior to July 18, 1980.

(c) The operation or maintenance of any Class IV well that was in operation prior to July 18, 1980, six months following the effective date of a UIC program approved or promulgated for a State.

(d) Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a Class IV well.

There are some exemptions and additional restrictions that may apply to these prohibitions. See 40 CFR 144.13 for details.

(5) Requirements for wells authorized by rule.

Injection into existing Class 1, 11 (except existing enhanced recovery and hydrocarbon storage), and Class ill wells is authorized by rule. This authorization expires:

(a) Upon the effective date of a permit or permit denial, if a permit application has been filed in a timely manner.

(b) If a permit has not been filed in a timely manner:

1. For Class I and III wells.

a Five years after approval or promulgation of a State UIC program unless a complete application is pending.

b One year after promulgation of an EPA

administered UIC program unless a complete

application is pending.

2 For Class II wells (except enhanced recovery and hydrocarbon storage).

a Five years after approval or promulgation of a UIC program unless a complete application is pending.

3 For Class II enhanced recovery and hydrocarbon storage wells.

a For the life of the well or Project subject to compliance with certain requirements.

4 Class V Wells.

a Injection into Class V wells is authorized until future regulations become applicable.

Additional requirements for these wells authorized by rule are detailed

in 40 CFR 144.25 through 144.28.

(6) Authorized by Permit.

Except for wells authorized by rule, all underground injection wells must obtain a permit. Those wells authorized by rule must still apply for a permit unless authorization was for the life of the well or project. See 40 CFR Part 144, Subpart D. for details.

(7) Permit Conditions.

This section provides conditions that are applicable to all permits, it includes requirements for monitoring, reporting, recordkeeping, compliance schedules, and construction and operation, among other items. See 40 CFR Part 144 for details.

(8) Technical Criteria and Standards.

This section provides technical criteria and standards for the underground injection control program, and covers all five classes of injection wells. See 40 CFR Part 146. Individual State control programs are detailed in 40 CFR Part 147.

8 COMPLIANCE WITH STANDARDS

a. General

Section 1447 of the SDWA requires Federal agencies to comply both substantively and procedurally with the statute to the same extent as non-government entities.

b Existing Facilities or Activities

(1) Public Water Systems.

Federal Agencies must comply with the MCLs, and/or treatment techniques that have been established for the various contaminants. This includes performing sampling and testing in accordance with established frequencies, conducting resamples when an initial sample analysis

indicates an MCL has been exceeded, and public notification to the user if systems fail to comply.

Noncompliance violations are subject to enforcement actions including civil penalties.

(2) Underaround InieCtion Weils.

Federal agencies must comply with UIC programs and obtain UIC permits or meet the requirements of authorization by rule. UIC permits contain legally enforceable permit conditions and compliance schedules. Compliance schedules require any necessary action as soon as possible, but in no case later than 3 years after the effective date of the permit.

All actions necessary to have existing USDA facilities or activities conform with applicable standards shall be in accordance with established requirements and permit compliance schedules.

c Variances

The national primary drinking water regulations currently in effect allow for variances under certain specified conditions. These conditions are detailed in 40 CFR 142.43.

d Exemptions

The national primary drinking water regulations allow for exemptions under certain conditions which are specified in 40 CFR Part 142.

e Performance Standards

Basic requirements are detailed in the regulations. Contact the appropriate EPA Regional Office or State public health agency for required performance standards for individual existing systems or activities where action is needed to achieve compliance.

f New Facilities

(1) General.

New facilities shall be planned, designed, and constructed so that they will not cause a violation of any MCL or permit condition or interfere with the attainment or maintenance of Federal or State drinking water standards.

(2) Performance Standards.

Where action is necessary to comply with EPA or State drinking water standards, contact the appropriate EPA Regional Office or State office at the earliest stage of planning with regard to development of performance requirements for individual public water systems.

9 OPERATOR TRAINING

Many States have mandatory certification programs for public water system operators. Where this is the case, operators of Federal facilities must be State certified. Other States have voluntary certification requirements. In these instances, Federal facility operators should receive the training necessary to meet the level of proficiency consistent with the requirements of the State in which the facility is located.

USDA agencies should encourage all operators to become State certified even in those States where certification is voluntary.

10 MONITORING

The minimum frequencies of routine and follow-up sampling, testing, and analyses for contaminants are specified in the regulations for public water systems and by rule or individual permits for underground injection wells. See 40 CFR Parts 141 through 147 for details.

Test results of all control and contaminant testing will be recorded on applicable EPA, State, or USDA agency forms. Forms will be maintained as a record to show compliance with regulations or standards.

When test results indicate noncompliance or inadequate performance, appropriate corrective action measures shall be taken.

11 REPORTING

a Legal and Regulatory Reports

(1) System/Project.

For public water systems, monitoring information (test measurements or analysis) shall be reported to the State within the first 10 days of the month following the month in which the results are received, or within 10 days following the end of a monitoring period, whichever of these is shortest.

Reports shall be made to the State within 48 hours if a system fails to comply with any Primary Drinking Water Regulation, including failure to meet monitoring requirements. See 40 CFR 141.31 for additional details.

(2) Underground Injection Wells.

Monitoring information required by UIC permits will be summarized as prescribed in the permit and completed reports shall be submitted to the appropriate control agency.

b Abatement Project Reports

See Chapter XI for reporting requirements.

12 PUBLIC NOTIFICATION

Requirements for public notification are outlined in 40 CFR 141.32.

13 RECORDKEEPING

a For public water systems, USDA agencies shall retain the following records:

(1) Bacterialogical analyses for a period not less than 5 years.

(2) Chemical analyses for not less than 10 years.

(3) Records of actions taken to correct violations for not less than 3 years.

(4) Copies of reports or communications relating to sanitary surveys for not less than 10 years.

(5) Exemptions granted shall be kept for a period ending not less than 5 years following the expiration of the grant.

14 TECHNICAL ASSISTANCE

Assistance and technical publications may be obtained from the EPA through their Regional Office Federal Facility Coordinators, or from State or local agencies.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT PROGRAM

Chapter V

1 PURPOSE

To provide direction for implementing a USDA Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Program: to define actions to identify and evaluate inactive hazardous waste disposal sites at USDA installations; to take remedial actions where necessary to prevent or mitigate hazardous substance releases from such sites: and to comply with the requirements of the National Contingency Plan (NCP).

2 SCOPE

The provisions of this chapter apply to ail USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution, which are outlined in this chapter.

3 OBJECTIVES

The primary objectives of this program are to provide USDA support of the National policy to prevent the uncontrolled release of hazardous substances and provide for a prompt, coordinated response to contain and clean up releases should they occur. The following measures are necessary to achieve the objective:

a Transport, store, handle and dispose of hazardous substances in a safe and environmentally acceptable manner.

b Develop a responsive alert and reporting procedure for use when a spill occurs: be prepared to rapidly respond to contain and clean up spills. This may be done with contractor personnel.

c Cooperate with other Federal, State, regional, interstate, and local government agencies to ensure that public health and welfare are adequately protected from uncontrolled releases of hazardous substances. This will be accomplished through Department and USDA agency participation on National and Regional Response Teams.

d Train ail USDA employees involved in handling hazardous substances in accordance with the requirements of the Occupational Safety and Health Administration (OSHA).

e Clean up inactive hazardous material/waste sites which ceased operations before the enactment of CERCLA and/or RCRA.

4 POLICY

It is USDA policy to identify and evaluate potentiai problems associated with inactive hazardous waste sites at USDA facilities: to assess inactive sites when releases are not apparent; to prevent or mitigate the release of hazardous substances from such facilities: to minimize potential hazards to health, safety, and the environment that may result from retease from these facilities: and to comply with the NCP in reporting and responding to releases or threatened release of hazardous substances from any USDA facility.

Compliance with the NCP will provide:

a Establishment and maintenance of a capability to contain and clean up USDA-caused uncontrolled releases of hazardous substances and pollutants or contaminants that occur at or near Department - USDA agency installations. This capability will be able to respond to emergency and non-emergency situations.

b Assistance will be provided to contain and clean up non-USDA-caused spills under the NCP. This assistance will be consistent with Department operational commitments.

5 DEFINITIONS

See Glossary or refer to the statute, Code of Federal Regulations, and EPA's "Federal Facilities Program Manual for Implementing CERCLA" for the definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Program and budget sufficient funding and personnel resources for CERCLA projects, as required, to assure timely compliance with response actions.

(2) Identify and quantify all CERCLA related projects. Determine proper actions (on a program level) to eliminate or reduce contamination to acceptable levels.

(3) Provide consultation to field installations on CERCLA program activities.

(4) Monitor field installations' CERCLA programs to evaluate effectiveness of compliance; recommend corrective measures when necessary.

(5) Comply with the requirements of the NCP and E.O. 12580.

7 COMPREHENSIVE ENVIRONMENTAL RESPONSE. COMPENSATION, AND LIABILITY ACT

a General

The basic purpose of CERCLA is to address problems associated with uncontrolled hazardous waste sites and to respond to releases or threatened releases of hazardous

substances and pollutants or contaminants. in addition, CERCLA requires reporting releases of hazardous substances that exceed established "reportable quantities." These reports must immediately be made to the National Response Center (NRC), which then coordinates an appropriate Federal and State response.

CERCLA Section 102 required that "reportable quantities" be established for hazardous substances as defined under Sections 102(a) and 101(14). Release of a hazardous substance in an amount equal to or greater than the reportable quantity for that substance must be reported in accordance with CERCLA Section 103(a). Hazardous substances and reportable quantities (RQs) are listed in 40 CFR Part 302. Table 302.4, and 40 CFR 302.5(b).

(1) Determination of Reportable Quantities.

(a) For a listed hazardous substance, the quantity listed as "Final RQ" for each substance in Table 302.4 of 40 CFR Part 302 is the reportable quantity for that substance.

(b) For an unlisted hazardous substance, designated by 40 CFR 302.4(b), which substances are wastes prior to their initial release into the environment, the reportable quantity is 100 pounds, except for those unlisted hazardous wastes exhibiting the characteristic of extraction procedure (EP) toxicity. These wastes have the RQ listed in Table 302.4 for the contaminant on which the EP toxicity is based.

(2) Notification.

As required by CERCLA Section 103(a), any person in charge of a facility shall, as soon as he/she has knowledge of any release of a hazardous substance in a quantity equal to or exceeding the reportable quantity in any 24-hour period, immediately notify the National Response Center (NRC) in Washington, D.C. at (800) 424-8802.

Any person in charge of a facility from which a hazardous substance is released who fails to notify the NRC as described above shall be subject to all of the sanctions, including criminal penalties, set forth in Section 103 of CERCLA with respect to such failure to notify. These include fines up to $10,000 and imprisonment up to one year.

These reporting requirements do not apply to the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or to the handling and storage of such a pesticide by an agricultural producer. This exception applies only to the use of a pesticide product in accordance with label instructions, and does not apply to pesticide waste disposal or spills.

CERCLA was not structured to set standards or grant permits. It is designed to establish the legal and institutional mechanism to clean up sites and to implement remedies to prevent or mitigate releases or threatened releases from uncontrolled hazardous waste sites. it also provides for direct Federal response to abandoned or uncontrolled waste sites through establishment and use of a response trust fund (Superfund). However, Superfund monies are not available to USDA agencies for cleanup of uncontrolled hazardous waste sites on Federal lands administered or managed by USDA.

The Superfund Amendments and Reauthorization Act (SARA) of 1986 made a number of significant changes which resulted in a broad expansion of CERCLA. In general, SARA sets strict standards for cleaning up hazardous waste sites and stresses the use of permanent cleanup methods. The Act also provides for an emergency planning and community right-to-know program (Title III of SARA is the Emergency Planning and Community Right-

To-Know Act. an overview of which is provided later in this section). Included among the major provisions of SARA in regard to response actions are the following items:

(1) Cleanup Standards.

Section 12.1 establishes numerous requirements relating to the degree of cleanup for remedial actions under CERCLA. In addition to codifying many of the existing requirements under the NCP, this section also establishes additional directives for selecting permanent remedies for meeting State requirements, and for formalizing the role of the State in the cleanup process.

(2) Federal Fagility Compliance.

Section 120 establishes responsibilities and requirements for Federal agency compliance with the Act: these are discussed elsewhere in this chapter under the heading "CERCLA implementation."

(3) Natural Resgurces Damages.

SARA clarifies the roles of Federal and State trustees in performing natural resource damage assessments. It denies access to the use of Superfund trust money for natural resource damage claims by Federal and State trustees. It also establishes a Federal statute of limitations for filing such claims, which is applicable under certain circumstances.

(4) Contractor Indemnification.

Section 119 establishes a Federal liability standard for Superfund response action contractors and authorizes the President to indemnify these contractors, subject to certain restrictions.

(5) Access and Information Gathering.

Section 104 expands the President's authority to obtain certain information and to gain access to sites to take or determine the need for taking a response or enforcement action under CERCLA.

(6) Removal Authorities.

Section 104(c) expands the President's removal authorities by increasing the existing dollar and time limitations on removal actions from 6 months and $1 million to 1 year and $2 million. it also allows these limitations to be waived altogether where a removal is otherwise appropriate and consistent with future remedial actions. The dollar and time limitations only apply to Fund-financed removals and, as such, are not strictly applicable to Federal facilities; USDA agencies, however, should apply these limitations as guidelines.

Authorities provided the President throughout the statute have been delegated to the Administrator of EPA and others by Executive Order (E.O.) 12580. Certain functions of the statute have also been delegated -to the heads of Executive Departments and Agencies.

b National Oil and Hazardous Substances Pollution Contingency Plan (NCP)

The NCP (40 CFR Part 300) is the implementing regulation for conducting response actions under CERCLA and the Clean Water Act (CWA). It was established in response to requirements of CERCLA Section 105, and has been revised in response to SARA Section 105 mandates. The plan specifies procedures, techniques, materials and equipment to be used in identifying, evaluating, and preventing or mitigating releases or threat of releases of hazardous substances and oil. Response actions include both removal and remedial activities regarding clean up of oil spills and hazardous waste sites.

Key provisions of the NCP include:

(1) Subpart B.

Describes the duties of the President delegated to Federal agencies and the specific roles and responsibilities of Federal agencies in implementing the NCP. This Subpart provides the organizational elements of the national response structure which includes the National Response Team (NRT), Regional Response Teams (RRTs), On-scene Coordinators (OSCs) and Remedial Project Managers (RPMs). It includes general information on State and non-governmental participation and community relations. it also addresses Federal agency participation and responsibilities (Section 300.170 of the NCP). USDA agency responsibilities and capabilities are directly addressed, including those of the Forest Service, Agricultural Research Service, Soil Conservation Service, Animal and Plant Health Inspection Service, and Food Safety and Inspection Service (Section 300.175 of the NCP).

(2) Subpart C.

Provides information on the requirements for emergency preparedness, including contingency plans and emergency planning, committees at the national, regional, State, and local levels. Subpart C also describes and cross-references the regulations implementing SARA Title III (Emergency Planning and Community Right-to-Know Act), which are codified at 40 *CFR* Part 355. Among these requirements are local response plans, identification criteria for facilities covered by the plan, and reporting requirements for facility owners and operators.

(3) Subpart D.

Provides the operational response phases for oil removal. It covers discovery and notification; preliminary assessment and initiation of action; and containment, countermeasures, cleanup, and disposal. It also addresses wildlife conservation as an element of contingency planning and response actions.

(4) Subpart E.

Establishes methods and criteria for determining appropriate response to a release or threatened release of a hazardous substance. It includes information on the following:

(a) Discovery and notification.

(b) Removal site evaluation and removal action.

(c) Remedial site evaluation.

(d) Establishing remedial priorities.

(e) Remedial investigation/feasibility study (RI/FS).

(f) Remedy selection.

(g) Remedial design and remedial action.

(h) Operation and maintenance.

(5) Subpart F.

Establishes a mechanism to help ensure that States are provided an opportunity for "meaningful and substantial" involvement, primarily in remedial and enforcement actions. The development of EPA/State Superfund Memoranda of Agreement (SMOA) is detailed as the mechanism for State participation.

(6) Subpart G.

Designates Federal natural resources trustees. Section 107(f) of CERCLA requires that Federal and State officials be designated to act as trustees for natural resources to assess injury, destruction, or toss of natural resources associated with release of a hazardous substance or discharge of oil. The Secretary of Agriculture is the designated trustee for lands administered by USDA. Trustee responsibilities include conducting damage assessments according to procedures given at 43 CFR Part 11, and developing plans to mitigate damage to natural resources.

(7) Subpart

Specifies requirements for establishing an administrative record documenting activities leading to a response action. USDA is responsible for developing and maintaining the administrative record for response at USDA facilities.

The NCP applies to all Departmental agencies. Details on procedures and requirements are contained in the NCP itself. The NCP is codified at 40 CFR Part 300.

8 TITLE III - EMERGENCY PLANNING ANDCOMMUNITY RIGHT-TO-KNOW ACT

a General

The Emergency Planning and Community Right-to-Know Act (EPCRA), also known as SARA Title Ill, is intended to encourage and. support emergency planning efforts at the State and local levels. It requires facilities to provide citizens and local governments with information concerning hazardous chemicals present at the facility. it also provides a mechanism for reporting releases of hazardous chemicals and acutely hazardous substances which may endanger the surrounding community. While EPCRA carries no statutory requirements for Federal

agency compliance, it is USDA policy to pursue a program of voluntary compliance with the Act.

EPCRA is organized into three subtitles as follows.

b Subtitle A - Emeragricy Planning and Notification

Subtitle A establishes State emergency response commissions, emergency planning districts, and local emergency planning committees with responsibilities for developing and coordinating emergency response plans. Facilities that have hazardous substances in amounts greater than the "threshold planning quantity" established by the EPA, must provide specific information, in writing, to their local communities. Environmental releases of hazardous substances greater than the "reportable quantity," also set by EPA, must be immediately reported to the National Response Center and to local communities and the State planning commissions. EPA has established planning and reporting quantities for over 400 chemicals; these are listed in Appendix A to 40 CFR Part 355.

c Subtitle B - Reporting Requirements

Subtitle B requires the submission of hazardous chemical material safety data sheets (MSDSs) by any facility which is required to have these sheets under the Hazard Communication Standard of the Occupational Safety and Health Administration (OSHA) (29 CFR 1910.1200). The scope of the OSHA Hazard Communication Standard covers all industries, including agriculture. Material safety data sheets are to be provided to the local emergency planning committee, the State emergency response commission, and the fire department having jurisdiction over the facility. Under Subtitle B, a facility may elect to submit a list of the chemicals for which they have MSDSs, in lieu of submitting individual MSDSs.

In addition to MSDSs, under Sections 311 and 312 of EPCRA, f acifities must prepare and submit chemical inventory forms to the same authorities designated to receive MSDSs. Facilities must submit a "Tier I" form with general information on the amount and location of hazardous chemicals by category and, if requested, a "Tier II" form containing more detailed information on individual chemicals. Inventory forms must be submitted by March 1

of each year, and contain data concerning the previous calendar year. Further information on these forms can be found at 40 CFR 370.40 (Tier I) and 40 CFR 370.41 (Tier II).

Under Section 313 of EPCRA, facilities that most certain requirements must also annually submit a toxic chemical release form, known as "Form R." Among these are facilities in Standard Industrial Classification (SIC) Codes 20 through 39, and having more than 10 full-time employees; for further information, see 40 CFR 372.22. The form is submitted to EPA and State officials by July 1 of each year and contains data concerning the previous calendar year. Information is required for each toxic chemical manufactured, processed, or otherwise used in quantities exceeding the "threshold quantity" established for the chemical. The threshold quantity is 25,000 pounds for chemicals that are manufactured or processed at the facility, and 10,000 pounds for chemicals "otherwise used." Required information includes the maximum amount of each chemical present at the facility at any one time, the treatment and disposal methods used for each waste stream, quantities of each chemical released to environmental media, and quantities transferred to off-site locations. The list of chemicals covered is found at 40 CFR 372.65(a): a copy of Form R can be obtained from EPA's Section 313 Document Center, P.O. Box 12505, Cincinnati, Ohio, 45212 (see 40 CFR 372.85).

d Subtitle C - General Provisions

Subtitle C covers general provisions concerning trade secret protection, enforcement, citizen suits, and availability of information to the public. The public has access to most EPCRA information from local emergency planning committees and State emergency response commissions.

e Exemptions

Both EPCRA and the OSHA Hazard Communication Standard exclude certain substances from the definition of "hazardous chemical." These substances are exempted from EPCRA reporting requirements for MSDSs and Tier I and Tier 11 inventory reports. The exemptions are:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(2) Any substance present as a solid in manufactured items to the extent exposure to the substance does not occur under normal conditions of use.

(3) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(4) Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

(6) Any hazardous waste regulated as such by EPA under RCRA.

(7) Tobacco products.

(8) Wood and wood products.

9 CERCLA IMPLEMENTATION

Section 120 of CERCLA establishes specific requirements for Federal facilities and defines the process by which Federal agencies are required to undertake remedial, actions at their facilities.

a General

Section 1 20(a) provides explicit confirmation that CERCLA is applicable to Federal facilities as follows: "each Department, agency, and instrumentality of the United States . . . shall be subject to, and comply with this Act in the same manner and to the same extent, both proceduraily and substantively, as any non-governmental entity, including liability under Section 107 of this Act."

b Application of Requirements

Section 120(a) also provides that all guidelines, rules, regulations and criteria shall apply to facilities which are owned or operated by a Federal agency in. the same manner and to the extent as they apply to other facilities with the following exceptions:

(1) Specific time and scheduling constraints are imposed on Federal agencies for initiating and conducting certain elements of response under CERCLA.

(2) Requirements relating to bonding, insurance, or financial responsibility do not apply to Federal agencies.

c State Laws

State laws concerning removal and remedial actions, including enforcement, apply to facilities owned' or operated by a Federal agency when such facilities are not included on the National Priorities List (NPL). States can not apply any standards or requirements to Federal facilities that are more stringent than those applied to non-federal facilities.

d Additional Reporting for Hazardous Waste Sites

Section 3016(a)(3) of the Solid Waste Disposal Act (SWDA) requires Federal agencies to identify and submit information on hazardous waste sites. Section 1 20(b) of CERCLA requires Federal agencies to provide additional information on such sites if contamination from a site affects contiguous or adjacent property, owned either by the Government or by any other person.

e Federal Agency Hazardous Waste Compliance Docket

Section 120(c) requires EPA to establish a public docket identifying and inventorying Federal agency hazardous waste sites. The docket includes the following:

(1) All information submitted under Section 3016 of the SWDA and under item (d) above, and notice of each subsequent action taken for a facility.

(2) Information submitted by a Federal agency under Sections 3005 (governing treatment, storage, and disposal

facility permits) or 3010 (concerning generator notification) of the SWDA.

(3) Information submitted by a Federal agency under Section 103 (reportable quantities and hazardous waste sites) of CERCLA.

The EPA is required to update the docket every 6 months.

f Schedule and Responsibilities for Response Actions

(1) EPA Recuirements.

Section 120(d) established schedules, now outdated, for evaluation of Federal facilities and placement of appropriate facilities on the NPL. Current EPA policy is consistent with the original requirements of Section 1 20(d) and calls for Federal agencies to complete a preliminary assessment (PA) and. if warranted, initiate a site inspection (SI) within 18 months of a facility's appearance on the docket. Appropriate sites are to be proposed for NPIL placement within four years of docket listing. USDA agencies should coordinate with the EPA Regional Off ice to establish any interim timeframes for submitting this information.

(2) Federal Aoency Requirements

Section 120(e) also placed responsibilities and time constraints on Federal agencies. For sites placed on the NPL, Federal agencies must:

(a) Begin a remedial investigation/feasibility study (RI/FS) within 6 months of placing a facility on the NPL.

(b) Enter into an Interagency Agreement with EPA within 6 months of EPA's review of the completed RI/FS. The Interagency Agreement binds the Federal agency to complete all necessary remedial action at the site, and includes:

1 A review of remedial action alternatives, with a joint selection of remedy by EPA and the responsible Federal agency. If agreement on the remedy cannot be reached, the resolution process under E.O. 12580 is invoked.

2 A schedule for completion of the remedial action.

3 Arrangements for long-term operation and maintenance of the facility.

(c) Begin "substantial continuous physical onsite remedial action" within 15 months of completion of the RI/FS.

(d) Report annually to Congress on progress in implementing these requirements.

g Other Provisions

(1) Section 1 20(f) requires EPA and Federal agencies to afford the opportunity for substantial and meaningful involvement of State and local officials in initiation, development, and selection of remedial actions. This is typically accomplished through public participation requirements (see 40 CFR Part 300, Subpart F). Additionally, the appropriate State environmental regulatory agency is typically a party to the Interagency Agreement developed as required by CERCLA Section 120(e).

(2) Section 1 20(h) contains requirements for the transfer of Federal property where a hazardous substance "was stored for one year or more, known to have been released, or disposed of." The deed transferring such property must contain notice of the type and quantity of hazardous substances: notice of when they were stored, released, or disposed on the property; and a description of any remedial action taken. The deed must also contain a

covenant warranting that ail remedial action necessary to protect human health and the environment has been taken, and any additional remedial action found to be, necessary will be conducted by the United States. Specific requirements are found at 40 CFR Part 373. Although not mandated by law. USDA agencies should require similar information be provided regarding property transferred into the Federal land system.

10 USDA CERCLA PROGRAM EXECUTION

The USDA CERCLA program shall be accomplished in accordance with the following and as outlined in the NCP. Response actions may include both removal actions and remedial actions. Although activities under either action may coincide or overlap to some degree, these response actions are discussed separately for purposes of clarity. The overall Superfund process is depicted in Figure I

a Site Discovery and Notification

This phase is to locate and identify those sites that may pose a threat to the public health, welfare, or the environment from a release or a threatened release of a hazardous substance, or pollutant or contaminant.

This applies to either a removal or a remedial action.

A release or threatened release may be discovered through any of the following:

(Figure 1 is available in paper form from the Information Management Division, OCIO, at 202-690-2118)

(1) Notification in accordance with Sections 103(a) or 103(c) of CERCLA.

(2) Investigations conducted in accordance with Section 104(e) of CERCLA or other statutory authority.

(3) Notification of a release by a Federal or State permit holder as - required by the permit.

(4) Inventory or survey efforts, or random or incidental observation by Federal agencies or the public.

(5) Submission of a citizen petition requesting a preliminary assessment under Section 105(d) of CERCLA.

(6) Other sources,

For the inventory and survey effort under item (4) above. it is USDA policy to pursue an active program of hazardous waste site discovery. Efforts to identify such sites shall, as a minimum, include:

(1) Interviewing present and former employees who may have knowledge of operations or conditions that may contribute to identifying potential hazardous waste sites.

(2) Collecting for review and analysis applicable site/facility information, such as:

(a) Site-specific National Environmental Policy Act documentation.

(b) Environmental monitoring program documentation.

(c) Effluent/emission monitoring program documentation.

(d) Federal, State, and local permit documentation.

(e) Records (past and present) of hazardous waste operations.

(f) Process and shipment records relevant to waste generation.

(g) Site development or facility operation and maintenance plans and documents.

(h) Reports of spills and other releases.

(i) Contingency/emergency plans.

(j) Safety inspection documentation.

(3) Determining past management practices regarding use, storage, treatment, and disposal of hazardous substances from development, production, and laboratory operations. This review should include the identification of landfill and burial sites that potentially may have received hazardous substances for disposal. It should also include other possible sites that may possibly be contaminated from spills or releases of hazardous substances, and where cleanup in accordance with EPA guidance and individual agency standards has not been accomplished.

b Site Evaluation

This phase is to evaluate releases through a preliminary assessment and, if necessary, a site inspection to ascertain the presence or absence of a threat or potential threat to public health, welfare, or the environment, and to determine if a site merits further action. Whether the site is handled as a removal or a remedial action is dependent upon the nature of the site and the hazard(s) involved.

(1) Removal Preliminary Assessment (PA).

A removal is a short-term action taken to eliminate, control, or otherwise mitigate a release or threatened release of a hazardous substance. Upon discovery of site conditions that appear to require immediate action to mitigate a present threat, or avoid a more serious future problem, a removal PA may be conducted to ascertain the need for immediate action. Some examples of conditions that may warrant a removal include co-disposal of incompatible hazardous wastes, unrestricted public access to contaminated areas, and waste sources with leaking or otherwise ineffective containment. A removal PA is based on readily available information and may include, but is not limited to, the following:

(a) Identification of the source and nature of the release or threat of release.

(b) Evaluation by Federal or State public health agencies of the threat to public health.

(c) Evaluation of the magnitude of the potential threat.

(d) Evaluation of factors necessary to make a determination of whether a removal is necessary.

(e) Determination of whether a non-federal party is undertaking an adequate response.

(f) Collection and review of data such as:

1 Site management practices.

2 Generator information.

3 Photographs, and current and historical aerial imagery.

4 Literature searches.

5 Personal interviews.

(2) Removal Site Inspection (SI).

A removal St is performed if additional information is needed. This inspection may include a perimeter (off-site) survey or an on-site inspection if such an inspection can be performed safely. Environmental and waste media samples may also be collected for laboratory analysis.

Section 300.410 of the NCP identifies the conditions under which a removal site evaluation may be terminated.

Following a removal PA and, if warranted, a removal SI, the USDA agency conducting the investigation must document ail

findings, conclusions, and recommendations in a written report.

(3) Remedial Preliminary Assessment.

A remedial PA also consists of a review of readily available information, but has a somewhat different focus than a removal PA. A remedial PA is intended to differentiate those sites that may pose a threat to human health or the environment from those that do not. Sites that may pose such a threat are recommended for further, more detailed investigation (a remedial SI). Principal objectives of a remedial PA are as follows:

(a) Eliminate from further consideration those sites where available data indicate no significant threat or potential threat to human health or the environment.

(b) Determine if there is any potential need for a removal action.

(c) Establish priorities for site inspections.

(d) Gather existing data to facilitate later evaluation of the release pursuant to the Hazard Ranking System MRS).

Data to meet these objectives can be obtained from the following:

(a) Telephone interviews with Federal, State, and local government personnel, and others knowledgeable of local and site-specific conditions.

(b) Federal, State, and local regulatory agency files, reports and court cases.

(c) Local geological, hydrological, and topographical reference materials.

(d) Local private and public well logs.

(e) Federal and local planning agency files.

(f) Current and historical aerial imagery of the site and environs.

(g) Flood insurance rate maps.

(h) Facility files concerning hazardous waste management practices.

(i) Local census data and population databases.

(i) Local water supply authorities.

(k) A perimeter (off-site) reconnaissance or, if health and safety considerations permit, an on-site reconnaissance.

A preliminary assessment report must be prepared which documents findings and recommendations for site disposition. This information should be submitted to the EPA Regional Office in accordance with the timeframe the USDA agency and Regional EPA personnel have agreed upon. A "Potential Hazardous Waste Site Preliminary Assessment Form" (EPA Form 2070-12) must also be completed, along with a set of "PA Scoresheets" (EPA Form 2070-15). EPA has a computerized scoring tool available to facilitate PA evaluations; the program also generates PA scoresheets ("PA-Score Software, Users Manual and Tutorial." EPA/540/P-91/010).

Complete details for conducting a PA and reporting, results are available in EPA's "Guidance for Performing Preliminary Assessments Under CERCLA" (EPA/-40/G-91/013).

(4) Remedial Site Inspection.

An Sl should be performed on all sites recommended for further action by EPA upon completion of a PA. The primary purposes of an SI are to:

(al Eliminate from further consideration those sites which pose no significant threat to human health or the environment.

(b) Determine the potential need for removal action.

(c) Collect or develop additional data to evaluate a site pursuant to the HRS.

(d) Collect data, as appropriate, beyond that which is required for hazard ranking, in order to better characterize a site for more effective and rapid initiation of an RI/FS.

The Sl builds upon data collected during the PA through more detailed in-field investigation. Activities to acquire the information necessary to complete an Sl may include:

(a) Conducting personal interviews with local officials and other persons with knowledge of site history.

(b) Field measurement of "background" and ambient conditions.

(c) Documentation of the condition of waste material containment, topography, geology, and hydrology.

(d) Documentation of locations of residences, public buildings, sensitive environments, etc.

(e) Scanning the site with metal detectors (or other remote sensing methods) to detect underground tanks or drums (if appropriate).

(f) Review of facility operations records.

(g) Collection of on- and off-site surface water, ground water, air, soil, leachate, and waste media samples.

(h) Laboratory analysis of samples and quality assurance/quality control review.

(i) HRS scoring.

A site inspection report must be prepared which includes, as a minimum:

(a) A description of the nature and history of waste handling.

(b) A description of known contaminants.

(c) A description of pathways *of* migration *of* contaminants.

(d) An identification and description of human and environmental targets.

(e) A recommendation on whether further action is warranted.

in addition to the Sl report, scoresheets detailing the evaluation of the site according to the HRS are also required. The site inspection report must be submitted to the EPA Regional Office within the established timeframe. EPA has a computerized scoring tool available to facilitate HRS evaluation of St sites: the program also produces HRS scoresheets ("PREscore Software, Users Manual, and Tutorial", Office of Solid Waste and Emergency Response, Publication 9 345.1-04).

Complete details for conducting an Sl and reporting results are available in EPA's "Guidance for Performing Site Inspections Under CERCLA" (EPA/540/R-92/021).

(5) Eligibility for the National Priorities List (NPL)

A site may be included on the NPL if it meets one of the following criteria:

(a) The site scores sufficiently high (28.50 or greater) pursuant to the HRS.

(b) A State has designated the site as its highest priority, regardless of HRS score (a State may make only one such designation).

(c) The site meets all of the following:

1 The Agency for Toxic Substances and, Disease Registry ha's issued a health advisory that recommends dissociation of individuals from the site.

2 EPA determines that the release poses a significant threat to public health.

3 EPA determines it is most cost-effective to use remedial authority, rather than removal action, to respond at the site.

Federal agencies may submit candidate NPL sites to EPA by scoring the site using the HRS and providing appropriate documentation. Candidate site(s) may be submitted to EPA Regional Offices at any time. Using the submitted information, EPA will then prepare a formal HIRS package to support placement of eligible sites on the NPL. While Federal facilities that meet listing criteria will be included on the NPL, they are not eligible for Superfund-financed remedial actions.

Sites may be deleted from the NPL when no further response is appropriate. Procedures

for deleting a site are described in Section 300.425 of the NCP.

(6) Hazard Ranking 5vstem MRS).

The HRS was designed by EPA as a relative threat assessment tool. It is applied to hazardous waste sites as a means of evaluating the threat to human health and the environment posed by sites, relative to other sites. The HIRS is the principal tool used to evaluate sites for placement on the NPL. Sites that achieve an HIRS score of 28.50 or greater are eligible for NPL placement.

The HIRS is structured to evaluate four hazardous substance migration and exposure pathways: ground water, surface water, air, and soil exposure. Each pathway requires evaluation of the likelihood that a hazardous substance has been, or could be, released to the pathway: the quantity and characteristics of hazardous substances available to the pathway; and the presence and exposure levels of human and environmental receptors (targets).

The original HRS was revised by EPA in 1990 (December 14, 1990, 55 FR 51583). The revised HRS places an emphasis on targets and exposure of targets to various levels of contamination, Included among the targets category are human populations, fisheries, and a variety of sensitive environments such as wetlands, threatened and endangered species habitat, national parks and monuments, and wilderness areas. The increased importance of environmental targets in HRS evaluations could mean that hazardous waste sites at some USDA facilities could have a higher likelihood of NPL eligibility under the revised HRS than under the original HRS. It is important to note, however, that sites whose NPIL eligibility had been determined under the

original HRS (i.e., a site inspection resulting in a "no further action" recommendation had been accepted by EPA) need not be reevaluated under the revised HRS. However, EPA may choose to rescore a site if they believe that conditions have changed.

c Site Removal Action

In determining whether a removal action is warranted and, if so, the type of action to take, the responsible agency shall first review the removal PA (and removal SI, as appropriate). The following factors shall be considered in determining the need for a removal action:

(1) Actual or potential exposure of nearby populations, animals, or the food chain to hazardous substances or pollutants or contaminants.

(2) Actual or potential contamination of drinking water supplies or sensitive ecosystems.

(3) Hazardous substances or pollutants or contaminants in drums, barrels, or other bulk storage containers, that pose a threat of release.

(4) High levels of hazardous substances or pollutants or contaminants, in soils largely at or near the surface, that may migrate.

(5) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.

(6) Threat of fire or explosion.

(7) The availability of other Federal or State response mechanisms to act.

(8) Other situations that may pose a threat to public health or welfare or the environment.

When a determination is made to proceed with a removal action, work should begin as soon as possible to prevent, minimize, or mitigate the threat.

Any removal actions should, to the extent practicable, contribute to the solution of any anticipated longer-term remedial action. Examples of types of removal actions are listed in Section 300.415 of the NCP.

d Site Remedial Investigation/Feasibility Study (RI/FS) and Selection of Remedial Action

The purpose of the RI/FS is to assess site conditions and evaluate alternatives to select a remedial action. The NCP (Section 300.430) describes the RI/FS. If a facility is listed on the NPL, an RI/FS must be initiated within 6 months. USDA agencies may choose to conduct an RUFS at facilities which are not on the NPL, but which require remediation. In these cases, agencies are encouraged to follow the NCP in order to facilitate recovery of costs from potentially responsible parties. Complete details are available in EPA's "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLAO (EPA/540/G-89/004).

(1) General.

This process consists of the following basic components. The process is iterative and some components may overlap or be conducted concurrently:

(a) Scoping of the RI/FS.

(b) Site characterization.

(c) Development of alternatives.

(d) Initial screening of alternatives.

(a) Post-screening field investigation.

(f) Detailed analysis of alternatives.

(g) Selection of remedy.

(2) Scoping.

This component involves examining available information, characterizing the site, and developing work plans.

(a) Assemble and evaluate existing data on the site, including results of any removal actions, remedial PAs and SIs, and the NPL listing, process.

(b) Determine if site conditions require an immediate removal action.

(c) Identify any other Federal or State response or enforcement entities.

(d) Develop a conceptual understanding of the site, identify the possible RUFS study area, and identify RUFS data needs.

(e) Establish preliminary priorities for action items, and identify likely response scenarios.

(f) Develop sampling and analysis plans, a quality assurance project plan, and a health and safety plan.

(g) Initiate identification of potential Federal and State applicable or relevant and appropriate requirements (ARARs) for site cleanup.

(h) If natural resources are or may be injured, ensure that State and other Federal trustees have been notified.

Prior to conducting field activities for the RI, the Federal agency shall:

(a) Conduct interviews with local officials, public interest groups, residents and other interested or affected parties to solicit their input and involvement.

(b) Prepare a Community Relations Plan or equivalent document (see Section 300.430(c) of 40 CFR Part 300).

(c) Establish, as a minimum, one local information repository.

(d) Inform the community of the availability of technical assistance grants. These are available only for NPL sites.

(3) Site Characterization.

(a) Phase I Remedial Investigation (RI).

The purpose of the RI is to collect data necessary to characterize the site and develop and evaluate remedial alternatives. In characterizing the site, the following factors shouid be considered to determine the extent to which a site poses a threat to human health or the environment:

1 The extent to which the source of the release can be adequately identified and characterized.

2 The amount, concentration, toxicity, environmental fate and transport, form, and other significant characteristics of the substance(s) present.

3 Waste mixtures, the media of occurrence, and interface zones between media.

4 Hydrogeological factors.

5 Climate.

6 Routes of migration and exposure.

7 Population(s) and environmental concerns at risk.

8 The extent to which the substances have migrated or can be expected to migrate, and the threat such migration may pose to human health or the environment.

9 The extent to which natural or man-made barriers currently contain the substance(s).

10 Contribution to air, land, water or food chain contamination.

11 Surface water classifications and existing use designations.

12 Ground water characteristics and current and potential ground water use.

13 The extent to which contamination exceeds health or risk-based levels.

14 Water and soil characteristics that affect the type of treatment possible.

15 The extent to which substances at the site may be reused or recycled.

16 The potential for future releases of any substances or treatment residuals.

Using data as described above, a baseline risk assessment is conducted to characterize current and potential threats to human health and the environment by contaminant migration through environmental media.

(b) Phase I Feasibility Study.

The purpose of the FS is to develop and evaluate a range of remedial alternatives so that an appropriate site remedy can be selected. Development of alternatives should be fully integrated with the site characterization activities of the RI and should include:

1 Alternatives for source control actions.

USDA agencies should develop a spectrum of alternatives in which reduction of the toxicity, mobility, or volume of hazardous substances, pollutants, and contaminants is a principal

feature. These should range from an alternative that destroys or eliminates hazardous substances and minimizes the need for long-term management, to an alternative that involves little or no treatment but prevents or controls exposure to hazardous substances through engineering and/or institutional controls.

2 Alternatives for around water response actions.

For sites where ground water response action is necessary, USDA agencies should develop a number of remedial alternatives which attain site-specific remediation

levels within different completion schedules and utilizing different technologies.

3 A No-action Alternative.

(c) Phase 11 Feasibility Study Initial Screenina of Alternatives.

This phase provides for screening the alternatives developed in Phase I to reduce the number of potential remedial alternatives to be considered for a detailed analysis. A containment alternative and a no-action alternative should be continued through this initial screening process.

Alternatives should be evaluated in terms of the following general criteria.

1 Effectiveness. The degree to which an alternative reduces toxicity, mobility, or volume through treatment; minimizes residual risks, complies with ARARs: minimizes short-term impacts: and quickly achieves protection.

2 Implementability. Technical feasibility and availability of technologies required by an alternative, and administrative feasibility of implementation.

3 Cost. Construction and long-term operation and maintenance costs.

(d) Phase II Remedial Investioation - Post Screening Field Investigation.

This phase involves additional field investigation that may be necessary for alternatives that are planned for a detailed analysis. This phase may

1 Identification of existing treatment technology data.

2 Bench and pilot scale treatability tests.

3 Field data to further assess and evaluate site characteristics.

(e) Detailed Analysis of Alternatives (Phase II Feasibility Study).

This phase involves a detailed evaluation of the alternatives remaining after completion of the initial screening process. The evaluation should include an examination of each alternative against the following nine criteria.

1 Overall protection of human health and the environment.

2 Compliance with ARARs.

3 Long-term effectiveness and permanence.

4 Reduction of toxicity, mobility, or volume through treatment.

5 Short-term effectiveness.

6 Implementability.

7 Cost.

8 State acceptance.

9 Community acceptance.

Alternatives should then be compared to each other and a preferred alternative selected. The preferred alternative is presented to the public in a proposed plan for review and comment. The proposed plan accompanies the final draft of the feasibility study which is also made available for public review and comment. Notice of the availability of these documents must be given and a public meeting held as necessary to allow for public input.

Following the public meeting and the close of the public comment period, a response document shall be prepared which summarizes the public's significant comments and the agency's response.

(4) Remedy Selection and the Record of Decision.

(a) Following public comment, the agency shall reassess the determination that the preferred alternative represents the best selection, factoring in ail new information that may have been developed as a result of

the public process. The preferred alternative may be modified or replaced at this time, and a final remedy selection made. The remedy selected shall meet the following criteria:

1 Be protective of human health and the environment.

2 Attain ARARs for the specific site.

3 Be cost effective.

4 Utilize permanent solutions and alternative technologies to the maximum extent practicable.

Remedy selection is a joint responsibility of EPA and USDA. In the event that agreement cannot be reached, and the dispute resolution process specified in E.O. 12580 fails, EPA may select the remedy unilaterally.

(b) All facts, analyses, and policy determinations leading to selection of the final remedy must be documented in a record of decision (ROD). Notice of availability of the ROD must be published and the ROD must be included in the administrative record for the site. Among other things, the ROD:

1 Must describe how the selected remedy meets the criteria outlined above, and

2 Must include a summary of comments received through the public participation process, along with agency responses.

See 40 CFR 300.430 for more details.

(c) An administrative record must be established to contain the ROD and all documents, factual information, data, and analyses that form the basis for the selection of the response action. USDA is responsible for compiling and maintaining the administrative record for USDA sites. A docket containing the administrative record must be established at or near the site at issue, and the contents of the administrative record must be available at the docket for public inspection. Full details are given in Subpart I of the NCP.

e Remedial Design/Remedial Action and Operation and Maintenance

During the remedial design/remedial action (RDIRA) phase, the selected remedy is designed and implemented. This phase may also include a period of operation and maintenance after completion of construction. Actions should include:

(1) Design of the selected remedy.

(2) Preparing drawings and specifications necessary to implement the construction.

(3) Final cost estimates.

(4) Implementation of construction through contract or other procurement procedures.

(5) Construction inspection and monitoring.

(6) Reporting in accordance with contractual requirements.

(7) Operation and maintenance.

For fund-financed remedial actions involving treatment (or other measures) to restore contaminated ground or surface water quality, the operation of treatment facilities or other measures for a period of 10 years after the remedy becomes

"operational and functional" (NCP Section 300.435) is considered part of the remedial action.

Activities required to maintain the effectiveness of remedial action measures following the 10-year period, or after remedial action is complete, whichever is earlier, are considered operation and maintenance (O&M).

The 10-year O&M provision does not apply to:

(1) Source control measures initiated to prevent contamination.

(2) Ground or surface water measures initiated for providing a drinking water supply.

The distinction as to when the remedial phase ends and O&M begins only has real implications for Superfund-financed action3, as the distinction affects the duration of availability of Fund monies. As such, the distinction has little real impact on actions at Federal facilities.

f State and Public Involvement

Throughout the process, involvement of the State and the public must be provided for.

State involvement includes the following significant items.

(1) Participation in the interagency agreement and Rl/FS negotiations.

(2) Identification of ARARs that need to be considered in the RI/FS.

(3) Comment on proposed alternative(s) and any waivers of State ARARs.

(4) Review and comment on remedial design.

The following items cover activities necessary to provide for the required community/public involvement.

(1) Develop a community relations plan or equivalent and establish an information repository prior to the RUFS.

(2) Notify the public of feasibility study and proposed plan availability and develop a fact sheet.

(3) Provide a period for public comment and hold a public meeting to solicit community input to the feasibility study and proposed plan.

(4) Prepare a comment response summary for public comments.

(5) Issue a public notice and fact sheet on the selection of remedy.

(6) Issue a public notice and fact sheet on remedial design.

11 COMPLIANCE

a General

Federal agencies are required by Sections 107(g) and 1 20(a) of CERCLA to comply both substantively and procedurally with the statute to the same extent as private entities.

The Department and its agencies, under the liability provisions of CERCLA (Section 107), have response action responsibilities for all sites on their current and formerly owned properties, and for hazards caused by activities at such properties. USDA agencies are also responsible for off-site contamination caused by USDA facilities at private sector sites where a agency contributed hazardous substances.

USDA agencies must comply with CERCLA and with all Federal, State, and local requirements, both substantive and procedural, issued under other environmental statutes, with respect to response action activities.

b Specific

(1) CERCLA and SARA Response.

SARA (Section 120) established mandatory schedules and deadlines for facilities listed on the Federal Agency Hazardous Waste Compliance Docket and the NPL for various phases of the Superfund process. USDA agencies shall make every effort to comply with these requirements. In addition to statutory requirements, the following are target dates for USDA agency CERCLA compliance at hazardous waste sites. These target dates are for sites or projects which are not subject to other requirements which may be established by regulation, Interagency Agreements, or compliance agreements.

Activity	Target Date
"Reportable quantity" release	Immediately upon discovery of the
Reporting	Release.
Site discovery and notification	Identify known or suspected sites
	Within 1 year from the date of this
	Manual: ongoing discovery thereafter.
Site evaluation	
a. Preliminary assessment	Complete within 1 year from date of
	Docketing.
b. Site inspection	Initiate within 18 months (if
	necessary) from date of docketing.
Site removal action	Complete as soon as possible after
	Identification of need.
Site remedial	Complete within 2 years after
Investigation/feasibility study	Completion of the SI.
Remedial design/remedial	Initiate onsite action within 1 year
action and operation and	after completion of the RI/FS.
Maintenance	

(2) Reporting of USDA Hazardous Substance Releases.

(a) For any release of a hazardous substance to the environment, actions will be taken to eliminate the source and contain the release. E.O. 12580 delegates to Federal agencies the authority and responsibility for:

1 Removal actions other than emergencies.

2 Remedial actions for releases or threatened releases which are not on the NPL.

(b) Spill events and discharges will be reported immediately by telephone to the EPA Regional Office, U.S. Coast Guard

District Office, or the National Response Center, Washington, D.C. This will include any observed oil spill or release of a hazardous or toxic substance. CERCLA requires immediate notice to the National Response Center for a release of a hazardous substance in a reportable quantity. Refer to Section 300.405 of the NCP for details and exceptions.

12 REPORTING

a Legal and Reauiatory Reports

USDA agencies shall comply with all CERCLA and NCP reporting requirements in accordance with application regulations.

b Abatement Project Reports

See Chapter XI for reporting requirements.

13 TECHNICAL ASSISTANCE

Assistance and technical publications may be obtained from the EPA through their Regional Office Federal Facility Coordinator. Also, refer to various EPA guidance documents, such as:

a "Guidance for Performing Preliminary Assessments Under CERCLA" (EPA/540/G-91/013)

b "PA-Score Software, Users Manual & Tutorial" (EPA/540/P-91 /010)

c "Guidance for Performing Site Inspections Under CERCLA" (EPA/540/R 92/021)

d "PREscore Software, Users Manual & Tutorial" (Office of Solid Waste and Emergency Response Publication 9345.1-04)

e "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA" (EPA/540/G-89/004)

SOLID AND HAZARDOUS WASTE MANAGEMENT PROGRAM

Chapter VI

1 PURPOSE

To provide direction for implementing a USDA Solid and Hazardous Waste Management Program; to define actions to identify and evaluate facilities or activities at USDA installations which may be in noncompliance with the Resource Conservation and Recovery Act (RCRA) and the Hazardous and Solid Waste Amendments (HSWA) of 1984; and to take corrective actions where necessary to achieve compliance with applicable regulations and standards.

Because of the ever changing nature of solid and hazardous waste regulations, USDA agency personnel responsible for handling waste management issues must become actively involved in learning about and understanding existing regulatory requirements. In addition, policy changes, new regulatory requirements, and legal challenges to existing regulations place additional responsibilities on agencies to maintain a current, up-to-date understanding of these evolving requirements. This chapter is designed to provide a basic overview of those regulations applicable to the Federal hazardous and solid waste programs, as well as the underground storage tank regulations. Additional information concerning these requirements may be obtained from any of the references noted in this section, trade publications, USDA regulatory guidance documents, or guidance documents produced by the EPA.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law and contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution, which are outlined in this chapter.

3 OBJECTIVES

The primary objective of this program is to procure and use materials in a manner that minimizes waste production, conserves natural resources, and prevents adverse effects on health or the environment. All materials should be reused, recycled, or reprocessed to the maximum extent feasible. Specific objectives include:

a Procurement of material to allow the end product or its components to be economically restored, reconstituted, or converted to other uses.

b Disposal of unserviceable or excess material through procedures that will enable these products to be recovered and reintroduced into the manufacturing process or reclaimed for other purposes. This would include use as an energy source or sale through property disposal channels.

c Recycling and reusing solid waste and hazardous substances to the greatest extent feasible; disposal of wastes that cannot be economically recovered in a manner that will prevent or minimize pollution of the environment.

4 POLICY

It is USDA policy to comply with all applicable regulations and standards regarding solid and hazardous waste management. This will include the following:

a Quantities of solid waste will be reduced at the source whenever possible.

b Solid waste will be recovered and recycled to the maximum extent feasible.

c Use of joint or regional resource recovery facilities is encouraged.

d Contracts for waste disposal services will include provisions for recycling where markets exist.

e USDA installations and activities will participate in recycling programs conducted by local communities to the extent practicable.

f Non-hazardous solid waste will be disposed of in sanitary landfills or through treatment by incineration.

g USDA installations will not be used to dispose of non-USDA owned toxic or hazardous wastes.

h In the absence of published standards, guidance on acceptable methods and maximum concentrations and quantities of hazardous substances to be discharged or disposed of should be obtained from proper authorities.

5 DEFINITIONS

See Glossary or refer to the statutes or the Code of Federal Regulations (40 CM Parts 240 through 299) for the definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Comply with ail applicable regulations and standards regarding hazardous and solid waste management.

(2) Establish waste management programs as necessary, to achieve hazardous and solid waste controls, abatement, and corrective action.

(3) Develop procedures to assess and monitor facility, waste management activities to determine compliance.

(4) Ensure that sufficient funds to achieve compliance are requested in the agency budget.

(5) Develop written policy to implement the requirements contained herein.

7 RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984 (HSWA)

a General

The basic purpose of RCRA and HSWA is to provide for the development of management plans and facilities for the recovery of energy and other resources from discarded materials: to provide for the safe disposal of discarded materials: and to regulate the management of hazardous wastes. It is the national policy that wherever feasible the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment. These statutes recognize that collection and disposal of solid and hazardous wastes is the primary responsibility of State and local governments. The EPA provides assistance to these entities in their development of standards and requirements for solid and hazardous waste management and control. Existing regional, State and local laws and regulations establish requirements for waste management with which Federal facilities must comply as directed herein.. The EPA has also issued regulations and standards which provide for the following:

(1) Subtitle C - Hazardous Waste Manaaement.

(a) Identification and listing of hazardous waste.

(b) Standards applicable to generators of hazardous waste.

(c) Standards applicable to transporters of hazardous waste.

(d) Standards for owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDFs).

(e) Standards for the management of specific hazardous wastes and specific types of hazardous waste management facilities.

(f) Land disposal restrictions.

(g) Hazardous waste permit program.

(h) Requirements for authorization of State hazardous waste programs.

(i) Hazardous waste site inventory.

(j) Inventory of Federal agency hazardous waste facilities.

(2) Subtitle D - Solid Waste Management.

(a) Guidelines for the land disposal of solid wastes.

(b) Guidelines for the storage and collection of residential, commercial, and institutional solid waste

(c) Solid waste management guidelines for beverage containers.

(d) Promulgation of resource recovery facility guidelines.

(e) Source separation for materials recovery guidelines.

(f) Guidelines for procurement of products that contain recycled materials.

(g) Criteria for classification of solid waste disposal facilities and practices.

(h) Criteria for municipal solid waste landfills.

(3) Subtitle I - Regulation of Underground Storage Tanks (USTs).

(a) Design, construction, installation and notification.

(b) General operating requirements.

(c) Release detection.

(d) Release reporting, investigation, and confirmation.

(e) Release response and corrective action for UST systems containing petroleum or hazardous substances.

(f) Out-of-service UST systems and closure.

(g) Financial responsibility (not applicable to Federal agencies).

b Hazardous Waste Management - Subtitle C

National standards and requirements have been promulgated for proper management of hazardous wastes. Applicable standards are summarized herein.

(1) Identification and Listina of Hazardous Waste.

This section identifies those solid wastes which are subject to regulation as hazardous wastes under other parts of RCRA regulations and which are subject to the notification requirements of Section .3010 of RCRA. It includes the definitions of "solid waste" and "hazardous waste" and wastes which are currently excluded from regulation. Hazardous wastes include those solid wastes that meet a listing description, or that exhibit a characteristic. The exclusions include: (1) materials which are not solid wastes and, (2) solid wastes which are not hazardous wastes. Items of particular importance to USDA agencies in the second category include:

(a) 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 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 recreational areas).

(b) Solid wastes generated by any of the following and which are returned to the soils as fertilizers.

1 The growing and harvesting of agricultural crops.

2 The raising of animals, including animal manures.

(c) Mining overburden returned to the mine site.

(d) 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.

(e) Drilling fluids, produced waters, and other waste associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(f) Solid waste which consists of discarded wood or wood products which fails the test for the Toxicity Characteristic solely for arsenic, and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenic-treated wood and wood products for their intended end use.

(g) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of 40 CFR 261.24 (Hazardous

Waste Codes 0018 through D043 only) and are subject to the corrective action regulations under Part 280.

(h) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided that refrigerant is reclaimed for further use.

(i) Non-terne plated used oil filters if they have been gravity hotdrained using puncturing, crushing, dismantling or other equivalent hot-drain methods which will remove used oil.

Many wastes that are hazardous to human health and the environment may not be specifically identified as RCRA listed wastes or meet the RCRA characteristic waste descriptions. Reference should be made to the statutory definition hazardous waste to determine whether a substance needs to be handled as a hazardous material and/or waste.

Although excluded from regulation, certain substances that are hazardous (e.g., paints, solvents, pesticides) should not be disposed by households, ranger stations. etc., as solid waste in routine trash collection operations. These wastes should be handled and disposed of in accordance with State or local regulations or requirements.

This section also includes special requirements for hazardous waste generated by small quantity generators, requirements for recycling materials, and requirements for residues of hazardous waste in empty containers.

(2) Hazardous Waste Determination.

In order to determine which rules and regulations may apply to any wastes that are generated, a determination must be made as to whether or not the waste is hazardous. This is done by identifying and evaluating the physical, and health hazard of the waste using knowledge of the substance or generation process, or by chemical or other analyses. Refer to 40 CIFIR Part 260, Appendix 1, for a flow chart of the hazardous waste determination procedure.

(3) Requirements for Recyclable Materials.

Section 261.6 of 40 CFIR lists the special requirements for hazardous waste which is used, re-used, recycled or reclaimed.

(4) Requirements for Residues of Hazardous Wastes in Containers

Any hazardous waste remaining in either:

(a) An empty container or an inner liner removed from an empty container is not subject to the Subtitle C requirements. A container or inner liner from a container that has held any non-acutely hazardous waste is considered "empty" if:

1 All wastes have been removed that can be removed using practices commonly employed for the material, that is, pouring,

pumping, and aspirating, and

2 No more than 2.5 centimeters of residue remain on the bottom of the container or liner, or

3 No more than 3 percent by weight of the total capacity of the container remains if the container is less than or equal to 110 gallons, or no more than 0.3 percent by weight of the total capacity remains if the container is larger than 110 gallons.

(b) Containers or liners that have held acutely hazardous wastes ("P"-listed wastes identified in Section 261.33(e) of 40 CFR) are subject to additional requirements which include, among others, triple-rinsing, before the container is considered empty.

See Section 261.7 of 40 CFR for additional details concerning compliance with empty container requirements.

(5) Characteristic and Listed Hazardous Wastes.

Part 261 of 40 CFR also includes the criteria used by EPA for identifying hazardous wastes regulated under RCRA. Two basic categories of waste comprise the universe of RCRA hazardous wastes. The first of these is "characteristic" wastes. Characteristic wastes (which aria identified by the letter code "0") comprise four general classes of hazard which include:

(a) Ignitability (DO01)

(b) Corrosivity (DO02)

(c) Reactivity (DOO3)

(d) Toxicity (D004 through D043)

The requirements that must be met in order for a waste to be characterized as a RCRA characteristic waste are found in Sections 261.21 through 261.24 of 40 CFR-

The second category of wastes identified under RCRA include "listed" wastes. Listed wastes are those wastes that EPA has specifically determined to pose a threat to human health and the environment. Three lists of such wastes, encompassing a range of waste categories. were developed to identify those materials that should be handled or managed under the Subtitle C program. The three lists identifying the wastes and the waste codes associated with each group of wastes are as follows:

(a) Hazardous waste from non-specific sources ("F"-listed wastes).

(b) Hazardous waste from specific sources ("K"-listed wastes).

(c) Acute and toxic hazardous wastes ("P"- and "U"-listed wastes, respectively) that are discarded commercial chemical products, off-specification products, container residues, and spill residues thereof.

The EPA indicates the basis for listing any waste as a RCRA hazardous waste by employing one of the following Hazard Codes:

(a) Ignitable Waste I

(b) Corrosive Waste C

(c) Reactive Waste R

(d) Toxicity Characteristic Waste E

(e) Acute Hazardous Waste H

(f) Toxic Waste T

The Hazard Code for each waste identified in the three lists is found to the right of each waste listing. Refer to the tables of listed wastes found in Sections 261.31 through 261.33 of 40 CFR. Additional details and information concerning listed wastes are found in Section 261.30.

Waste mixtures (i.e., hazardous wastes mixed into non-hazardous solid wastes) anc residues or residuals derived from the treatment, storage, or disposal of hazardous wastes, are also considered hazardous wastes. These "mixture and derived from" wastes, as they are comm.- y referred to, have been the subject of lengthy litigation

during the past several years. In December 1991, the U.S. Court of Appeals of the District of Columbia remanded the regulations governing these wastes to the EPA. EPA has since reissued these regulations on a temporary basis until a permanent solution to the court's remand is developed. The ramifications of this issue are significant and should be monitored to ensure that USDA facilities remain in compliance with any new or, modified requirement that may result.

Another waste stream subject to extensive litigation and regulatory debate is used oil. Used oil, which is defined as any oil which has been refined from crude oil, used, and as a result of such use is contaminated by physical or chemical impurities, is one of the most common solid wastes generated and managed by USDA facilities.

EPA has declined to list used oil destined for disposal as a hazardous waste (May 20, 1992, 57 FR 21524). This decision was based on the finding that all used oils do not typically and frequently meet the technical criteria for listing as a hazardous waste. Furthermore, EPA has determined that used oil destined for recycling also need not be listed as a hazardous waste since management standards have been issued (September 10, 1992, 57 FR 41566) to provide adequate protection to human health and the environment.

(6) Standards Applicable to Generators of Hazardous Waste.

This section contains standards for generators of hazardous wastes. It includes requirements for obtaining an EPA identification number prior to treatment, storage, disposal, or transport of any hazardous waste. It includes requirements for use of a hazardous waste manifest for

shipments of hazardous wastes. It also includes pre-transportation requirements for packaging, labeling, marking and placarding.

EPA has developed three distinct classes of generators under the RCRA Subtitle C program. These three classes must comply with varying degrees of regulation depending on the "size" of the generator. The largest generators are subject to a full range of regulations while those who generate smaller quantities of waste need only comply with a reduced set of requirements. The three classes of generators are defined as: 1) Large Quantity Generators (LQGs) who generate greater than 1000 kg of waste a month, 2) Small Quantity Generators (SQGs) who generate greater than 100 kg but less than 1000 kg of waste a month and, 3) Conditionally Exempt Small Quantity Generators (CESQGs) who generate less than 100 kg of waste a month. In addition, SQGs and CIESQGs that generate or accumulate more than I kg of acutely hazardous waste on-site in a calendar month are subject to the same rigorous regulatory requirements as a LQG. The generator category that would most frequently apply to USDA agencies and their individual operational sites is the CESQG category.

A facility's status as a LQG, SQG, or CESOG may change from time to time depending on the amount of waste generated on a month-to-month basis. Such a status change, referred to in regulatory circles as "episodic generation," is commonly experienced in all industries where RCRA hazardous wastes are generated. When such volume changes occur during a calendar month, the generator is required to comply with the applicable substantive requirements of one of the three generator classes. To more clearly understand the implications of

such a changing regulatory structure, it may be helpful to examine a specific example.

If a USDA facility was consistently generating less than 100 kg of hazardous wastes from May to August, that facility would be subject only to the minimal requirements stipulated in 261.5 of 40 CFR. If, during September, that same facility conducted extensive maintenance activities and generated greater than 1 C .0 kg of hazardous waste, the facility would be subject to the TUI generator requirements (i.e. notification, manifesting, reporting, etc.) until such time as the 1000 kg or mare of waste is removed from the site. If the facility once again returns to the less than 100 kg level in October (and/or subsequent months; it would once again only have to comply with the minimum regulatory requirements it previously adhered to.

Storage of wastes (within regulatory requirements) on-site from month to month can create complications in determining a generator's status if wastes are stored in a common tank or are stored in segregated monthly batches. Discussion of these types of scenarios is given in the preamble language to the March 26, 1,986 Federal Register (51 FR 10153). It is generally recommended, however, that wastes not be retained from month to month in on-site storage but, instead, be promptly removed to avoid complications and significant regulatory requirements that can ensue.

The current definition and regulatory requirements pertaining to CESQGs are found in Section 261.5 of 40 CFR. A CESQG, as noted above. is any one generating site which produces less than 100 kg of hazardous waste in a month, or less than 1 kg of acutely hazardous waste in a month.

CESQGs are, by regulation, exempt from nearly all RCRA Subtitle C requirements that apply to the larger LQGs and SQGs. In order to be eligible for this regulatory status, the CESQG must:

(a) Identify whether the solid waste is a hazardous waste using the methods identified in Section 262-11 of 40 CFR.

(b) Not generate more than 100 kg of non-acutely hazardous waste in a month or accumulate more than 1000 kg of waste on-site at any given time.

(c) Not generate or accumulate more than 1 kg of acutely hazardous waste at any given time.

(d) Not generate more than 100 kg of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill of any acutely hazardous wastes in a month.

(e) Store the hazardous waste in accordance with established requirements.

(f) Either treat or dispose of the hazardous waste on-site or ensure it is delivered to an approved off-site treatment, storage, or disposal facility. This includes municipal and industrial solid waste disposal sites permitted,

licensed, or regulated by the State.

Any generator who operates in excess of the 100 kg and 1 kg limits must comply with the more rigorous LQG and SQG requirements found in Part 262 of 40 CFR. LQGs and SQGs that treat, store, dispose of, transport, or offer for transport, any hazardous waste, must obtain an EPA Hazardous Waste identification Number. The requirement to obtain an identification number is not applicable to CESQGs as long as the owner/operator complies with the requirements set forth in Section 261.5 of 40 CFR which governs the operation of such generators. In addition, facilities which provide onsite treatment and/or disposal of hazardous wastes or accumulate hazardous wastes in excess of the time provisions noted above, must obtain a RCRA permit. Additional requirements imposed by regulation on permitted treatment, storage, and disposal facilities are very significant.

(7) Accumulation Time.

A LQG and SQG may accumulate hazardous wastes on-site for 90 and 180 days respectively without having to obtain a permit for such waste management activity. Conditions for non-permitted storage and treatment for both generator categories are similar; however, additional safety and transport requirements apply to SQGs. The conditions common to both generator categories apply provided that:

(a) The waste is placed in containers or tanks which meet certain specified criteria.

(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 or tank is labeled or marked clearly with the words "Hazardous Waste".

(d) The generator complies with the requirements for owners and operators regarding preparedness and prevention, contingency plans and emergency procedures, personnel training and, in some cases, a waste analysis plan.

A LQG or SQG that accumulates wastes under the above-mentioned conditions, but exceeds the stipulated time requirements, is considered an operator of a treatment, storage, and disposal facility (TSDF) and is subject to extensive regulatory and permitting requirements identified in Parts 264 and 265 of 40, CFR-

Any generator may currently accumulate up to 55 gallons of hazardous waste or one quart of acutely hazardous waste without a permit and without complying with item (7) above if:

(a) Proper use and management of containers is provided.

(b) Containers are marked as "Hazardous Waste" or with other words that identify the contents.

This activity, commonly referred to as "satellite accumulation," applies to wastes 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. If a generator accumulates a quantity of waste in excess of the 55-gailon limit, transfer of those excess wastes must be completed within 3 days (72 hours). Some States, however, do not recognize the 72-hour rule (State hazardous waste regulations may be more stringent than the Federal RCRA program). Continued management of the wastes without a permit is allowed if the requirements stipulated in items (7) (a) through (d) are followed. In addition, the accumulation "clock" for the excess wastes generated at the satellite accumulation station begins as soon as the 55gallon limit is exceeded. Marking the date this excess accumulation begins is a generator requirement.

Additional information and details concerning waste accumulation limits and requirements in non-permitted situations are found in Section 262.34 of 40 CFR.

Part 262 of 40 CFR also contains requirements for record keeping and reporting. A biennial report must be submitted by March 1 of each even-numbered year for any hazardous waste shipped off-site. An exception report must be submitted for any waste that the manifest system identifies as not reaching an approved disposal site.

(8) Standards Applicable to Transporters of Hazardous Wastes.

This section establishes standards for transporters of hazardous wastes within the United States, if such shipment requires a State or Federal hazardous waste manifest. Departmental agencies should not, for the most part, be directly involved as

transporters. Agencies should ensure that approved contract transporters are used for any shipments of hazardous waste. See Part 263 of 40 CFR for details.

(9) Standards for Owners and Operators of Hazardous Waste Treatment. Storage. and Disposal Facilities (TSOFs).

This section establishes minimum national standards which define the acceptable management of hazardous waste. These standards apply to owners and operators of all TSDFs that manage hazardous wastes under conditions stipulated by RCRA interim status provisions or in final permits. These requirements would also apply to CESQGs who operate a hazardous waste disposal unit on-site. Other individuals or waste management operations need not comply with these standards if specifically exempted by regulation.

The standards applicable to eligible TSDFs include requirements in the following areas:

(a) General facility standards.

(b) Preparedness and prevention.

(c) Contingency plans and emergency procedures.

(d) Manifest system, recordkeeping and reporting.

(e) Releases from solid waste management units (which include ground water protection requirements).

(f) Closure and post-ciosure.

(g) Financial requirements (not applicable to Federal agencies).

(h) Use and management of containers.

(i) Tank systems.

(j) Surface impoundments.

(h) Waste piles.

(i) Land treatment.

(m) Landfills.

(n) Incinerators.

(o) Drip pads.

(p) Miscellaneous units.

(q) Air emission standards for process vents.

(r) Air emission standards for equipment leaks.

In general, USDA agencies should not be involved in the treatment of hazardous wastes, but may find it necessary to store such wastes on site for periods of time in excess of the limits expressed in item (7) above. If such situations arise, a permit application must be submitted to the proper permitting authorities (usually the applicable State agency in charge of environmental affairs). The basic standards in items (9) (a) through (g) above will generally apply to all such facilities that require a permit, while the more unit-specific standards identified in (h) through (r) will only apply depending on the nature of the operations conducted at the facility. The unit-specific standards that will most likely apply to USDA facilities are the container and tank storage requirements identified in (h) and G) above. Requirements for incinerators (n) may also be applicable. Depending on the operational status of the facility, consult Part 264 (final permit standards) and Part 265 (interim status standards) of 40 CFR for further details.

(10) Standards for the Management of Specific Hazardous Wastes and 5oecific Types of Hazardous Waste Manaaement Facilities.

This section governs the management and use of a number of recycled or recovered materials that are generally recognized as wastes but which, through a process of reclamation, can be re-used for other purposes. The issues discussed in this portion of the Subtitle C regulations concern:

(a) Recyclable materials used in a manner constituting disposal.

(b) Hazardous wastes burned for energy recovery in boilers and industrial furnaces.

(C) Used oil burned for energy recovery.

(d) Recyclable materials utilized for precious metal recovery.

(e) Spent lead-acid batteries being reclaimed.

The applicability of these regulations to USDA operations center on the requirements Identified under items N and (c). Burning of hazardous wastes for purposes of destruction or energy recovery may be conducted at some USDA facilities. Similarly, used oils are burned for destructive or energy recovery purposes in most of these same facilities. Additional information on the regulatory requirements entailed by these activities is provided in Part 266 of 40 CFR.

(11) Land Disposal Restrictions

This section identifies RCRA hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste

may continue to be land disposed. For purposes of the Land Disposal Restrictions (LDR) program, land disposal includes any placement of restricted hazardous waste into or on a:

(a) Landfill.

(b) Surface impoundment.

(C) Waste pile.

(d) Underground injection well.

(e) Land treatment facility.

(f) Salt dome or salt bed formation.

(g) Underground mine or cave.

Land disposal under the LDR program is authorized once a restricted waste has been treated to specific concentration levels or by specified treatment methods that EPA has established and approved in various program rulemakings.

Applicability of this portion of the Subtitle C regulation to most USDA operations is on its face somewhat limited; however, the requirements, if applicable, are substantial. Once again, only LQGs and SQGs are subject to the requirements of these regulations, while CESOGs fall completely out of the program. In those situations where USDA facilities can be classified as being in either the LQG or SQG category, compliance and thus liability is specifically placed on the generator. The generator is responsible for testing waste to determine if it is restricted or prohibited from land disposal. If this testing reveals that further treatment is not necessary, certain notification and certification paperwork must be completed and filed certifying the fact. If treatment, or additional treatment by

off-site TSDFs is required, it is the generator's responsibility to notify the treatment facility of the standards to be met by the treatment process, and to submit certain certification paperwork.

The LOR program is a complex and potentially significant liability pitfall for applicable USDA operations. Additional requirements may apply and should be fully investigated prior to manifesting wastes to off-site sources. In addition, newly identified waste streams added to the RCRA program, changing policy and regulatory requirements, and the impacts of legal challenges to existing requirements necessitate continued vigilance and study by USDA agencies. Refer to Part 268 of 40 CFR for additional information on the LDR program.

(12) Hazardous Waste Permit Program.

This section establishes provisions for applying for and obtaining final (and, in some cases, interim status) hazardous waste permits for TSDFs under the Subtitle -C program. It covers basic permitting requirements, including standard permit conditions and requirements for Part A and Part B permit applications, and information on permit modifications and expiration. A permit is required for the treatment, storage, or disposal of RCRA hazardous waste. Once again, generator class plays an important role in determining whether the requirement to apply for and obtain a permit is necessary. CESQGS are exempt from such requirements as long as they comply with the specific requirements of Section 261.5 of 40 CFR and do not dispose of hazardous wastes in an on-site disposal unit. Such a disposal unit would require a permit.

Hazardous waste management units must have permits during:

(a) Active life of the unit, including closure.

(b) Closure for units closing during the interim status period.

(c) Any post-closure period for any unit.

The RCRA permit application consists of two parts, Part A and Part B. Part A, which is a multi-page form available from State or EPA regional offices provides basic information concerning the owners and operators of existing hazardous waste management facilities, as well as the nature of the activities those facilities conduct. Submission of the Part A generally allows the facility to operate under interim status until such time as a final permit is issued by the appropriate regulatory authorities. In most situations, this would be the State in which a particular facility is located. If the State is not authorized under the RCRA program to issue operating permits, then the EPA regional office would be the regulatory authority responsible for permit issuance.

Part B represents the application for a final permit. There is no form to be completed for this portion of the permitting process. Instead, a Part B application is a unique, stand-alone document submitted by the facility in narrative form. It contains both General and technical information relevant to the specific type of facility (such as an incineration unit or a >90 day container storage facility) and may contain many hundreds or thousands of pages of supporting information and data.

There are some specific exclusions from obtaining a RCRA permit which are important. A permit is not required for:

(a) Generators who accumulate hazardous waste on-site for 90 days or less

(as provided for in Section 262.34 of 40 CFR).

(b) Farmers who dispose of hazardous waste pesticides from their own use (as provided for in Section 262.70 of 40 CFR).

(c) Facilities involved solely in the treatment, storage or disposal of hazardous wastes excluded by Sections 261.4 of 40 CFR.

(d) Persons adding absorbent materials to wastes or to waste containers (to remove free liquids), provided that these activities occur at the time waste is first placed into a container.

(e) Owners or operators of totally enclosed treatment facilities, as defined in Section 260.10 of 40 CFR.

(f) Owners and operators of elementary neutralization units of wastewater treatment units as defined in Section 260.10 of 40 CFR.

(g) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of Section 262.30 of 40 CFR at a transfer facility for a period of ten days or less.

(h) Any person(s) undertaking emergency activities resulting from the imminent or actual release, or clean-up and containment, of hazardous waste(s).

Under item (b) above, USDA agencies are not eligible for the farmer exemption for on-site disposal of waste pesticides. This particular exemption only applies to individual farmers who dispose of waste pesticides and/or pesticide residues on their own land and in accordance with

manufacturer instructions found on the pesticide container label.

Consult Part 270 of 40 CFR for additional details on the hazardous waste permitting program.

(13) Requirements for Authorization of State Hazardous Waste Programs.

This section specifies the procedures EPA will follow in approving, revising, and withdrawing approval of State programs and the requirements State programs must meet to be approved by the Administrator under Sections 3006 (b) and M of the RCRA statute. This portion of the Subtitle C regulation does not have a direct regulatory impact on activities conducted at the various USDA facilities. However, it should be noted that the EPA, in accordance with scheduling procedures, authorizes individual States to administer and enforce regulations in lieu of the Federal program. These Federal regulations are intended to act as minimum, uniform standards for governing the management of RCRA hazardous wastes nationwide. Individual States can enact requirements that are more stringent or broader in scope; however, these requirements will not in turn be considered part of the Federally approved program.

With these points in mind, USDA facilities should apprise themselves of changes in program authorization. and State authority, as well as developments involving potential new or more stringent State regulations. Until such time as the State assumes authority for individual regulatory requirements, EPA is responsible for ensuring compliance with the requirements. For further information on the issue of State authorization, consult Part 271 of 40 CFR.

(14) Hazardous Waste Site inventory.

Section 3012 of the RCRA statute requires each State to complete an inventory of each site within the State at which hazardous waste has at any time been stored or disposed of. These inventories may include Federal facilities.

(15) Inventory of Federal Agency Hazardous Waste Facilities.

Section 3016 of the RCRA statute (a HSWA amendment) requires a Federal agency to complete an inventory of each site which the agency owns or operates, or has owned or operated, at which hazardous waste is stored, treated, or disposed of or has been disposed of at any time. The inventory must be submitted to the EPA and to States having an authorized hazardous waste program every two years beginning January 31, 1986. The statutory language presented in Section 3016 describes the information requirements that each Federal agency must comply with. Failure to comply with this requirement within the prescribed timeframe will permit the EPA to carry out the inventory program for the offending agency.

c Solid Waste Management - Subtitle Q

National standards and requirements have been promulgated for the proper management of solid wastes. Applicable standards are summarized herein. It should be noted that disposal of. RCRA hazardous wastes (with the exception. of CESQGs) in a solid waste management unit (Subtitle 0 facilities) is prohibited and makes the facility potentially subject to CERCLA and regulation under Subtitle C requirements.

(1) Guidelines for the Land Disposal of Solid Wastes.

This section provides guidelines for the land disposal of solid waste materials. The guidelines do not apply to hazardous. agricultural, and mining wastes. The requirement provisions delineate minimum

levels of performance for any solid waste land disposal site operation. Recommended procedures are provided for preferred methods by which the objectives of the requirements can be achieved

The guidelines identify 13 different issues applicable to the acceptance of wastes and operation of a solid waste disposal facility. The issues are as follows:

(a) Solid wastes to be accepted.

(b) Solid wastes to be excluded.

(c) Site selection.

(d) Design.

(e) Water quality.

(f) Air quality.

(g) Gas control.

(h) Vector control.

(i) Esthetics.

(j) Cover material.

(k) Compaction.

(l) Safety.

(m) Recordkeeping.

Compliance with these guidelines is mandatory for Federal agencies. This includes non-Federally generated solid waste that is processed and disposed of on Federal land and/or by a Federally-owned facility.

In addition, where Federal agency-generated waste is managed off-site by non-Federal

entities, every effort must be made to utilize facilities which are in compliance with the guidelines. While these guidelines are mandatory for Federal agencies, the regulations also recommend that State, interstate, regional, and local government agencies use them in their activities. Further information concerning these guidelines can be found in Part 241 of 40 CFR.

In October 1991, EPA published final regulations (Part 258 of 40 CFR) governing the management, development and operation of municipal solid waste (MSW) landfills. These regulations, in effect, supersede the Part 241 guidelines as they apply to most municipal units, but remain applicable to certain types of municipal solid waste landfills and industrial solid waste units. Nothing in the new Part 258 regulations releases Federal agencies that own or operate municipal solid waste units from adhering to the Part 241 guidelines. Therefore, Federal agencies must continue to consult the old guidelines as well as the new MSW regulations. Further discussion of this rule is found in item (8) of this discussion of the Subtitle D program (below).

(2) Guidelines for the Storace and Collection of Residential, Commercial and Institutional Solid Waste.

This section provides guidelines for the collection of residential, commercial, and institutional solid wastes and street wastes. It does not cover mining, agricultural, and industrial solid wastes, hazardous wastes, sludges, construction and demolition wastes, infectious wastes and classified wastes. The guidelines include requirements which delineate minimum levels of performance for solid waste collection operations. They also include recommended procedures which suggest actions or preferred methods for achieving the objectives of the

requirements. Compliance with the "requirement" sections of the guidelines is mandatory for Federal agencies. Consult Part 243 of 40 CFR for further information concerning these guidelines.

(3) Solid Waste Manaciement Guidelines for Beverage Containers.

The objective of these guidelines is to reduce solid waste and litter and to conserve energy and materials through the use of a return system for beverage containers. To accomplish the return of beverage containers, a deposit of at least five cents on- each returnable beverage container is to be paid upon purchase by the consumer and refunded to the buyer when the empty container is returned to the dealer. Federal facilities must charge refundable deposits on both refillable beverage containers and non-refillable ones. On-premises sales are excluded from the requirement to sell only returnable containers provided that empty containers are returned to the distributor for refilling or recycling. The guidelines establisn requirements that delineate minimum actions for Federal facility compliance. Consult Part 244 of 40 CFR for further information concerning these guidelines.

(4) Promulgation of Resource Recovery Facilities Guidelines.

These guidelines apply to USDA agencies that have jurisdiction over any real property or facility which involves the agency in residential commercial or institutional solid wastes disposal activities either in-house or by contract. Federal land that is used solely for the disposal of non-federal solid wastes is not considered real property or a facility. The guidelines contain requirements which establish minimum actions for Federal agencies for planning and establishing

resource recovery facilities. Compliance with the requirements is mandatory for Federal agencies. The guidelines also include recommended procedures which suggest actions or preferred methods by which the objectives of the requirements can be achieved. Compliance with recommended procedures is not mandatory. Consult Part 245 of 40 CFR for further information concerning these guidelines.

(5) 5ource Separation for Materials Recovery Guidelines.

This section provides guidelines for the source separation of residential, commercial, and institutional solids. It does not include mining, agricultural, and industrial solid wastes, hazardous wastes. sludges, construction and demolition wastes, infectious wastes and classified wastes. The guidelines include requirements which delineate minimum actions for Federal agencies for the recovery of resources from solid waste through source separation. They also include recommended procedures which provide preferred methods by which the objectives of the requirements can be achieved. Compliance with the requirements is mandatory for Federal agencies. Compliance with recommended procedures is not. Consult Part 247 of 40 CFR for further information concerning these guidelines.

(6) Guidelines f or Procurement of Products that Contain Recycled Materials.

The several sections governing the procurement of products containing recycled materials are intended to assist procuring agencies to comply with the requirements of Section 6002 of the RCRA statute. The statute requires that any purchase or acquisition of a procurement item that exceeds $10,000 in a fiscal year must consider products containing recycled

materials in lieu of the same products that are composed of virgin materials. If such products are functionally equivalent to the virgin product, meet performance standards, are not unreasonably priced, and can be had in a reasonable amount of time, then the product that contains recycled materials must be obtained for use by the agency. Items that have currently been addressed under this statutory requirement and for which acquisition guidelines have been established are as follows:

(a) Building insulation.

(b) Cement and concrete containing fly ash.

(c) Paper and paper products.

(d) Lubricating oils containing re-refined oil.

(a) Retread tires.

For further details concerning each of these procurement guidelines, consult Parts 247 through 253 of 40 CFR.

(7) Criteria for Classification of Solid Waste Disposal Facilities and Practices.

This section establishes criteria to be 6sed in determining which solid waste disposal facilities and practices pose a reasonable probability of adverse effects on health or the environment. Facilities and practices which fail to meet the established criterion are considered to be " open dumps" which are expressly prohibited by RCRA. Criteria have been established for the following:

(a) Floodplains.

(b) Endangered species.

(c) Surface water.

(d) Ground water.

(e) Waste applications to land used io produce food-chain crops.

(f) Disease vectors.

(g) Air.

(h) Safety.

These criteria apply to all solid waste disposal facilities and practices with the following exceptions:

(a) Agricultural wastes, including manures and crop residues, returned to the soil as fertilizers or soil conditioners.

(b) Overburden resulting from mining operations intended for return to the mine sites.

(c) Land application of domestic sewage or treated domestic sewage. (The criteria do apply to disposal of domestic sewage sludges and septic tank pumpings.)

(d) Solid or dissolved materials in irrigation return flows.

(e) Industrial point source discharges subject to permits under Section 402 of the Clean Water Act, as amended.

(f) Source, special nuclear or byproduct material as defined by the Atomic Energy Act, as amended.

(g) Hazardous waste disposal facilities which are subject to regulation under Subtitle C of RCRA.

(h) Disposal of solid waste by underground injection well subject to regulation under the Underground Injection

Control Program (UICP) under the Clean Water Act, as amended.

Unlike the Part 241 guidelines, the criteria stipulated above have been amended to conform with the recently promulgated Part 258 standards, which address MSW` units. These new standards, however, do not apply to industrial solid waste landfills or other non-MSW units. In situations where an owner or operator operates a non-MSW landfill, the criteria of Part 257 of 40 CFR still apply. For additional information on the aforementioned criteria refer to Part 257.

(8) Criteria for Municipal Solid Waste Landfills.

This section represents the most recently promulgated regulations concerning the management of Subtitle 0 municipal solid waste streams. The final rulemaking, which was released in October 1991 and becomes effective in October 1993 (except for financial assurance requirements), sets forth revised minimum Federal criteria for MSW landfills.

The Part 258 regulations, in addition to providing more rigorous management standards, also amend and address earlier Subtitle D requirements and issues. Amendments to the Part 257 criteria have been addressed in this rulemaking by making conforming changes designed to make the earlier criteria consistent with the new requirements. Similar changes have = been made to the related Part 241 guidelines that specifically apply to Federal agencies. Both of these Subtitle 0 requirements are discussed elsewhere in this chapter.

This rulemaking also fulfills a portion of EPA's mandate under Section 405 of the Clean Water Act to promulgate regulations governing the use and disposal of sewage sludge. Sewage sludge is commonly co-

disposed with municipal waste streams and poses a potentially significant threat to human health and the environment. For additional information on these and other issues, consult the regulations found in Part 258 of 40 CFR.

Other major topics of interest addressed by the rule are discussed below:

(a) Location restrictions.

These regulations establish six location restrictions that an owner/operator of a MSW landfill must comply with in order to continue operating existing units, lateral expansions of existing units, or construction of new units. The six location standards apply to:

1 Airports.

2 Floodplains.

3 Wetlands.

4 Fault areas.

5 Seismic impact zones.

6 Unstable areas.

Consult the regulations for specific requirements for each location restriction. Compliance with the standards vary depending on whether the unit is an existing unit or a new development.

(b) Operation criteria.

These regulations establish operating requirements for existing MSW landfill units, lateral expansions of existing units, or new units. in order to comply with these requirements; an owner/operator must:

1 Exclude the receipt of hazardous waste.

2 Provide daily cover.

3 Control on-site disease vectors.

4 Provide routine methane monitoring.

5 Eliminate most open burning.

6 Control public access.

7 Construct run-on and run-off controls.

8 Control discharges to surface water.

9 Cease disposal of most liquid wastes.

10 Keep records that demonstrate compliance.

(c) Design Criteria.

These regulations establish facility design requirements for now MSW units and lateral expansions of existing units. These requirements do not apply to existing units. The design criteria provide

the ownerioperator with two b-sic design options. These options are:

1 A site specific design that meets performance standards and is approved by the Director of an approved State regulatory program.

2 Composite liner design.

Consult the requirements of Section 258.40 of 40 CFR for specifics concerning the required performance standards.

(d) Ground water monitoring requirements and corrective action.

These regulations establish requirements for MSW landfills to comply with ground water monitoring and corrective action requirements. The regulations require that a system of monitoring wells be installed at all MSW landfills. Certain owners/operators of MSW landfill units are not required to comply with these requirements if they meet the conditions of the "small community exemption." In addition, placement of these wells depends on the status of the unit. New units are required to have ground water monitoring systems in place prior to accepting wastes. Existing or lateral expansions to existing units are subject to a phase-in period 0 994 to 1996)

depending on the location of the landfill with respect to the nearest drinking water well.

Corrective action measures required by the MSW rule include a sampling and testing regimen to determine whether constituents identified in Appendix 11 of Part 258 are being released in excess of ground water protection standards. if this is the case, a process of assessing corrective measures, evaluating corrective measures, and selecting and then implementing the remedy must be undertaken to protect threatened ground water resources. Further details, concerning corrective measures, as well as ground water monitoring requirements, are located in Sections 258.50 through 258.58 of 40 CFR.

(e) Closure and post-closure care.

These regulations establish requirements for closing landfill units. These requirements apply to all MSW landfills that close, or intend to close, after the effective date (October 9, 1993) of these regulations. The requirements for closure, monitoring, and maintenance of the unit after closing are found in Sections 258.60 and 258.61 of 40 CFR.

(f) Financial assurance requirements.

Financial assurance requirements of this rule are not applicable to units owned or operated by State or Federal government entities. Non-State or Federal owners/operators of municipal landfills located on lands owned by the USDA, or any of its subordinate organizations, may be subject to the requirement to demonstrate financial responsibility for the costs of closure. post-ciosure care, and corrective action for known releases. Financial assurance requirements do not become effective until October 9, 1994. Consult Sections 258.70 through 258.74 of 40 CFR if non-USDA owners/operators, under contract to USDA, are involved in MSW disposal activities.

d Regulation of Underground Storage Tanks - Subtitle I

Subtitle 1, established as a HSWA amendment to RCRA, was created to regulate the management of "regulated substances" that are stored in underground storage tanks (USTs). Regulated substances include any substance defined in Section 10 1 (14) of CERCLA, and petroleum and petroleum-based substances derived from crude oil. Specifically excluded from regulation under the LIST program are substances regulated as hazardous wastes by Subtitle C of RCRA. Tanks used to manage such substances are regulated by the requirements for tank systems found in Parts 264 and 265 of 40 CFR.

(1) Desion, Construction, Installation and Notification.

Design and construction requirements are intended to prevent releases due to structural failure, corrosion, or spills and overfills for

as long as the LIST system is used to store regulated substances. In order to prevent releases, all new tanks must be constructed of fiberglass-reinforced plastic, steel, or a steel-fiberglass-reinforced plastic composite. Similarly, piping that meets industry standards and is compatible with the substance to be managed must be employed in association with the tank system. Spill and overflow prevention equipment must also be provided for such systems.

Upgrading requirements for existing UST systems are also presented in this section of the regulations. The types of upgrades required and schedules for meeting the upgrade requirements are presented in Section 280.21 of 40 CFR.

Installation of tanks and piping must be conducted in accordance with industry standards and in accordance with the manufacturer's instructions. USDA recommends that actual installation be performed by a certified or licensed installer or a registered professional engineer; however, other methods that may be used to comply with installation certification requirements are provided in the regulations. Consult Section 280.22 (d) of the UST regulations for further information concerning installation and certification requirements.

Notification requirements are intended to provide designated State and local agencies with pertinent information concerning the age, location, use, and condition of existing tank systems. Similarly, the notification process is used as a means for ensuring that new systems meet all design, construction and installation requirements stipulated in the UST regulations. A copy of the notification form used to identify UST systems is found in Appendix I of the UST regulations. Where required by State

regulations or law, appropriate State forms may be substituted in lieu of the Federal form.

Important notification milestones and requirements are provided below.

(a) On or before May 8, 1986, owners of underground storage tanks currently in use for the storage, use, or dispensing of regulated substances were required to notify the appropriate State or local agency of the existence of such tanks. Owners were required to provide information about the age, size, type, location, and use of each tank.

(b) By the same above date, owners of underground storage tanks taken out of operation after January 1, 1974, were required to provide notice of the existence of those tanks to the appropriate agency. The following information was required:

1 Date tank was taken out of operation.

2 Age of the tank on the date taken out of operation.

3 Size, type, and location of the tank.

4 Type and quantity of substances left stored in a tank on the date taken out of operation.

(c) Owners who bring underground storage tanks into use after May 8, 1986, must notify designated agencies within 30 days of bringing the tank into use. Information supplied must include age, size, location and use of tanks.

All of the notification requirements apply to Federal facilities. An installation is Federally-owned if the owner is the Federal Government, even if it is operated by a private contractor. Further information detailing the notification requirements under the UST program is presented in Section 280.22 of 40 CFR.

(d) While most UST systems in use are subject to the requirements of this program, certain systems are excluded from regulation. A list of these excluded systems, as presented in the applicability section (280.10) of the UST regulations includes:

1 USTs holding hazardous wastes as defined under Subtitle C of the RCRA program.

2 Any wastewater treatment system that is part of a wastewater treatment facility regulated under Sections 402 or 307(b) of the Clean Water Act.

3 Equipment or machinery that contain regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

4 Any UST with a capacity of 110 gallons or less.

5 Any UST system that contains de minimis concentration of regulated substances.

6 Any spill of an emergency overflow containment UST

system that is expeditiously emptied after use.

In addition, Congress determined that certain types of in-ground units are not to be considered as USTs. This list of non-UST units is defined in the statutory language of Subtitle I (Section 9001) as welI as in the definitions section of the UST regulations (280.12). The units in question include:

1 Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

2 Tanks used for storing heating oil for consumptive use on the premises where stored.

3 Septic tanks.

4 Flowthrough process tanks.

5 Storage tanks situated in an underground area (such as a basement) if the tank is situated upon or above the surface of the floor.

6 Surface impoundments, pits, ponds or lagoons.

7 Stormwater or wastewater collection systems.

8 Pipeline facilities (including gathering lines).

(2) General Operating Reguirements.

This section includes requirements for ensuring that the UST system is operated in such a manner that releases of regulated substances do not occur. This includes requirements for spill and overfill control, operation and maintenance of corrosion protection, repair requirements, and reporting and recordkeeping requirements. Further information concerning these issues is presented in Sections 280.30 through 280.34 of the LIST regulations.

(3) Release Detection.

This section of the UST program identifies release detection techniques and recordkeeping requirements an owner and operator must implement to ensure that leaking tank systems (and associated piping systems) are identified expeditiously. For existing tank systems, a phase-in schedule for providing release detection is provided. Failure to meet scheduled milestones requires that the system be closed in accordance with closure requirements stipulated elsewhere in the UST regulations. New systems must have appropriate release detection systems in place and in operation prior to the system being brought on-line. Information concerning the applicability of release detection requirements and the schedule for implementing such systems is found in Section 280.40.

The UST regulations identify two separate sets of release detection requirements that must be implemented based on the type of substance stored in the system. Requirements for systems that manage petroleum products and those that manage hazardous substances are presented in Sections 280.41 and 280.42, respectively. Consult the appropriate section for further details.

All USTs and associated piping, regardless of the substance managed or whether it is a new or existing unit, must use one of the several release detection methods stipulated in Section 280.43 of 40 CFR. Of the several methods presented, not all are applicable or even practical for use on ail tank systems. Consult the regulations for further details concerning each of the available methods; a listing of these methods is given below:

(a) Inventory control.

(b) Manual tank gauging.

(c) Tank tightness testing.

(d) Automatic tank gauging.

(e) Vapor monitoring.

(f) Ground water monitoring.

(g) interstitial monitoring.

(h) Other methods.

Any one or combination of several methods may be used for monitoring and detecting releases, unless their use is expressly prohibited by the regulations or their use is impractical. in addition, the regulations allow the use of new or innovative detection technologies as long as they are able to detect released substances at specific levels or with specific probabilities stipulated in the regulations. In order to properly comply with the release detection requirement identified in this section of the UST regulations, USDA recommends that each facility having USTs consult with certified tank service vendors and/or the regulatory agency responsible for implementing the UST regulations for further direction and advice concerning appropriate actions.

(4) Release Reporting, Investigation, and Confirmation.

This section requires that owners and operators of UST systems report releases, suspected releases, or unusual operational conditions associated with their tank systems with 24 hours, or another reasonable time period specified by the agency authorized to implement the Subtitle i program. Additional investigative and confirmation steps are identified in this section to determine whether in fact a release has occurred, what the nature and extent of any confirmed release may be, and the corrective action requirements that will need to be implemented in order to protect human health and the environment. Additional information on these requirements is provided in Sections 280.50 through 280.53 of the UST regulations.

(5) Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances.

This section of the UST regulations requires owners and operators of all UST systems to initiate and conduct remedial operations to mitigate or remove the threat posed by the release of a regulated substance. The regulations require close coordination with the regulatory agency responsible for implementing the UST program to ensure that actions taken to remove substances released from the system are adequate to protect human health and the environment. Undertaking corrective actions will vary from case to case: however, certain common guidelines for conducting remedial activity have been codified. An overview of these points include:

(a) Reporting releases within established timeframes and taking immediate action to prevent further releases to the environment.

(b) Preforming initial abatement measures and site checks.

(C) Site characterization.

(d) Removal of free product from the zone of contamination.

(e) Investigations for soil and ground water cleanup.

(f) Development of a corrective action plan (if required by the implementing agency).

(g) Providing notice to the public of release information and proposed corrective action strategies.

Details concerning each of these general guidelines are presented in Sections 280.60 through 280.67 of the LIST regulations..

(6) Out-of-Service UST Systems and Closure.

This section requires that tank systems "temporarily" closed for more than 12 months must be permanently closed in accordance with procedures provided in this section of the UST regulations. Generally, this involves the removal of the tank or the in situ filling of the tank with an inert substance such as sand or cement. In those situations where the system goes unused for a period of less than 12 months, certain preventative measures must be taken to guard against the release of any residual materials that might still be present in the system.

In the event that the decision to permanently close a UST is made, the owner and operator must conduct assessment studies to determine whether any previously undetected releases from the system have occurred. This entails sampling and other

appropriate activities useful in identifying the presence of a potential release. If evidence of a release is identified, then a corrective action program must be implemented to remove the contamination present. Records concerning closure and any corrective activities conducted in association with the unit must be created and retained in accordance with regulatory requirements stipulated in the UST program.

Additional information concerning the closure or temporary out-of-service status of a UST can be found in Sections 280.70 through 280.74 of the regulations.

(7) Financial Responsibilities.

This section is not applicable to UST systems owned or operated by Federal government entities. Non-Federal owners/operators of UST systems located on lands owned by the USDA, or any of its subordinate organizations, may be subject to the requirement to demonstrate financial responsibility. This section establishes requirements for demonstrating financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of USTs containing petroleum products. No financial requirements have been promulgated to date concerning tank systems containing non petroleum substances regulated under the Subtitle I provisions. In order to meet the necessary requirements, several financial mechanisms have been identified in the regulations. A worksheet for determining the amount of financial coverage required for self insurance, specific language to be used in drafting language for different mechanisms, and information concerning proper signatories to the agreements are provided in the regulations. The mechanisms

provided for demonstrating financial responsibility include:

(a) Financial test of self-insurance.

(b) Guarantee.

(c) Insurance and risk retention group coverage.

(d) Surety bond.

(e) Letter of credit.

(f) State-required mechanisms.

(g) State fund or other State assurance.

(h) Trust fund.

(i) Standby trust fund.

A non-Federal owner and operator of a petroleum UST may use any one or combination of the several mechanisms cited above to demonstrate financial responsibility for one or all of the USTs managed. For further details concerning various aspects of the different mechanisms, consult the financial regulations provided in Sections 280.90 through 280.111 of the UST regulations.

8 COMPLIANCE WITH STANDARDS

a General

Federal responsibilities under RCRA are defined in Section 6001 of the Act. Section 6001 requires Federal agencies to comply with all Federal, State and local requirements, both substantive and procedural. to the same extent as any individual person.

USDA agencies shall establish environmental inspection programs, including on-site monitoring, and review

procedures and schedules to assess compliance at all facilities.

b Hazardous Waste Management

Each agency facility must establish a program to manage any hazardous wastes generated, or caused to be generated by the activities of the facility. The primary goal of the program should be to eliminate or minimize to the maximum extent feasible the generation of hazardous wastes. As a minimum, the Hazardous Waste Management Program should include the following:

(1) Inventory and Control of Purchases.

The initial and most effective method of managing waste is to take appropriate action before wastes are created. Each facility, whether a LQG, SQG, or CESOG, must maintain a current inventory of hazardous substances. This inventory will serve as the basis for control of the purchase of hazardous substances and should assist in reducing the volume entering the facility to the minimum necessary to carry out its mission. There is an existing requirement for hazard assessment in the workplace in OR 4400-2(5)(a)(2), Hazard Communication Programs, which states that "an inventory list of identified chemical and biological agents must be maintained and updated at least annually".

The hazard assessment required by DR 4400-2 could be used as a basis for determining the hazard potential of facility wastes. The requirements of DR 4400-2, along with Section 7001 of the RCRA statute (Employee Protection), should be reviewed to prevent duplicative efforts.

(2) Hazardous Substances Recovery.

All generators of hazardous wastes should recover, reuse, or recycle

their waste streams whenever possible. This should include returning

products to the manufacturer if feasible.

(3) Hazardous Waste Determination.

Each facility must evaluate its activities and processes to determine if the type of waste produced is hazardous. if so, the amount, and storage and disposal practices, must be evaluated to determine the classification of the facility as either a LQG, SQG or CESQG.

(4) Federal/State Notification.

If the facility is found to be a LQG or SQG, the proper Federal and/or State hazardous waste control authority must be notified and proper registration identification numbers obtained. Once again, CESQGs are not required to comply with the requirements stipulated for the larger quantity generators.

(5) Record keeping/Re porting.

Each facility classified as a LQG or SQG must keep records as required by Federal and/or State regulations. This includes copies of manifests that accompany shipments of wastes to the disposal facility, and records of any tests, analyses. or determinations made in characterizing hazardous wastes. It is USDA policy to retain and maintain these records indefinitely, even though EPA's current record retention time is three years. The generator's liability does not end after three years. States may have more restrictive recordkeeping

requirements. Biennial reports are required for SQGs who ship hazardous waste off-site, or who treat, store, or dispose of hazardous wastes on-site.

USDA also requires that CESQGs maintain records to provide documentation that:

(a) The amount and storage of waste generated qualifies the facility as a CESQG.

(b) The facility is disposing of its waste in an environmentally sound manner at a facility that (1) is authorized to manage hazardous waste, (2) is permitted, licensed, or registered by a State to manage municipal or industrial solid wastes, (3) beneficially treats or uses or reuses wastes, or (4) legitimately recycles or reclaims waste for use in other activities.

State reporting requirements vary. Each USDA facility must determine and comply with the reporting/recordkeeping requirements in the State where the waste is generated and/or disposed of.

c Storage

Accumulated hazardous wastes must be kept in a secure storage area. The hazardous waste containers must be in good condition, dated when each period of accumulation began, and labeled as hazardous waste. The storage facility must provide the following:

(1) Protection from adverse weather.

(2) Fire protection.

(3) Segregation of incompatible wastes.

(4) Adequate ventilation.

The storage facility must be well maintained and inspected in accordance with a schedule, for evidence of leaks and deterioration of containers.

Each USDA facility must evaluate the amount of hazardous waste accumulation and time in storage to ensure that Federal and State registration and permit requirements (if required) are met.

Special efforts should be made to maintain CESQG status. If a generator falls into the larger LQG or SQG categories, that generator should take precautions to limit storage to less than 90 days to avoid more stringent permit requirements.

d Pre-transportation Requirements

Hazardous materials not regulated by EPA may be subject to Department of Transportation (DOT) regulations. The DOT regulations include requirements for packaging, labeling, marking, and placarding for both EPA regulated and unregulated wastes. Each USDA facility that offers wastes for transport off-site must meet DOT standards. A USDA facility, which meets the requirements of the LQG and SQG groups and requires transport of hazardous wastes to off-site TSDFs, must prepare a hazardous waste manifest to accompany the shipment. CESQGs (if recognized as such by the applicable State) are not required to prepare manifests. The State where the waste-is generated or disposed can require the generator to use that State's version of the manifest. Each USDA facility generator must ensure that State and local government requirements are met.

e Transporters

Each USDA facility must use a carrier to transport its hazardous wastes that meets all applicable Federal and State transporter requirements. Carriers must have transporter identification numbers and verifiable records of good operating practices.

f Designated Disposal Facility

The off-site TSOF that is designated to receive hazardous wastes generated by USDA facilities must have an applicable RCRA permit (or be in interim status) in order to receive hazardous materials. All such facilities must operate under the terms of interim status requirements of Part 265 of 40 CFR or their permit; acceptance of wastes or operational practices not expressly defined is a violation of interim status or permit conditions that can carry significant regulatory penalties. , Each USDA facility should be cognizant of the compliance record and standing of TSDFs which it designates for further management of its wastes.

Personal knowledge of the compliance standing of such facilities can significantly minimize or reduce the risk of future USDA liability that may arise should the disposal site become subject to a CERCLA action.

g Hazardous Waste Disposal

It is USDA policy to promote waste minimization programs in an effort to reduce the quantities of hazardous wastes produced and support reuse and recycling efforts. In those situations where no other option but waste disposal is available, incineration is the preferred method of treatment and disposal. Due to the complexity of EPA's land disposal requirements and the lasting environmental threat posed by such disposal to ground and surface water media, land disposal will only be used as a last resort.

h Solid Waste Management

(1) General.

Installations and activities generating solid wastes shall meet all applicable requirements or standards issued by Federal, State and local agencies. These standards shall be applied in all solid waste collection and disposal operations and in resource recovery and recycling. In addition, the following waste management standards apply.

(a) Solid wastes that cannot be recovered or recycled will be disposed of in the most cost effective, environmentally sound manner.

(b) Solid wastes shall not be disposed of by open dumping.

(c) Alternative disposal techniques will be evaluated on a total life cycle cost basis. As a minimum, the alternatives below will be considered.

1 Use of regional or municipal resource recovery facilities.

2 Contract collection and disposal.

3 Use of State-approved disposal facilities.

4 Use of area-wide transfer facilities.

5 On-site landfill disposal (if no other alternative is feasible).

(d) Open burning of certain materials may be permitted if in compliance with applicable regulations.

(2) Procedures.

Operation of solid waste collection and disposal systems will be in accordance with "Guidelines" and "Criteria" for collection and disposal, as outlined in 40 CFR. Operations will also comply with State and local requirements.

(3) Beverage containers.

Federal facilities must establish a deposit-return system for all beverage containers, unless a non-implementation plan has been developed and approved.

(i) Underground Storage Tanks

Federal agencies must comply with the notification, release detection, prevention, and correction requirements, and new tank performance standards for ail applicable existing and new underground storage tanks. USDA agencies must also comply with applicable State standards which may be more stringent.

9 REPORTING

a Local and Regulatory Management Reports

USDA agencies shall comply with all hazardous and solid waste management reporting requirements in accordance with applicable Federal and State regulations. Copies of agency inspection reports on RCRA activities shall be submitted to the Department on a periodic basis as requested.

b Abatement Project Reports

See Chapter XI for reporting requirements.

10 TECHNICAL ASSISTANCE

Criteria and procedures for the proper management of hazardous and solid wastes are published. in 40 CFR Parts 240 through 299. Assistance with questions and publications -involving both solid and hazardous wastes (including LIST requirements) can be obtained by calling EPA's RCRA/Superfund Hotline at (800.) 424-9346 or at (703) 920-9810. Additional publications and technical expertise can be obtained by calling the EPA Regional Office or authorized State regulatory agency charged with implementing the RCRA program.

HAZARDOUS AND TOXIC MATERIALS MANAGEMENT PROGRAM

Chapter VII

1 PURPOSE

To provide direction for implementing a USDA program for complying with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and

the Toxic Substances Control Act (TSCA); to identify and evaluate facilities or activities at USDA installations which may be in noncompliance with these Acts; and to take corrective actions where necessary to achieve compliance with applicable regulations and standards.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution, which are outlined in this chapter. There is a certain amount of overlap among and between the various statutes dealing with hazardous and toxic materials. Guidance on oil and hazardous substances Spill Prevention and Contingency Plans is contained in Chapter Ill. Chapter V covers abandoned or uncontrolled hazardous waste sites. Generation, transportation, treatment, storage, disposal, and recycling of hazardous waste is covered in Chapter VI.

There is also a definite interaction between employee and/or worker protection and environmental protection contained in these statutes and regulations. The provisions of this chapter are intended to primarily apply to environmental protection. However, there is a linkage with worker protection issues. For example, FIFRA has requirements for worker protection during application of pesticides. Both EPA and OSHA requirements apply in handling asbestos and polychlorinated biphenyls (PCBs).

Hazardous and toxic materials management within USDA workplaces is a functional responsibility of the Department's Safety and Health Management Division (SHMD). The Division provides oversight and technical assistance to agency safety and health programs on issues concerning the acquisition, storage, and use of hazardous materials. They, along with the Office of Operations, have issued Departmental regulations which deal directly with hazardous and toxic waste management (for example, DR 4400-2, Hazard Communication Programs, and DR 5023-1, Chemical Hazard Communication). USDA agencies should refer to these and other applicable regulations to determine that ail requirements concerning management of hazardous substances are met.,

3 OBJECTIVES

The primary objective of this program is to control hazardous and toxic materials so as to minimize hazards to health and damage to the environment. The following measures are necessary to achieve the objective:

a Products and facilities developed, constructed and procured by the USDA will be managed to minimize health and environmental hazards during:

(1) Research.

(2) Development.

(3) Testing.

(4) Production.

(5) Use.

(6) Storage.

(7) Disposal.

b Use of toxic or hazardous materials will be limited to the maximum extent feasible.

c Procedures that provide the utmost safety during storage, use, and disposal of hazardous and toxic materials will be used. This is especially true where less toxic or hazardous substitutes are not available.

d Safe and environmentally acceptable methods will be developed and used to store and ultimately dispose of substances inherently hazardous or potentially dangerous.

e Proper training will be provided for persons who manage, use, store, and dispose of hazardous and toxic materials.

4 POLICY

It is USDA policy to adopt all measures consistent with applicable laws, regulations, and executive orders; to control hazardous and toxic materials and substances; to implement best management practices (BMPs) in the research, development, procurement, production, use, handling, storage, and ultimate disposal of hazardous and toxic materials; to give priority to establishing measures required to protect health or control pollution: to use nonhazardous or nontoxic substitutes to the extent practicable; and to conserve resources and manage hazardous and toxic materials by reprocessing, recycling, and reusing. Where facilities or activities are not in compliance, corrective actions shall be applied which may include technical solutions and management actions that effectively control hazardous and toxic materials in the environment.

5 DEFINITIONS

See Glossary or refer to the statutes or Code of Federal Regulations, 40 CFR Parts 150 through 180, and 40 CF1R Parts 61 and 761 for definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Establish a program to control hazardous and toxic materials management to protect the health and welfare of people and the environment.

(2) Program and budget for resources required for hazardous and toxic materials management and pesticide programs.

(3) Comply with ail Federal, State, local and USDA requirements on the handling, use, storage, and disposal of hazardous and toxic materials.

(4) Initiate proper procedures to protect the health and welfare of employees who are exposed to hazardous and toxic materials, including certification in pest management activities.

7 TOXIC SUBSTANCES CONTROL ACT (TSCA)

a General

TSCA provides for the regulation of chemical substances that present a hazard to human health or the environment. The principal mechanism of control is EPA's regulation of chemicals in commerce. This includes regulations covering the manufacture, processing, or commercial distribution of chemical substances and mixtures. The EPA also regulates the use and disposal of certain materials by noncommercial entities, including Federal agencies. The USDA concerns primarily involve the provisions of the statute and regulations covering facilities and sites which may contain PCEs and asbestos. However, other provisions of TSCA may apply to certain agency activities.

b Standards

National standards and requirements have been promulgated for the control and use of hazardous chemicals. Applicable standards are detailed below.

(1) Manufacturing. Processing. Distribution in Commerce. and Use of PCBs and PCB Items.

This section describes the restrictions and requirements for the manufacture, processing, distribution, and use of PCBs and PCS items. It also details non-totally enclosed PCE activities which are authorized. See 40 CFR 761.20 and 761.30 for details.

(2) Marking of PCBs and PCB Items.

This section describes the requirements for marking and labeling of PCBs and PCB items such as PCB transformers, PCB large high voltage capacitors, PCB large low voltage capacitors, electric motors containing PC8 coolants, hydraulic systems using PCB hydraulic fluids, heat transfer systems using PCBs. PCB article containers, and PCB storage areas. See 40 CFR 761.40 and 761.45 for details.

(3) Storage and Disposal.

This section describes the requirements for storing, incinerating, and landfilling PCBs and PCB items that have been identified for disposal. This section also details the TSCA exemption process for RCRA-permitted facilities. See 40 CFR 761.60 through 761.79 for details.

(4) PCB Spill Cleanup Policy.

This section establishes criteria for use in determining the adequacy of the cleanup of spills resulting from the release of materials containing PCBs at a concentration of 50 ppm or greater. Spills excluded from these requirements include releases of materials containing PCBs directly to surface waters, sewers or sewage treatment systems, private or public drinking water systems, animal grazing lands, and vegetable gardens. These

are excluded because they involve significant factors that may not be adequately addressed by the cited PCB cleanup requirements. See 40 CFR 7 61.120 through 761.135 for details.

(5) General Records and Reports

This section contains recordkeeping and reporting requirements that apply to PCBs, PCB items, and PCB storage and disposal facilities. Required records include annual logs, documents, correspondence, and data. See 40 CFR 761.180 through 761.193 for details.

(6) PCB Waste Disposal Records and Reports.

This section identifies requirements and restrictions for the preparation and storage of notification forms, waste manifests, and Certificates of Disposal required for PCB waste handling activities. See 40 CFR 761.202 through 761.218 for details.

(7) Asbestos.

Regulations and standards covering exposure to asbestos have been promulgated by EPA and OSHA. Emissions of asbestos to the ambient air are controlled under Section 112 of the Clean Air Act and regulations which establish National Emission Standards for Hazardous Air Pollutants (NESHAPS). These regulations specify control requirements for most asbestos emissions, including work practices to be followed to minimize the release of asbestos fibers during handling of asbestos waste materials. The regulations cite the OSHA permissible exposure limit as a worker protection standard.

The OSHA regulations establish standards to protect workers handling asbestos or asbestos-containing products. These

regulations include a maximum workplace airborne asbestos concentration limit of 0.2 fiber/cc with an action level of 0.1 fiber/cc, calculated as an 8-hour time weighted average exposure limit. Also included are requirements for respiratory protection and other safety equipment and work practices to reduce indoor asbestos dust levels. See 29 CFR 1910.1001 for additional details.

The EPA has also promulgated under TSCA a regulation covering both friable and non-friable asbestos construction materials used in schools. While this regulation only applies to asbestos-containing materials in public and private schools, the information and guidance could be used for other public buildings. See 40 CFR Part 763 for details.

8 FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)

a General

The basic purpose of FIFRA is to regulate the production, distribution, commerce, sale, use, and disposal of pesticides. Among other items, FIFRA provides for the following:

(1) A coordinated Federal/State program to control the use of all pesticides.

(2) Registration and re-registration of all pesticides.

(3) Classification of pesticides for "general" or "restricted" use.

(4) Certification of applicators who handle "restricted" use pesticides.

(5) Civil or criminal penalties for misuse of pesticides.

(6) Establishment of safety standards for use of pesticides in the environment.

(7) Control of the manufacturing of all pesticides.

(8) Cancellation of uses of pesticides that cause or may cause' unreasonable adverse effects on human health and the environment.

b Standards

National standards and requirements have been promulgated for the control and use of pesticides. Applicable standards are detailed herein.

(1) Pesticide Registration and Classification Process.

This describe the information that an applicant must submit for registration, amended registration, or re-registration. It also describes the procedures by which data submitted may challenge registration actions. See 40 CFR Part 152 for details.

(2) Data Requirements for Registration.

This specifies the types and minimum amounts of data and information EPA requires in order to make regulatory decisions concerning the risks and benefits of various types of pesticide products. It also specifies the types and minimum amounts of data EPA requires to determine whether or not to approve applications for experimental use permits. See 40 CFR Part 158 for details.

(3) Good Laboratory Practice Standards.

This prescribes good laboratory practices for conducting studies that support or are intended to support applications for research or marketing permits for pesticide products regulated by EPA. See 40 CFR Part 160 for details.

(4) Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act.

This prescribes the substantive regulations, provisions and requirements for

implementing the statute. It includes among other items, the procedures for product registration, exemptions from registration, labeling requirements, pesticide use classification, guarantees, and criteria for determining unreasonable adverse effects. It also includes specific guidelines for registering pesticides, requirements for State registration to meet special local needs, and conditional registration procedures. See 40 CFR Part 162 for details.

(5) Recommended Procedures for 1he Disposal and Storage of Pesticides and Pesticide Containers.

This prescribes recommended procedures and criteria for the disposal of pesticides, pesticide containers and residues, and pesticide-related wastes. It also provides similar information on storage. These procedures apply to all pesticides, pesticide containers, and pesticide wastes except for the following: disposal procedures do not apply to pesticide containers registered for use in the home if properly disposed of during routine municipal solid waste disposal, nor to containers of Pesticides used on farms or ranches where disposal by open-field burial of single containers is done with due regard to surface and ground water protection. This also provides Procedures for EPA to accept for safe disposal a pesticide for which the registration is canceled under Section 6(c) of FIFRA. See 40 CFR Part 165 for details. USDA activities do not qualify for the designated farm or ranch exemption.

(6) Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions.

EPA may exempt a Federal or State agency from the requirements of the Act if it is determined that emergency conditions exist which may require the exemption. An emergency may be deemed to exist when:

(a) A pest outbreak has occurred or is about to occur, and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest.

(b) Significant economic or health problems will occur without the use of the pesticide.

(c) The time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use.

This provides the procedures that Federal or State agencies must follow in requesting an exemption for an emergency. See 40 CFR Part 166 for details.

(7) Certification of Pesticide Applicators.

This deals with the certification of applicators of restricted use pesticides. It includes the categorization of commercial applicators of pesticides and standards for certification of commercial and private applicators. This also includes requirements for Federal employees who use or supervise the use of restricted use pesticides and are certified in accordance with the Government Agency Plan (GAP). See 40 CFR Part 171 for details. The certification requirement applies to both Departmental employees and contractors.

9 COMPLIANCE WITH STANDARDS

a General

Hazardous material management procedures in this part are presented as preferred methods. By these procedures, the requirements of the environmental standards and the objectives of USDA policies can be achieved.

USDA installations, activities, or facilities that store, handle or transfer hazardous materials will include within their contingency plans, procedures to prevent, control, and report accidental releases of these materials to the environment. Corrective action measures to eliminate performance deficiencies in spill prevention and containment structures will be accomplished as necessary to prevent costly spill cleanup requirements.

Storage facilities for materials hazardous to health and welfare and detrimental to the environment will be constructed and operated in accordance with requirements in 29 CFR Part 1910 and other applicable regulations. As a minimum, storage facilities must consider the following:

(1) Compatibility of chemicals.

(2) Ventilation.

(3) Fire protection.

(4) Containment.

(5) Protection from the elements.

National Fire Protection Agency (NFPA) technical pamphlets may be referenced for guidance on storage of hazardous materials.

Proper safety materials and protective clothing and equipment will be maintained for emergency cleanup, treatment, and decontamination. Area warning signs and labels will be posted as necessary.

No hazardous material, or its container, that will cause adverse effects on the environment, will be used or disposed of in a manner that is not in compliance with:

(1) Instructions on the label.

(2) Use or disposal procedures and standards established by appropriate regulations. See Chapter VI for disposal requirements.

b Specific

(1) PCBs

Handling, use, storage, and disposal of PCBs and PCB items or equipment containing PCBs, will be in accordance with regulations established by:

(a) Toxic Substances Control Act.

(b) Resource Conservation and Recovery Act.

(c) Other applicable regulations.

(2) Asbestos.

Handling, use, storage, and disposal of asbestos, asbestos-containing products, and asbestos waste materials will be in accordance with regulations established by:

(a) Toxic Substances Control Act.

(b) Clean Air Act.

(c) Resource Conservation and Recovery Act.

(d) Occupational Safety and Health Standards.

(e) Other applicable regulations.

(3) Pesticides.

The principle of integrated pest management (IPM) will be used in all pest management programs to the maximum extent feasible. Pesticides will be used in IPM programs only when essential.

(a) When pesticides are applied, only Federal or State approved products will be used.

(b) Product use will be according to the current registration, label directions. or other requirements.

(c) Storage, handling, use, and disposal of pesticides and pesticide-contaminated material will comply with appropriate regulations.

(d) Only trained applicators will apply pesticides.

(e) Only certified applicators will apply pesticides classified as "restricted-use.

(f) Contract pesticide application will be closely supervised and/or monitored by Federal agency personnel.

10 TECHNICAL ASSISTANCE

Assistance and technical publications may be obtained from the EPA through their Regional Office Federal Facility Coordinators or from State or local agencies.

11 PESTICIDE APPLICATOR TRAINING AND CERTIFICATION

USDA agency personnel involved in using or supervising the use of restricted-use pesticides must be certified under an EPA approved Federal agency plan such as those established by the Forest Service or the Animal and Plant Health Inspection Service. Personnel may also be certified under EPA approved State programs if appropriate. USDA agency applicators must receive the training necessary to meet the appropriate pesticide certification program requirements.

12 REPORTING

a Legal and Regulatory Reports

USDA agencies shall comply with all hazardous waste management reporting requirements, including FIFRA and TSCA, in accordance with applicable Federal and State regulations.

b Abatement Proiect Reports

See Chapter XI for reporting requirements.

ENVIRONMENTAL NOISE ABATEMENT PROGRAM

Chapter VIII

1 PURPOSE

To provide direction for implementing a USDA Environmental Noise Abatement program: to identify and evaluate facilities at USDA installations which may not be in compliance with the Noise Control Act: and to effect corrective actions where necessary to achieve compliance with applicable regulations on noise, and to control or reduce noise to meet recommended goals.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution, which are outlined in this chapter. However, a distinction is made between environmental noise and hearing-hazardous noise. This section applies only to environmental noise. Hearing-hazardous noise is addressed by Occupational Safety and Health Administration (OSHA) standards and USDA health and safety policies.

3 OBJECTIVES

The USDA program goal is to control noise produced by USDA activities to protect the health and welfare of its employees and the public within, adjacent to, and surrounding USDA installations. The following objectives are established to achieve this goal.

a Assess the environmental impact of noise produced by USDA activities and reduce harmful or objectionable effects to the maximum extent feasible.

b Comply with applicable regulations on noise control and abatement.

c Achieve noise abatement through the following:

(1) Engineering noise reduction procedures.

(2) Administrative noise control measures.

(3) Land use planning.

(4) Procurement of reduced-noise equipment.

d Incorporate noise control provisions in the procurement of equipment and vehicles.

4 POLICY

It is USDA policy to adopt all measures consistent with applicable laws, regulations and orders: to assess the environmental impact of noise created by Department activities and, to the extent feasible, control or reduce harmful or objectionable effects; and to achieve noise abatement through the application of engineering noise reduction procedures, administrative noise control measures, design and siting of facilities, and procurement of reduced-noise equipment. Where facilities or activities are not in compliance, corrective actions shall be applied, including technical solutions and management actions which may include land use controls.

5 DEFINITIONS

See Glossary or refer to the statute or Title 40, Code of Federal Regulations, Parts 201 through 211, for definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Comply with ail applicable regulations and standards regarding control and reduction of environmental noise.

(2) Develop procedures, as necessary, to assess, monitor, and reduce the impact of agency-unique noise environments.

(3) Assess the noise impact of new equipment.

(4) Retrofit existing vehicles and equipment, if necessary, to reduce noise emissions to acceptable levels based on local conditions or requirements.

(5) Develop a program to achieve noise pollution abatement and control.

(6) Ensure that sufficient funding, as necessary for compliance, is requested in the agency budget.

7 NOISE CONTROL ACT AND QUIET COMMUNITIES ACT

a General

The basic purpose of these Acts is to promote an environment free from noise that may jeopardize public health and welfare. The Noise Control Act, as amended by the Quiet Communities Act, recognizes that primary responsibility for control of noise rests with the State and local governments. Under the Act, EPA is to provide assistance to State and local governments in their development of noise control programs, through coordination of research and development activities and by providing information to the public regarding the noise emission and noise reduction characteristics of products distributed in commerce. To date, EPA activity in these areas has been limited. EPA has recommended as a goal for exterior noise levels a day-night average sound level of 55 decibels for outdoor residential areas. This level is not a standard and does not take into account feasibility or cost. Therefore, the USDA considers sites with a day-night average level of 65 decibels and below to be acceptable for residential and other noise-sensitive areas. Recommended noise levels have also been established for interior areas. These levels are listed in technical publications which are available.from EPA or the Department of Defense. The criteria are recommended levels and are not mandated by regulations.

b Noise Control and Abatement Standards

EPA has issued specific regulations and standards concerning the following:

(1) Low Noise Emission Products.

This regulation provides for testing and certification by EPA of products that meet the criteria for low noise emissions. It also includes a determination as to whether a low noise emission product is an acceptable substitute for a class of products which the Federal Government is currently purchasing. See 40 CFIR Part 203 for details.

(2) Noise Emission Standards.

Standards have been developed for noise emissions from construction equipment and transportation equipment. Specific requirements are established for portable air compressors, medium and heavy trucks, and motorcycles. See 40 CFIR Parts 204 and 205 for details.

8 COMPLIANCE WITH STANDARDS

a General

USDA component agencies shall comply with Federal, State, and local noise laws and standards applicable to the particular facility or activity. USDA agencies shall meet recommended goals or criteria for both exterior and interior noise levels to the maximum extent feasible. An assessment of the impact of environmental noise shall be made for critical noise-sensitive areas.

Corrective actions to reduce the impact of environmental noise should include either singly or in combination:

(1) Noise reduction at the source,

(2) Alteration of the path of noise.

(3)Noise reduction at the receptor site.

b Existing Facilities and Activities

Exterior and interior environmental noise levels will be reduced as necessary through architectural and engineering control methods and procedures.

c Standard Commercial Items

The procedures outlined in Section 15 of the Act shall be followed for acquisition of these items. This section authorizes procurement of certified low-noise emission products which are no more than 125 percent of the retail price of the least expensive type of product for which they are certified substitutes.

d Commercially Manufactured Products

These products, such as medium and heavy duty trucks, shall comply with the noise emission standards published by EPA. An exception maybe necessary for those vehicles which may require special tires that do not meet noise control standards.

e Exemptions

Exemptions for research and other purposes as described in 40 CFR Parts 201 through 211 may be granted by EPA. Requests for waivers or exemptions must be submitted by the USDA agency to EPA for review and approval.

f New Facilities and Activities

Primary emphasis on noise control shall be placed on impact prevention through land management planning and siting of facilities. Acoustical engineering to reduce environmental noise should be incorporated into the design of new facilities.

9 REPORTING

a Legal and Regulatory Reports

USDA agencies shall comply with all noise pollution reporting requirements in accordance with applicable Federal and State regulations.

b Abatement Project Reports

See Chapter XI for reporting requirements.

10 TECHNICAL ASSISTANCE

Assistance and technical publications (which contain techniques and methods for noise reduction and control) may be obtained from the EPA through their Regional office Federal Facility Coordinators and from State or local noise control agencies.

POLLUTION PREVENTION ACT PROGRAM

Chapter IX

1 PURPOSE

To provide direction for a USDA program for implementing the Pollution Prevention Act of 1990 and to take corrective actions where necessary to achieve compliance with applicable regulations and standards.

2 SCOPE

The provisions of this chapter apply to ail USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution, which are outlined in this chapter.

3 OBJECTIVES

The primary objective of this program is to compile information on activities preventing or reducing pollution at the source and submit that

information to EPA in accordance with the provisions of the Pollution Prevention Act of 1990.

4 POLICY

While the Pollution Prevention Act of 1990 carries no statutory requirement for Federal agency compliance, it is USDA policy to pursue a program of voluntary compliance with the provisions of the Act.

5 DEFINITIONS

a Source reduction -- any practice which:

(1) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or other release into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(2) reduces the hazards to public health and the environment associated with the release of such hazardous substances, pollutants, or contaminants.

Source reduction includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

Source reduction does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the provision of a service.

b For other terms, see Glossary or refer to the statute (42 USC 13101).

6 RESPONSIBILITIES

a Agency Heads

(1) Comply With ail applicable regulations and standards regarding the Pollution Prevention Act of 1990.

(2) Establish programs as necessary to collect information to comply with the Pollution Prevention Act of 1990.

(3) Ensure that sufficient funds to achieve compliance are requested in the agency budget.

7 POLLUTION PREVENTION ACT

a General

The purpose of the Pollution Prevention Act of 1990 is to establish a pollution prevention source reduction program which collects and disseminates information and provides financial assistance to States. The statute appears at 42 LISC 1310 1, Al M. No regulations have been promulgated in response to the Act, and most of the Act applies only to EPA. However, one section, Section 6607, has farther reaching provisions that require facilities to provide specific information to EPA.

b EPA Activities

Section 6604 of the Act authorizes EPA to establish a new, independent office to carry out the requirements of the Act and requires EPA to develop and implement a national strategy to promote pollution prevention through source reduction. In response, EPA created the Office of Pollution Prevention within the Office of Policy, Planning, and Evaluation. Section 6604 of the Act also identifies thirteen elements that EPA must include in its strategy. These elements address various aspects of managing source reduction information and providing incentives for source reduction.

c Grants to States for Technical Assistance Programs

Section 6605 of the Act requires EPA to award matching grants to States for programs to promote the use of pollution prevention source reduction techniques by businesses. It identifies the aspects of State programs that would make them eligible for grants, specifies the federal funding matching level, and requires EPA to measure the effectiveness of the State programs receiving grants.

d Source Reduction Clearinghouse

Section 6606 of the Act requires EPA to establish a clearinghouse for pollution prevention source reduction. The clearinghouse is to include a database that is accessible to the public and will have at least three functions: serve as a center for source reduction technology transfer, mount active outreach and education programs, and collect and compile information received by States awarded grants.

e Section 6607 - Source Reduction and Recycling Data Collection

Section 6607 is the only part of the Act that applies directly to parties other than EPA or the States. This section requires any facility owner or operator who is required to fit, a "Form R" under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) to also submit additional information on pollution prevention activities. EPCRA is also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), requirements of which are discussed in Chapter V of this manual. Owner/operators who are not already required to submit a Form R under EPCRA are not subject to the requirements of this section of the Act. While EPCRA carries no statutory requirement for Federal facility reporting, it is USDA policy to voluntarily comply with the provisions of the Act. USDA agencies must therefore comply, as applicable, with the reporting provisions of the Pollution Prevention Act as well.

To facilitate the collection of this information and ensure consistency, the, EPCRA Form R has been revised to include a new section on pollution prevention activities (Section 8). The revised forms became available on July 1, 1992. According to EPCRA regulations (40 CFR Part 372), owners or operators of covered facilities are required to submit their completed forms to EPA by July 1 following each calendar year that they are covered.

The pollution prevention section of the revised Form R only includes data on those chemicals that are already required to be reported under EPCRA. Information on other chemicals is not reported. For each chemical, the revised Form R requires the following information:

(1) The quantity of the chemical entering any waste stream or otherwise released into the environment prior to recycling, treatment, or disposal, and the percentage change

from the previous year, not including any releases due to a catastrophic event, remedial action, or other one-time event, and not associated with production processes.

(2) The quantity of the chemical that is recycled, the percentage change from the previous year, and the recycling process used.

(3) The source reduction practices used. Categories of practices include:

(a) Equipment, technology, process, or procedure modifications.

(b) Reformulation or redesign of products.

(c) Substitution of raw materials.

(d) Improvements in management, training, inventory control, or other general operational phases of industrial facilities.

(e) Other categories identified by EPA.

(4) The quantities from (1) and (2) above, projected for th e two years following the reporting year, expressed as a percentage change.

(5) A ratio of production for the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical.

(6) The techniques which were used to identify source reduction opportunities, including the techniques used to identify each of the practices identified under (3) above.

(7) The quantity of the chemical released due to a catastrophic event, remedial action, or other one-time event, and not associated with production processes.

(8) The quantity of the chemical that is treated and the percentage change from the previous year.

In addition to the required information, an owner/operator may submit additional information on source reduction, recycling, and other pollution prevention techniques used in earlier years. With the exception of trade secret information, all information submitted to EPA may be made available to the public.

In addition to provisions for information submittal on source reduction, recycling, and treatment of toxic chemicals, Section 6607 of the Act also provides for the handling of trade secret information, EPA enforcement through civil and administrative penalties, and civil actions by the public. In these three areas, the Act refers to the provisions of EPCRA that address these topics (Sections 322, 325(c), and 326).

f EPA Report

Section 6608 of the Act requires EPA to prepare and submit to Congress periodic reports on the activities performed in response to the Act. This section specifies the contents of the report and the submittal frequency.

8 REPORTING

USDA agencies shall comply with all applicable reporting requirements set forth in the Pollution Prevention Act of 1990. All facilities required to report under Section 313 of EPCRA shall develop and compile the necessary pollution prevention data and submit such data according to the revised Form R.

9 TECHNICAL ASSISTANCE

Assistance may be obtained from EPA through their Regional Office Federal Facility Coordinators. EPA also operates an EPCRA "hotline" for assistance with specific questions at 800/535-0202 (or 7031920-9877 in Northern Virginia and Washington, DC).

OIL POLLUTION ACT PROGRAM

Chapter X

1 PURPOSE

To provide direction for the implementation of a USDA Oil Pollution Control Program: to identify and evaluate facilities at USDA installations which may not be in compliance with the provisions of the Oil Pollution Act of 1990: to provide a framework supportive of achieving compliance with applicable regulations on oil pollution; and to understand associated, liabilities, interaction with other laws, preventive measures, and responsibilities as a steward of natural resources.

2 SCOPE

The provisions of this chapter apply to all USDA agencies. To the extent provided by law or contract, contractors performing work for USDA must comply with the legal requirements for the prevention, control, and abatement of pollution, which are outlined in this chapter.

3 OBJECTIVES

The USDA program goal is to control oil and petroleum product storage and use, prevent discharge to navigable waters and waters adjoining U.S. shorelines, and support effective and immediate removal and mitigation should a discharge occur. All actions are to be consistent with the National Contingency Plan (NCP) and are to be protective of the health and welfare of employees and the public within, adjacent to, and surrounding USDA installations. The following objectives are established to achieve this goal.

a Control and abate all sources of oil or hazardous petroleum products that present a threat of discharge into navigable waters and adjoining shorelines.

b Comply with all applicable Federal and State regulations on oil pollution control.

c Cooperate fully in reporting, removal, mitigation, and cost assessment and recovery actions in instances were USDA lands are affected by discharge of oil.

d Participate in the determination of policies as a member of the Advisory Board of the Oil Spill Recovery Institute and National Response Teams established by this Act.

4 POLICY

It is USDA policy to adopt all measures consistent with applicable laws, regulations and orders to prevent the discharge or substantial threat of discharge of oil and related petroleum products into the waters of the United States. USDA will also report any such incidents or potential for incidents and afford all reasonable cooperation in damage assessment, clean-up, mitigation, restoration, and preventive measures in accordance with this and related Federal and State laws. The need to effect full and effective preparedness plans, programs, equipment and training is recognized and will be the policy of USDA. Where facilities or activities are not in compliance, corrective actions shall be applied. Also, in accordance with the Oil Pollution Act, USDA will pursue recoverable damages for injury, loss, or destruction of natural resources as a result of a discharge of oil into or upon navigable waters or adjoining shorelines.

5 DEFINITIONS

See Glossary or refer to the Oil Pollution Act of 1990 (33 USC 2701 et. seq.) for definitions of specific terms.

6 RESPONSIBILITIES

a Agency Heads

(1) Comply with all applicable regulations and standards regarding prevention of releases or threat of releases of oil to navigable waters.

(2) Develop procedures, as necessary, to assess, monitor, and reduce the potential for such a release.

(3) Conduct and support damage assessment, response, cleanup and restoration efforts.

(4) As a steward of public lands, pursue cost recovery procedures.

(5) Develop a new Spill Prevention, Control and Countermeasures (SPCM Plan in accordance with provisions of the Act, and EPA and National Oceanic and Atmospheric Administration (NOAA) regulations.

(6) Ensure that sufficient funding, as necessary for compliance, is requested in the agency budget.

(7) Determine if State laws are more stringent than those of the Act and ensure compliance.

7 OIL POLLUTION ACT

a General

The basic purpose of this Act is to consolidate and substantiate the various laws and approaches towards establishing oil soill liability, prevention, preparedness, and cleanup. The new law affects vessels, offshore oil rigs, and onshore terminals, but also applies to facilities that may transport, handle or store oil and petroleum products. The Act W83 implemented under Executive Order 12777 as published in the Federal Register on October 22, 1991 (56 FR 54757). The Act contains many new and important provisions that will significantly affect the transportation, storage and handling of oil and petroleum products. It provides greatly increased liability for oil spills by raising liability limits, reducing defenses to liability, and providing additional circumstances in which a responsible party may be held to unlimited liability. Also, enforcement tools and penalties have been strengthened.

The new law also provides for more extensive preparedness through training, increased requirements for oil spill response equipment, and preparation of a more extensive spill contingency plan that may require approval by regulatory agencies such as EPA or the Coast Guard (depending on the zone of applicability).

Additionally, the Act provides for a greatly increased level of research and development into oil spill prevention, evaluation, control, cleanup and mitigation. The Secretary of Agriculture, for.example, is required to appoint a member for the Advisory Board of the Prince William Sound Oil Spill Recovery Institute which was created under the Act. Also, the Act established the requirement for the creation of an interagency Coordinating Committee on Oil Pollution Research to advance the state of the technology for oil pollution control, and mitigation primarily through the coordination of a program of competitive grants to universities and research institutions.

b Subchapter Synopsis

The four subchapters of the Oil Pollution Act of 1990 are outlined in this subsection.

(1) Subchaoter I - 0il Pollution Liability.and Compensation.

This subchapter:

(a) Provides for a broader liability of an owner or operator of a facility from which oil is discharged.

(b) Amends and consolidates various portions of other laws that address oil spills.

(c) Addresses the Act's interaction with international oil pollution and prevention agreements.

(d) Greatly increases the requirements for notification, planning and response for the prevention and removal of oil pollution.

Responsible party and third party liabilities are described as well as liability limits, exceptions and liability defenses. For the purpose of establishing responsible party liability, the Act includes special exceptions for Federal facilities where the possession and right to use the property is transferred by lease, license or permit. Responsibility for discharges from abandoned facilities reverts to the previous owner. Damages are defined very broadly and any damages for injury to, destruction of, loss of. or loss of use of natural resources including the reasonable costs of assessing the damage, is recoverable by the trustee of that natural resource. A "natural resource" is defined t o include land, fish, wildlife, biota. air, water, ground water, drinking water, and other resources managed, held in trust, or otherwise controlled by the United States, any State, Indian Tribes, or a foreign

government. Executive Order No. 12777 identifies the Secretary of Agriculture among those designated in the NCP as Federal Trustees for natural resources.

Trustees are required to assess injuries to such resources that are attributable to a spill and develop plans for resource restoration, rehabilitation, replacement, or acquisition of the equivalent. The plans are subject to review and comment. NOAA is required to promulgate damage assessment regulations and EPA is to consult with affected trustees on the appropriate action to be taken in connection with any discharge of oil.

The Act also describes the uses of the Oil Spill Liability Trust Fund to include use by Federal authorities for the payment of costs, consistent with the NCP, incurred by the natural resource trustees in assessment, restoration, rehabilitation, replacement or acquisition of the equivalent of damaged resources resulting from an oil discharge.

(2) Subchapter II - Prince William Sound -Provisions.

This subchapter specifically addresses issues concerning Prince William Sound and carries several provisions. These include funding for research and development, and for the implementation of incident preparedness, monitoring, response, and rehabilitation associated with the EXXON VALDEZ oil spill, as well as other potential problems.

Subchapter 11 establishes the Prince William Sound Oil Spill Recovery Institute which, for 10 years, will conduct research and educational and demonstration projects to identify and develop techniques, equipment and materials for dealing with oil spills in the arctic and subarctic marine environment. The Secretary of Agriculture is required to appoint one representative to the

18-member advisory board that is to develop policies of the Institute.

This subchapter also establishes terminal and tanker oversight and monitoring through the formation and funding of several organizations comprised of local residents and business leaders, and Federal and State representatives.

(3) Subchapter III - Miscellaneous.

This subchapter specifies that existing regulations in effect under a law replaced by the Oil Pollution Act remain in effect until repealed, amended, or superseded.

Subchapter III also establishes annual appropriation limitations and specifically addresses protection of the Outer Banks of North Carolina and related additional environmental studies. It also amends the Outer Continental Shelf Act to promote cooperative development of oil- or gas-producing outer continental shelf locations.

(4) Subchapter IV - Oil Pollution Research and Development Program.

The Act establishes the Interagency Coordinating Committee on Oil Pollution Research to coordinate a comprehensive program of oil pollution research, technology development, and demonstration among Federal agencies in cooperation with industry, universities, research institutions, State governments and other countries. Annual funding through 1995 of $6 million is provided to fund this effort which includes research, development and demonstration of new or improved technologies which are effective in preventing or mitigating oil discharges and which protect the environment, including restoration and rehabilitation of natural

resources and evaluation of bioremedial technologies, among others.

8 COMPLIANCE

a General

USDA component agencies shall comply with Federal, State, and local laws and standards applicable to the particular facility or activity. USDA agencies shall meet current requirements of the Clean Water Act and Solid Waste Disposal Act and shall incorporate the provisions of newly promulgated regulations and standards under the Oil Pollution Act within the effective date of their release.

Since enactment of the 1990 Oil Pollution Act, several actions have taken place to implement its provisions and promulgate related regulations. As of August 1992**,** however, final rules have not been released by either EPA or NOAA - the two primary regulatory agencies under this Act.

b Executive Order

On October 22, 1991, President Bush signed Executive Order No. 12777 which implemented the Oil Pollution Act of 1990 and Section 311 of the Federal Water Pollution Control Act (Clean Water Act).

In response to the need for national and regional planning, and coordination of regional preparedness and response actions under the NCP, the Order provided for the creation of the National -Response Team and Regional Response Teams. The Department of Agriculture was appointed along with nine other Departments. the EPA, the Federal Emergency Management Agency, the Nuclear Regulatory Commission and the U.S. Coast Guard1to provide representation on these Teams.

The Order also delegated various regulatory and oversight authorities and specifically designated the USDA as a Federal trustee of natural resources in accordance with duties outlined in the Oil Pollution Act regarding reporting, responding to, and administering the cleanup of oil spills.

c National Oceanic and Atmospheric Administration

On December 28, 1990 (55 FR 53478), NOAA announced its intentions to develop proposed regulations pursuant to Section 1006 of the Oil P011L.tion Act. This addresses procedures by which natural resource trustees may determine recoverable damages as compensation for injury, loss, or destruction of natural resources as a result of a discharge of oil into or upon navigable waters or adjoining shorelines. NOAA later provided a status report of the regulations being considered and asked for comment on the applicability of applying the damage assessment regulations for oil and hazardous waste responses (43 CFR Part 11, promulgated under CERCLA and the Clean Water Act) to oil spill responses (March 13, 1992, 57 FR 8964). As of August 1992. no regulations had been promulgated.

d Environmental Protection Agency

EPA has taken several actions with regard to implementing regulations associated with this Act. On October 22, 1991 (56 FR 54612), EPA announced its intent to revise the Oil Pollution Prevention regulation (40 CFR Part 112) promulgated under the Clean Water Act (Section 311) as amended by the Oil Pollution Act Of 1990. The proposed rule involves changes to requirements and procedures for development of SIPCC Plans.

This proposed rule also includes new notification and reporting procedures. Affected facilities are those that are currently subject to the Oil Pollution Prevention regulation by virtue of their aboveground oil storage capacity, or are otherwise subject to the Clean Water Act and have aboveground storage capacity greater than 1,320 gallons (or greater than 660 gallons in a single container), and with potential for discharge to navigable waters.

The announcement also outlined EPA's intent to separate the rulemaking process into two phases. Under Phase 1, the existing regulations will clarify that many provisions that could be interpreted as recommended practices by the regulated community are in fact reguired practices. It has been envisioned by EPA that Phase 1 would address preliminary reporting and elementary contingency planning steps, and Phase 2 would consider requirements for more comprehensive facility-specific contingency plans. On April 27, 1992 (57 FR 17453), EPA also announced its

intention to revise the NCP by August 1993 to implement the requirements of the Oil Pollution Act.

9 REPORTING

a Damage Assessment Reports

USDA agencies shall comply with all reporting requirements in accordance with applicable Federal (NOAA) and State regulations.

b Oil Storage Tank Notification and SPCC Plans

USDA agencies shall comply with all reporting requirements in accordance with applicable Federal (EPA) and State regulations.

10 TECHNICAL ASSISTANCE

Assistance on issues regarding implementation of the Oil Pollution Act that are within EPA jurisdiction may be obtained from the Solid Waste and Emergency Response Division, or the EPA Regional Office Federal Facility Coordinator. Information on NOAA regulation proceedings under this Act may be obtained from the Office of General Counsel, Damage Assessment Regulations Team.

PLANNING, BUDGETING, AND REPORTING FOR ENVIRONMENTAL POLLUTION PREVENTION, CONTROL. AND ABATEMENT AT USDA FACILITIES

Chapter XI

1 PURPOSE

This chapter prescribes USDA policies, responsibilities and procedures for planning, budgeting, and reporting for proper management of environmental pollution control programs as required by E.O. 12088, OMB Circular A-106, and OMB Circular A-1 1.

2 SCOPE

The provisions of this section apply to all USDA agencies.

3 POLICY

It is the policy of the USDA to plan., program, and monitor its facilities to effectively achieve compliance with environmental pollution control requirements. USDA agencies will identify the resources necessary to carry out this policy.

4 RESPONSIBILITIES

a Aaency Heads

(1) Develop pollution control plans and funding proposals, as necessary to achieve individual project(s) compliance.

(2) Provide direction to field offices for necessary reporting procedures.

(3) Develop and submit agency-wide reports on pollution control projects as required.

5 ENVIRONMENTAL POLLUTION CONTROL PLANS

USDA agencies will develop plans to assure that their facilities will meet applicable Federal, State, and loc ı al standards. Plans will include all existing facilities. The definition of "facilities" is contained in the Glossary.

The agency plan should include all projects involving remedial measures necessary to bring existing facilities into compliance. As a minimum, annual plans will be developed for each of the following programs:

a Clean Air Program

b Environmental Noise Abatement Program

c Safe Drinking Water Program

d Clean Water Program

e Hazardous and Toxic Materials Management Program

f Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Program

g Solid and Hazardous Waste Management Program (RCRA)

Under the requirements of OMB Circular A-1 06 and E.O. 12088 agencies will develop muiti-year plans (5 years) which will provide for phased-corrective action measures as may be necessary. This is particuiarly applicable to the development of CERCLA and RCRA programs.

Agency plans should include all projects involving funding for necessary environmental protection and compliance. The plan should include funds required for studies, management, monitoring, and equipment in addition to the capital costs. Annual operation and maintenance costs should not be included in the plan.

Agency plans should include the milestones for the planning, design, construction and completion of needed projects. This will represent an agency's commitment to comply with applicable standards considering the Federal budget process and assuming that the requested funds will be appropriated and allocated to the agency as planned.

6 ENVIRONMENTAL POLLUTION CONTROL BUDGETS

USDA agencies will submit annual requests for pollution control funding as a part of their regular budget submission to the Department under ON.8 Circular A-1 1 -Funding for CERCLA and RCRA projects will be planned as a Departmental program under the Hazardous Waste Management central account except for minor projects with estimated costs of $25,000 or less which must be included in agency budgets.

Funding for all of the other environmental statutes will be included in the agency's budget. Funding for needed projects may be identified under appropriate benefitting functions and/or submitted as a special program initiative as determined by the agency. All project funding must be included in the agency's annual A-106 submission to EPA and OMB and must be coordinated with the A-1 1 submittal for CERCLA and RCRA projects.

7 ENVIRONMENTAL POLLUTION CONTROL REPORTING

a General

The reports described herein will be used to identify pollution control projects. Report data should be definitive so that it may be used as a basis for necessary programming and budget actions.

b Report(s) Submission

The reports described herein consist of:

A-106 Reports - To be prepared at the facility or activity level.

A-1 1 Reports - To be prepared at the Agency Headquarters level.

A-106 reports will be submitted to Agency Headquarters, the Department and the EPA on an annual basis in May of each year. The A-106 report or plan is a listing of all projects needed to bring the agency's facilities into compliance with environmental laws and regulations. Each project will be identified as to the category of pollution control needed, such as air, water, drinking water or hazardous wastes.

The A-106 submission consists of updating EPA generated computer printout forms for previously submitted individual projects. This is either done on a manual basis for agencies with a limited number of facilities or electronically for agencies that have larger programs for which automated computer systems have been developed. New projects are added by completing EPA Form 3500-7.

During the annual updates the media program offices in EPA provide areas of emphasis for establishing priorities among program areas such as water quality, drinking water, and hazardous waste. However, these emphasis areas are subject to change with every update, so current emphasis is not included as part of this Manual. Also, instructions for submitting the A-106 Federal Agency Pollution Abatement Plan, seem to change each year so they are not included here, but will be part of the information sent to agencies for the annual update.

A-11 reports will be developed and submitted to the Office of the Assistant Secretary for Administration, in May of each year. These reports consist of three documents that are developed to provide additional detail and justification for the annual budget request particularly for the hazardous waste management central account. One report which is specifically required under A-11 is a schedule which provides budget authority and outlays related to environmental cleanup and compliance activities by statute and activity for the past year through the fourth year following the budget year. Funding levels should represent site studies in preparation for cleanup or capital costs. and must not include operation and maintenance funds or personnel costs.

The other reports are divided into two separate formats which are identified as Exhibits 1 and 2 in the examples which are also contained in this chapter. Exhibit 1 is an individual project listing in support of the planning year budget request, it will identify the individual project funding required for either Investigation (preremedial activities) or Implementation (remedial action) and the associated problem and/or corrective action.

The format for Exhibit 2 was developed by OMB, and serves as a five-year planning and program report for the budget year and out-years. For the budget year, all individual projects must be listed for both investigation and implementation action. However, since estimating costs for out-year CERCLA and RCRA projects is extremely difficult, facilities in the out-year investigation stages maybe consolidated into one project. For example, testing for underground storage tanks could be listed as the total number of tanks planned with a lump sum cost estimate. Individual projects will need to listed for sites which have progressed to the implementation phase and which are planned for out-year funding.

EXHIBIT 1

HAZARUOUS WASTE MANAGEMENT

FISCAL YEAR (BUDGET YEAR)

FACILITY INVESTIGATION IMPLEMENTATION PROBLEM AND/0R

CORRECTIVE ACTION

The individual project data for the budget year program request should be based on an anticipated funding of the previous year's request as reflected in the President's Budget.

EXHIBIT 2

Budget Year 18Y) Submission for Hazardous Wastes (Budget Authority in Thousands) (Budget Year)	BY	BY + 1	BY + 2	BY + 3	BY + 4	TOTAL
I. Underground Storage Tanks (RCRA):						
A. BY Projects Requesting Planning Funds:						
Subtotal, BY Planning						
B. BY Projects Requesting Funds For Remedial Action:						
Subtotal, BY Remedial						
Total Underground Storage Tanks						
II. Abandoned Mines (CERCLA):						
A. BY Projects Requesting Planning Funds:						
Subtotal, BY Planning						
B. BY Projects Requesting Funds For Remedial Action:						
Subtotal, BY Remedial						
Total, Abandoned Mines						

I

EXHIBIT 2

Budget Year (BY) Submission for Hazardous Wastes (Budget Authority in Thousands) (Budget Year)	BY	BY + 1	BY + 2	BY 3	BY + 4	TOTAL

III. Other RCRA Proiects:

A. BY Projects Requesting Planning Funds:

Subtotal, BY Planning

B. BY Projects Requesting Funds for Remedial Action:

Subtotal, BY Remedial Action

Total, Other RCRA Projects

IV. Other CERCLA Projects:

A. BY Projects Requesting Planning Funds:

Subtotal, BY Planning

B. BY Projects Requesting Funds for Remedial Action:

Subtotal, BY Remedial Action

Total, Other CERCLA Projects

GRAND TOTAL, (AII Projects)

Subtotal, BY Planning

Subtotal, BY Remedial Action

APPENDIX A

GLOSSARY TERMS

Activity. A unit, organization, or installation that performs a function or mission.

"Administrator". The Administrator of the Environmental Protection Agency.

Ambient air quality standards. Those standards established according to the Clean Air Act to protect health and welfare.

Applicable regulations. Federal, State, regional, or local regulations including status and ordinances.

Applicable water quality standards. The water quality standards

a. Adopted by a State and approved by EPA according to Section 303 of the Clean Water Act, or

b. Issued by EPA according to that section.

Applicator.

a. Certified Applicator. - Any individual who is certified as authorized to use or supervise the use of any pesticide which is classified for restricted use.

b. Private Applicator. - A certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person).

c. Commercial Applicator**.** - A certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on property other than as provided by paragraph (b).

d. Under the direct supervision of a certified applicator. - Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

Best Management Practices (EIMPS). Methods, measures or practices to prevent -or reduce the contributions of pollutants to U.S. waters. BMPs may be imposed in. addition

to, or in the absence of, effluent limitations, standards, or prohibitions. BMPs include, but are not limited to

a. Treatment requirements.

b. Operating and maintenance procedures.

c. Schedules of activities.

d. Prohibition of activities.

e. Other management practices to control --

(1) Plant site runoff.

(2) Spillage or leaks.

(3) Sludge or waste disposal.

(4) Drainage from raw material storage.

Contaminant. Any physical, chemical, biological, or radiological substance or matter in water.

Contiguous zone. The entire zone established by the United States under Article 24 of the Convention on the

Territorial Sea and the Contiguous Zone. This zone contiguous to the territorial sea extends 200 miles seaward from the baseline from which the territorial sea is measured.

Discharge. A term that includes, but is not limited to any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a substance.

Discharge classifications (for oil). The classifications below, provided to guide the On-Scene Coordinator (OSC), are criteria for general response actions. They are not criteria for reporting, nor do they imply associated degrees of hazard to the public health or welfare or results in critical public concern will be classed as a major discharge. The following are quantitative measures for discharges:

a. Minor discharge. A discharge to the inland waters of less than 1,000 gallons of oil, or a discharge of less than 10,000 to 100,000 gallons of oil to coastal waters.

b. Medium discharges. A discharge of 1 000 gallons to 10,000 gallons of oil to inland waters or a discharge of 10,000 to 100,000 gallons of oil to coastal waters.

Major discharge. A discharge of more than 10,000 gallons of oil to the inland waters more than 100,000 gallons of oil to the coastal waters.

Discharge of a pollutant.

a. Any addition of any pollutant to navigable waters from any point source.

b. Any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

Disposal. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.

Effluent limitation. Any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean including schedules of compliance.

Emission "Standard of Performance". A standard for emissions of air pollutants which reflects the degree of best systems of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

Environmental enhancement. Actions taken to improve the environment. These actions include, but are not limited to, those to abate environmental pollution and meet environmental quality standards.

Environmental pollution. The condition resulting from the presence of chemical, physical, radiological, or biological forces that-

a. Alter the natural environment.

b. Adversely affect human health or the quality of life, biosystems, structures and equipment, recreational opportunity, aesthetics, and natural beauty.

Environmental pollution control standard. Any one of the Federal, State and regional quality standards established to protect and enhance environmental quality.

Facility. Facilities include buildings, structures, Public works, equipment, aircraft, vessels, and other vehicles and property under the control of, or constructed or manufactured for leasing to, the Federal Government.

"Federal Agency". Any Department, Agency, or instrumentality of the U.S.

Harmful discharge (for oil) into navigable waters and the contiguous zone. As defined by 40 CFR 110, discharges of certain quantities of oil into or upon U.S. navigable waters of adjoining shorelines and into or upon the waters of the contiguous zone. Discharges are such that they-

a. Violate applicable water quality standards, or

b. Causes a film or sheen upon, or discoloration of, the surface of the water or adjoining shorelines, or

c. Causes a deposit of sludge or emulsion beneath the surface of the water or upon adjoining shorelines.

Hazardous substance.

(a) Any substance designated pursuant to Section 311 (b)(2)(A) of the Federal Water Pollution Control Act. (b) any element, compound, mixture solution, or substance designated pursuant to Section 102 of CERCLA, (c) any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (d) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act, (9) any hazardous air pollutant listed under Section 112 of the Clean Air Act, and M any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action Pursuant to Section 7 of the Toxic Substances Control Act.

Hazardous waste. A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may-

a. Cause. or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Haz**ardous waste generation**. The act or process of producing hazardous waste.

Hazardous waste management. The systematic control of the collection, source separation, storage. transportation, processing, treatment, recovery, and disposal of hazardous wastes.

Hazardous waste storage. 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 water.

Hazardous waste treatment. 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 nonhazardous, 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 nonhazardous.

Implementation plans. Plans developed to designate the methods to attain and maintain ambient air quality standards.

Installation. A grouping of facilities, located in the same vicinity, that supports certain functions.

Integrated post management. The management of actual and potential pest problems using a combination of available preventive and corrective control measures. The biological effectiveness, environmental acceptability and cost effectiveness of the measure are considered before their use.

Manifest. The form used f or identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

Maximum contaminant level. The maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

Mobile sources. Vehicles, aircraft, watercraft, construction equipment, and other equipment that use internal combustion engines for propulsion.

National Response Center (NRC). The Washington, D.C. Headquarters that coordinates activities relative to pollution emergencies. It is located at Headquarters, U.S. Coast Guard (USCG).

Nationall Response Team (NRT). A team of representatives from the primary and advisory agencies that serves as the national body for--

a. Planning and preparedness actions before a pollution discharge.

b. Coordination and advice during a pollution emergency.

Natural resources. Land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, pertaining

to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government.

Navigable waters or navigable waters of the United States. The waters of the United States, including the territorial seas.

Nontransportation-reiated onshore and offshore facilities.

a. These facilities include but are not limited to--

(1) Oil and hazardous substance storage facilities and related equipment and appurtenances.

(2) Fixed bulk plant storage, terminal facilities, consumer storage, pumps, and drainage systems used in storage.

b. These facilities include--

(1) Waste treatment facilities including implant pipelines, effluent discharge lines, and storage tanks.

Excluded are--

(a) Waste treatment facilities located on vessels and terminal storage tanks and appurtenances for the reception of oily ballast water, or

(b) Tank washings from vessels and associated systems used for offloading vessels.

(2) Loading racks, transfer hoses, loading arms, and other pieces of equipment that are

(a) Appurtenant to a nontransportation-related facility or terminal facility.

(b) Used to transfer oil and hazardous substance in bulk to or from highway vehicles or railroad cars.

(3) Highway vehicles and railroad cars that

(a) Are used to transport oil and hazardous substance exclusively within the confines of a nontransportation-related facility.

(b) Are not intended to transport in interstate or intrastate commerce.

(4) Pipeline systems that

(a) Are used to transport oil and hazardous substance exclusively within the confines of a nontransportation-related facility or terminal facility.

(b) Are not intended to transport, interstate or intrastate commerce but, excluding pipeline systems, are used to transfer oil and hazardous substance in bulk to or from a vessel.

Offshore facility. Any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under other waters, other than a vessel or a public vessel.

Oil.

a. Oil of any kind or in any form, including but not limited to-

(1) Petroleum.

(2) Fuel oil.

(3) Sludge.

(4) Oil refuse.

(5) Oil mixed with wastes other than dredged spoil.

b. The terms oil and petroleum, oils, lubricants (POL) are used interchangeably.

On-Scene Coordinator (OSC). The Federal official prede3ignated by EPA or USCG to coordinate and direct Federal discharge removal efforts in approved regional contingency plans at the scene of an oil or hazardous substance discharge.

Onshore facility. Any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land or nonnavigable waters within the United States.

Open burning. The combustion of any material without the characteristics below:

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

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

c. Control of emission of the gaseous combustion products.

Open dump. A site for the disposal of solid waste which is not a sanitary landfill within the meaning of Section 4004 of RCRA.

Person. An individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).

Pesticide.

a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Point Source. 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.

Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garage, sewage sludge, munitions, chemical wastes, biological materials heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Primary drinking water regulation. A regulation which--

a. Applies to public water systems;

b. Specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

c. Specifies for each such contaminant either-

(1) A maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(2) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements.

d. Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels, and to insure proper operation and maintenance of the system, and requirements as to the minimum quality of water which may be taken into the system and siting for new facilities for public water systems.

Public water system. A system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes:

a. Any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily 'in connection with such system.

b. Any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system.

Regional Response Team (RRT). A team of regional Federal representatives of the primary or selected advisory agencies. It acts within its region as an emergency response team that performs functions like those of the NRT.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such person, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of

1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act, or, f or the purposes of Section 104 of CERCLA or any other response action, any release of source by product, or special nuclear material from any processing site designated under Section 1 C)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978, and (d) the normal application of fertilizer.

Remove or Removal. The cleanup or removal of released hazardous substances from the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measure to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for.

Remedy or Remedial Action. Those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances f or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavation, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions, protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President determines that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or may otherwise be necessary to protect the public health or welfare.

Respond or Reponse. Remove, removal, remedy, and remedial action.

Sanitary landfill. A facility for the disposal of solid waste which meets the criteria published under Section 4004 of RCRA.

Schedule of compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

Secondary drinking water regulation. A regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (a) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (b) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

Solid waste. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and. from community activities, but.does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

Solid waste management. The systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

Stationary source. Any building, structure, facility, or installation which emits or may emit any air pollutant.

Toxic pollutant. Those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, generic mutations, physiologic malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.