

Draft RCRA Model Standardized Permit for Containment Buildings
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INTRODUCTION

The United States Environmental Protection Agency (EPA) is proposing revisions to the RCRA hazardous waste permitting program to allow a general or standardized permit. The RCRA standardized permit would be a document that either the EPA or an authorized State issues. The standardized permit would consist of a uniform portion, that would be included in all cases, and a supplemental portion, that would be included at the EPA's or State's discretion.

RCRA standardized permits are special forms of permits for facility owners or operators that generate hazardous waste and then non-thermally treat or store the waste in containment buildings. Standardized permit facility owners or operators would be regulated under Subpart I of 40 CFR 270, Part 124 Subpart G, and the proposed Part 267.

This new permitting system is designed to help streamline the administrative permitting process and shorten the overall time it takes to obtain a RCRA permit. This streamlining however will not result in a lessening of the environmental protection offered by the permit. This new permitting system would also reduce the amount of time and administrative resources required to maintain a RCRA permit throughout the operating life of the facility by providing streamlined permit modification and renewal processes for the standardized permit.

The standardized permit process takes into account the relative risks posed by the on-site storage and non-thermal treatment of hazardous waste in containment buildings. These units are relatively simple to design and properly construct. The engineering and construction knowledge and skills necessary to design and construct these units are relatively basic. These units are in common usage in many applications and are frequently bought "off-the-shelf" or built from "off-the-shelf" designs. Industry associations and standards organizations have developed standards for these units that are in widespread use. Past experience with these units indicates that they are simpler to design, construct, and manage than units such as combustion units or land disposal units. Storage and non-thermal treatment of waste in these types of units is generally less complicated than thermal treatment of waste (e.g. combustion of hazardous waste in incinerators, boilers, or industrial furnaces) or disposal of waste (e.g. landfilling). It is easier to control risks at these simpler storage and treatment units. The streamlined standardized permit, as proposed, would allow adequate interaction and oversight by the regulating agency and would provide sufficient technical controls to protect human health and the environment.

Although the proposed standardized permit would streamline some of the administrative permitting process, it is not proposed that public participation requirements and technical standards are streamlined. The proposed standards and requirements are for the most part the same requirements that apply under the current hazardous waste permitting system. Only minimal changes to the general facility standards and several minor changes to the technical requirements for containment buildings are proposed. Because the technical standards remain substantially unchanged, the level of environmental

protection that the standardized permit offers would remain high.

ISSUING A STANDARDIZED PERMIT

Three steps are necessary to prepare a draft standardized permit. First, the Notice of Intent and supporting information from the facility should be reviewed to determine whether the facility is eligible for the standardized permit. Second, a tentative decision on whether to grant or deny coverage under the standardized permit would be made. If a decision is made to grant coverage, appropriate terms and conditions would be proposed. These would be included in the supplemental portion (Module V) of the permit. A draft permit decision within 120 days after receiving the notice of intent and supporting information would be issued. The tentative determination either to grant coverage under the standardized permit, including any tentatively identified facility-specific conditions in a supplemental portion, or to deny coverage under the standardized permit, would constitute a draft permit decision. The proposed requirements in part 124 Subpart A in processing the standardized permit application and preparing a draft permit decision should be followed.

PURPOSE OF THE GUIDANCE

The purpose of this guidance is to help Permit Writers in drafting or reviewing the uniform portion of a standardized hazardous waste management facility permits for containment buildings under Subtitle C of RCRA, as amended. The guidance provides a model of recommended language and format for permit conditions. As the intent is to streamline the permit writing process, it is anticipated that all permits would follow the same format as presented in this model permit.

The model permit will also provide assistance to the facilities that are eligible for a standardized permit in knowing what information should be provided to the regulatory agency to aid in drafting the permit. The model permit also indicates what information the facility will be required to maintain on-site.

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MODULE I - GENERAL PERMIT CONDITIONS

[This permit module contains the general conditions required for all RCRA standardized permits for containment buildings by 40 CFR Part 270. This module must be included in all RCRA standardized permits for containment buildings.]

I.A. EFFECT OF PERMIT

The Permittee is allowed to **[insert appropriate method: treat and/or store]** hazardous waste in accordance with the conditions of this Permit. Any **[storage and/or treatment]** of hazardous waste not authorized in this Permit is prohibited. Subject to 40 CFR 270.4, compliance with this Permit generally constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA. Issuance of this Permit does not convey any property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local law or regulations. Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; Sections 106(a), 104, or 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*, commonly known as CERCLA), or any other law providing for protection of public health or the environment. [40 CFR 270.4, 270.30(g)]

I.B. PERMIT ACTIONS

I.B.1. Permit Modification

This Permit may be modified for both routine and significant changes through compliance with the following Permit Conditions: [40 CFR 270.320, 124.211 through 124.213, and 270.41]

a. Routine Changes

A routine change or modification to the Permit is any change that qualifies as a class 1 or class 2 permit modification under 40 CFR 270.42, Appendix I. The Permittee may make routine changes without obtaining approval from the Regional Administrator. If the routine changes amend the information submitted under 40 CFR 270.275 with the notice of intent to operate under this standardized permit, then the Permittee shall submit to the Regional Administrator the revised information pursuant to 40 CFR 270.275(a) and shall

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provide notice of the changes to the facility mailing list and to state and local governments, in accordance with the procedures in 40 CFR 124.10(c)(1)(ix) and (x). [40 CFR 124.212]

b. Significant Changes

A significant change or modification of the Permit is any change that qualifies as a class 3 permit modification under 40 CFR 270.42, Appendix I; is not explicitly identified in 40 CFR 270.42, Appendix I; or amends any terms or condition in the supplemental portion, Module V, of this Permit. If the Permittee intends to make a significant change to this Permit, the Permittee shall:

- i. Provide notice and conduct a public meeting. The Permittees shall provide public notice at least 30 days prior to the public meeting, in accordance with the requirements in 40 CFR 124.31(d);
- ii. Conduct a public meeting, where the Permittee shall solicit questions from the community and inform the community of the proposed modifications. The Permittee shall maintain a sign-in sheet or provide a method for attendees to provide their names and addresses; and
- iii. Submit to the Regional Administrator, after the public meeting, the exact change(s) and reason for the changes intended for this Permit and if the changes include modifications to the information provided under 40 CFR 270.275 or to terms and conditions in the supplemental portion, Module V, of this Permit. The Permittee shall also submit a summary of the public meeting, the list of attendees and their addresses, and copies of any written comments or materials submitted by the attendees.

I.B.2. Permit Revocation and Re-issuance, and Termination

This Permit may be revoked and reissued, or terminated for cause, as specified in 40 CFR 270.41 and 270.30(f). The filing of a request for a permit modification, revocation and reissuance, or termination, or the notification of planned changed or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any permit condition. [40 CFR 124.5(c), 270.4(a), 270.30(f) and 270.41]

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I.B.3. Permit Renewal

This Permit may be renewed as specified in 40 CFR 270.30(b) and Permit Condition I.E.2. Review of any application for a Permit renewal shall consider improvements in the state of control and measurement technology, as well as changed in applicable regulations. [40 CFR 270.30(b) and HSWA Sec. 212]

I.C. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. [40 CFR 124.16(a)]

I.D. DEFINITIONS

For the purposes of this Permit, terms used herein shall have the same meaning as those in 40 CFR parts 124, 260, 266, 267, 268, and 270, unless this Permit specifically provides otherwise. Where terms are not defined in the regulations or the Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

“Regional Administrator” means the Regional Administrator of the EPA Region _____ **[insert EPA Region]**, or his designee or authorized representative.

I.E. DUTIES AND REQUIREMENTS

I.E.1. Duty to Comply

The Permittee shall comply with all conditions of the Permit, except to the extent and for the duration that noncompliance is authorized by an emergency Permit. Any Permit noncompliance, other than noncompliance authorized by an emergency Permit, constitutes a violation of RCRA and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification; or for denial of a Permit renewal application. [40 CFR 270.30(a)]

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I.E.2. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least 180 days prior to the Permit expiration. [40 CFR 270.10(h) and 270.30(b)]

I.E.3. Permit Expiration

Pursuant to 40 CFR 270.50, this Permit shall be effective for a fixed term not to exceed ten years. As long as EPA is the Permit-issuing authority, this Permit and all conditions herein will remain in effect beyond the Permit's expiration date, if the Permittee has submitted a timely, complete notice of intent under 40 CFR 124.202(b) requesting coverage under a RCRA standardized Permit and, through no fault of the Permittee, the Regional Administrator has not issued a new permit, as set forth in 40 CFR 270.51. If the Regional Administrator deems that the Permittee is not eligible for a standardized permit, the conditions of the expired permit will continue [40 CFR 270.50 and 270.51]

If the Permittee is no longer deemed to be eligible for a standardized permit, the Permittee shall provide to the Regional Administrator a RCRA permit application in accordance with the applicable requirements for 40 CFR Parts 264 and 270.

I.E.4. Need to Halt or Reduce Activity Not a Defense

The Permittee shall not use as a defense that the Permittee must reduce permitted activities in order to maintain compliance with the conditions of the Permit in the event of an enforcement action. [40 CFR 270.30(c)]

I.E.5. Duty to Mitigate

In the event of noncompliance with the Permit, the Permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures that are reasonable to prevent significant adverse impacts on human health or the environment. [40 CFR 270.30(d)]

I.E.6. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of

[NAME OF FACILITY]

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treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit. [40 CFR 270.30(e)]

I.E.7. Duty to Provide Information

The Permittee shall furnish to the Regional Administrator, within a reasonable time, any relevant information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Regional Administrator, upon request, copies of records required to be kept by this permit. [40 CFR 267.72(a) and 270.30(h)]

I.E.8. Inspection and Entry

Pursuant to 40 CFR 270.30(i), the Permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

- a. Enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

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I.E.9. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be the appropriate method from Appendix I of 40 CFR Part 261 or an equivalent method approved by the Regional Administrator. Laboratory methods must be those specified in *Test Methods for Evaluating Solid Waste Physical/Chemical Methods SW-846*, or an equivalent method, as specified in the site Waste Analysis Plan. [40 CFR 270.30(j)(1)]
- b. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, the certification required by 40 CFR 264.73(b)(9) of this chapter, and records of all data used to complete the application for this Permit, for a period of at least 3 years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Regional Administrator at any time. [40 CFR 270.30(j)(2)]
- c. Pursuant to 40 CFR 270.30(j)(3), records of monitoring information shall specify:
 - i. The date, exact place, and time of sampling or measurements;
 - ii. The individual(s) who performed the sampling or measurements;
 - iii. The date(s) analyses were performed;
 - iv. The individual(s) who performed the analyses;
 - v. The analytical techniques or methods used; and
 - vi. The results of such analyses.

I.E.10. Reporting Planned Changes

The Permittee shall give notice to the Regional Administrator, as soon as possible, of any

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planned physical alterations or additions to the permitted facility. [40 CFR 270.30(1)(1)]

I.E.11. Reporting Anticipated Noncompliance

The Permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [40 CFR 270.30(1)(2)]

I.E.12. Certification or Construction Modification

[Note: this condition only applies if the facility is new, modified, or contains or will contain, new units, unit expansions, or modified unit. If the Permit is for an existing facility containing only existing units, insert the terms “Not Applicable” for this condition.]

The Permittee may not treat or store hazardous waste **[insert as appropriate: “at the facility” or “in the modified portion of the facility”]** until the Permittee has submitted to the Regional Administrator, by certified mail or hand delivery, a letter signed by the Permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the Permit; and

- a. The Regional Administrator has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of this Permit; or
- b. The Regional Administrator has either waived the inspection or has not, within 15 days, notified the Permittee of his intent to inspect. [40 CFR 270.30(1)(2)]

I.E.13. Transfer of Permits

This Permit is not transferable to any person except after notice to the Regional Administrator. A change in the ownership or operational control of the facility shall be made through a class 1 modification with prior written approval of the Regional Administrator, in accordance with 40 CFR 270.42, or as a routine change under 40 CFR 124.212. [40 CFR 270.30(1)(3), 270.40]

I.E.14. Twenty-four Hour Reporting

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- a. The Permittee shall report to the Regional Administrator any noncompliance which may endanger health or the environment. Any such information shall be reported orally within 24-hours from the time the Permittee becomes aware of the circumstances. The report shall include the following:
 - i. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies; and
 - ii. Any information of a release or discharge of hazardous waste or of a fire or explosion from the facility, which could threaten the environment or human health outside the facility.
- b. The description of the occurrence and its cause shall include:
 - i. Name, address, and telephone number of the owner or operator;
 - ii. Name, address, and telephone number of the facility;
 - iii. Date, time, and type of incident;
 - iv. Name and quantity of material(s) involved;
 - v. The extent of injuries, if any;
 - vi. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
 - vii. Estimated quantity and disposition of recovered material that resulted from the incident.
- c. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period(s) of noncompliance (including exact dates and times), and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Regional Administrator may waive the five day

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written notice requirement in favor of a written report within fifteen days. [40 CFR 270.30(l)(6)]

I.E.15. Other Noncompliance

The Permittee shall report all instances of noncompliance not reported under Permit Conditions I.E.10 through I.E.14, at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.E.14. [40 CFR 270.30(l)(10)]

I.E.16. Other Information

Whenever the Permittee becomes aware that they failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, the Permittee shall promptly submit such facts or information. [40 CFR 270.30(l)(11)]

I.F. SIGNATORY REQUIREMENT

All applications, reports, or information submitted to or requested by the Regional Administrator, his designee, or authorized representative, shall be signed and certified in accordance with 40 CFR 270.11 and 270.30(k).

I.G. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE REGIONAL ADMINISTRATOR

All reports, notifications, or other submissions which are required by this Permit to be sent or given to the Regional Administrator shall be sent by certified mail or given to:

[Note: Provide the name, address and telephone number of the Regional Administrator or appropriate Regional Division Regional Administrator.]

I.H. CONFIDENTIAL INFORMATION

[NAME OF FACILITY]

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In accordance with 40 CFR 270.12, the Permittee may claim confidential any information required to be submitted by this Permit.

I.I. DOCUMENTS TO BE SUBMITTED PRIOR TO OPERATION

The Permittee shall have submitted the following documents with their Notice of Intent as the basis for this standardized Permit: [40 CFR 270.275]

1. Notice of Intent [40 CFR 124.202(b)]
2. General Facility Information (Part A) [40 CFR 270.13]
3. Meeting Summary [40 CFR 124.31]
4. Compliance with Location Standards [40 CFR 267.18]
5. Obligations to Federal Laws [40 CFR 270.3]
6. Solid Waste Management Units [40 CFR 270.14(d)]
7. Certifications and Audit [40 CFR 270.280 and Part 267]

I.J. GENERAL DOCUMENTS AND INFORMATION TO BE MAINTAINED AT THE FACILITY

Pursuant to 40 CFR 270.290, the Permittee shall maintain at the facility or other accessible location as designated by the Regional Administrator, until closure is completed and certified by an independent, registered professional engineer, the following general documents and information and all amendments, revisions and modifications to these documents and information:

1. A general description of the facility as required by this Permit.
2. The chemical and physical analysis of the hazardous waste and hazardous debris handled at the facility. At a minimum, these analyses shall contain all the information required to treat or store the wastes properly under the requirements of 40 CFR 267 and as required by this Permit.

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3. The Waste Analysis Plan as required by 40 CFR 267.13(b) and as required by this Permit.
4. Security procedures as required by 40 CFR 267.14 and as required by this Permit or justification demonstrating the reasons for the waiver from these requirements.
5. A listing of required equipment as required by 40 CFR 267.14 and as required by this Permit or justification demonstrating the reasons for the waiver from these requirements.
6. A general inspection schedule as required by 40 CFR 267.15(b) and as required by this Permit. The applicable requirements from 40 CFR 267.174, 264.52 and 264.1053 (Subpart BB air emission requirements) shall also be included in the inspection schedule.
7. Preparedness and prevention requirements as required by 40 CFR 267 Subpart C and as required by this Permit.
8. The Contingency Plan as required by 40 CFR 267 Subpart D and as required by this Permit.
9. A description of procedures, structures, or equipment used at the facility to prevent hazards in unloading/loading operations; prevent run-off from hazardous waste handling areas to other areas of the facility or environment or to prevent flooding; prevent contamination of water supplies; mitigate the effects of equipment failure and power outages; prevent undue exposure of personnel to hazardous waste; and prevent releases to the atmosphere, as required by this Permit.
10. Special precautions for ignitable, reactive or incompatible wastes as required by 40 CFR 267.17 and as required by this Permit.
11. Traffic patterns, estimated volume and control as required by this Permit.
12. Personnel training, including both introductory and continuing training programs used to prepare employees to operate or maintain the facility safely, as required by 40 CFR 267.16 and as required by this Permit. Include a brief description of how training will be designated to meet actual job tasks, under 40 CFR 267.16(a)(3) requirements.

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13. The Closure Plan as required by 40 CFR 267.112 and as required by this Permit.
14. The closure cost estimate as required by 40 CFR 267.143 and a copy of the documentation required to demonstrate financial assurance under 40 CFR 267.143. [Note: for a new facility, this required documentation may be gathered 60 days before the initial receipt of hazardous wastes.]
15. The insurance policy or other insurance documentation and liability requirements denoted in 40 CFR 267.147 and as required by this Permit. **[Note: for a new facility, provide documentation showing the amount of insurance meeting the specification of 40 CFR 267.147(a) that you shall have in effect before the initial receipt of hazardous waste for treatment or storage.]**
16. Any proof of coverage by state financial mechanisms, where appropriate, as required by 40 CFR 267.150 and as required by this Permit.
17. A topographic map as required by 40 CFR 267.18 and 270.13 and as required by this Permit. The map shall:
 - a. Show a distance of 1000 feet around the facility at a scale of one inch equal to not more than 200 feet;
 - b. Elevation contours;
 - c. Pattern of surface water flow in the vicinity of and from each operational unit of the facility;
 - d. Map scale and date;
 - e. 100-year flood plain area;
 - f. Surface waters including intermittent streams;
 - g. Surrounding land uses;
 - h. Wind rose;
 - i. Orientation of the map (North arrow);
 - j. Legal boundaries of the facility site;
 - k. Access controls;
 - l. Injection and withdrawal wells both on-site and off-site;
 - m. Buildings, treatment, storage or disposal operations, or other structures (recreational areas, runoff control systems, access and internal roadways, storm,

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sanitary and process sewage systems, loading and unloading areas, fire control facilities, etc);

- n. Barriers for flood and/or drainage control; and
- o. Location of operational units within the facility where hazardous waste is (or will be) treated or stored, including equipment cleanup areas.

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MODULE II - DESCRIPTION OF THE FACILITY AND OWNERSHIP

[Module II identifies the owner, operator, location and operation of the facility.]

II.A. OWNER

The facility owner is [enter name of owner of the facility], herein referred to as the “owner”. [40 CFR 270.13]

[The owner of the facility is ABC Chemical (hereafter “owner”), a wholly owned subsidiary of XYZ, Inc.]

II.B. OPERATOR

The facility operator is [enter name of operator of the facility], herein referred to as the “Permittee”. [40 CFR 270.13]

[The operator of the facility is ABC Chemical (hereafter “Permittee”), a wholly owned subsidiary of XYZ, Inc.]

II.C. LOCATION

II.C.1. Location of Facility

[Provide the common street address (mailing address) and precise physical location of the permitted facility, including county. Indicate if the facility is located on Indian lands.]

[ABC Chemical is located in southern Ash County, Washington, approximately 10 miles north of the City of Beechwood, and near the intersection of Highway 10. The following is the physical address for the ABC Chemical containment building to be permitted by this Permit:

**ABC Chemical
123 Elm Street NW,
Anytown, WA 12345-1234]**

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II.C.2. Facility Layout Map

[Include a site location map and facility layout figure(s) and reference as an attachment.]

A site location map and figures showing the layout of **[insert facility name]** are provided in Attachment **[insert attachment number.]**

III.D. DESCRIPTION

[This section should include a general description of the facility and operations with sufficient detail to provide a clear understanding of all facility operations, and should indicate whether it is a new or existing facility.]

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MODULE III - GENERAL FACILITY CONDITIONS

[This permit module contains conditions covering the general facility requirements of 40 CFR Part 267. This module must be included in all RCRA Standardized Permits for Containment Buildings.]

III.A. DESIGN AND OPERATION OF FACILITY

Pursuant to 40 CFR 267.31, the Permittee shall design, construct, maintain, and operate the facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water, that could threaten human health or the environment.

III.B. GENERAL WASTE ANALYSIS

The Permittee shall follow the waste analysis requirements of 40 CFR 267.13, and as described in the Waste Analysis Plan, which shall be maintained on-site. The Waste Analysis Plan shall address the following Permit Conditions:

III.B.1. Waste Analysis

The Permittee shall obtain a detailed chemical and physical analysis of a representative sample of the wastes prior to treatment or storage of any hazardous waste. At a minimum, the analysis shall contain all the information needed to treat or store the waste to comply with 40 CFR 267 and 40 CFR Part 268 and may either:

- a. Include data that was developed under 40 CFR Part 261, and published; or
- b. Documented data on the hazardous waste or on hazardous waste generated from similar processes.
- c. The Permittee shall repeat the analysis as necessary to ensure that it is accurate and up to date. At a minimum, the Permittee shall repeat the analysis if the process or operation generating the hazardous wastes has changed.

III.B.2. Waste Analysis Plan

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The Permittee shall develop and follow a written waste analysis plan that describes the procedures that will be followed to comply with Permit Condition III.B.1. The Permittee shall keep this plan at the facility. At a minimum, the plan shall specify all of the following:

- a. The hazardous waste parameters that shall be analyzed and the rationale for selecting these parameters, including how analysis for these parameters will provide sufficient information on the waste's properties to comply with Permit Condition III.B.1;
- b. The test methods that shall be used to test for the parameters as named above;
- c. The sampling method to be used to obtain a representative sample of the waste to be analyzed. The Permittee shall obtain a representative sample using either: one of the sampling methods described in Appendix I of 40 CFR Part 261; or an equivalent sampling method;
- d. The frequency for review or repeating of the initial analysis of the waste to ensure that the analysis is accurate and up to date; and
- e. Where applicable, the methods that shall be used to meet the additional waste analysis requirements for specific waste management methods as specified in 40 CFR 264.17, 264.1034(d), 264.1063(d), and 264.1083.

III.C. SECURITY

Pursuant to 40 CFR 267.14, the Permittee shall prevent, and minimize the possibility for, livestock and unauthorized people from entering the active portion of the facility. The Permittee shall be exempt from the requirements if:

1. Physical contact with the waste, structures, or equipment within the active portion of the facility will not injure people or livestock; and
2. Disturbing the waste or equipment will not cause a violation of the requirements of 40 CFR 267.14.

The Permittee shall keep records at the facility justifying the reasons for a waiver. [40 CFR 267.14(b)]

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Unless exemption is demonstrated, the facility shall have and maintain the following:

1. A 24-hour surveillance system (for example, television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility [40 CFR 267.14(c)(1)]; or
2. An artificial or natural barrier (for example, a fence in good repair or a fence combined with a cliff) that completely surrounds the active portion of the facility [40 CFR 267.14(c)(2)]; and
3. A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (for example, an attendant, television monitors, locked entrance, or controlled roadway access to the facility) [40 CFR 267.14(c)(3)].

Unless exemption is demonstrated, the Permittee shall post a sign at each entrance to the active portion of a facility, and at other prominent locations, in sufficient numbers to be seen from any approach to this active portion. The sign shall bear the legend "Danger - Unauthorized Personnel Keep Out". The legend shall be in English and in any other language predominant in the area surrounding the facility (for example, facilities in counties bordering the Canadian province of Quebec must post signs in French, and facilities in counties bordering Mexico must post signs in Spanish), and must be legible from a distance of at least 25 feet. The Permittee may use existing signs with a legend other than "Danger--Unauthorized Personnel Keep Out" if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion of the facility, and that entry onto the active portion of the facility can be dangerous. [40 CFR 267.14(d)]

III.D. GENERAL INSPECTION REQUIREMENTS

Pursuant to 40 CFR 267.15(a)(1), the Permittee shall inspect the facility for malfunctions and deterioration, operator errors, and discharges that may be causing, or may lead to: release of hazardous waste constituents to the environment; or a threat to human health.

The Permittee shall conduct these inspections often enough to identify problems in time to correct them before they result in harm to human health or the environment. [40 CFR 267.15(a)(2)]

The Permittee shall develop and follow a written schedule, to be kept at the facility, for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural

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equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards. The schedule shall identify the equipment and devices that shall be inspected and what problems shall be looked for, such as malfunctions or deterioration of equipment (for example, inoperative sump pump, leaking fitting, etc.). [40 CFR 267.15(b)]

The frequency of the inspections may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies required in 40 CFR 267.174, and 40 CFR 264.1033, 264.1052, 264.1053, and 264.1058, where applicable. [40 CFR 267.15(b)(3)]

The Permittee shall remedy any deterioration or malfunction of equipment or structures that the inspection reveals in time to prevent any environmental or human health hazard. Where a hazard is imminent or has already occurred, the Permittee shall take remedial action immediately. [40 CFR 267.15(c)]

The Permittee shall record all inspections. The Permittee shall keep these records for at least three years from the date of inspection. At a minimum, the Permittee must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions. [40 CFR 267.15(d)]

III.E PERSONNEL TRAINING

III.E.1. Training

All facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 CFR 267.16. The Permittee shall ensure that this program includes all the elements described in the documents that are required under Permit Condition E.III.5.c.

III.E.2. Instructor and Training Content

The Permittee shall ensure that a person trained in hazardous waste management procedures

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shall direct the training program, and shall teach facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their employment positions. At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by including instruction on emergency procedures, emergency equipment, and emergency systems, including all of the following, where applicable: procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; key parameters for automatic waste feed cut-off systems; communications or alarm systems; response to fires or explosions; response to ground water contamination incidents; and shutdown of operations. [40 CFR 267.16(a)(1) and (2)]

III.E.3. Schedule

Facility personnel shall successfully complete the above outlined training program within six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of this Permit shall not work in unsupervised positions until the employees have completed the all training requirements. [40 CFR 267.16(b)]

III.E.4. Annual Review

Facility personnel shall take part in an annual review of the initial required training noted in Permit Condition III.E.1. [40 CFR 267.16(c)]

III.E.5. Documentation

Pursuant to 40 CFR 267.16(d), the Permittee shall maintain the following documents and records at the facility:

- a. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
- b. A written job description for each position listed under Permit Condition III.E.5.a. This description must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;

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- c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position;
- d. Records that document that facility personnel have received and completed the training or job experience required under Permit Conditions III.E.1 through III.E.3; and
- e. The Permittee shall keep training records on current personnel until the facility closes. The Permittee shall keep training records on former employees for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the company.

III.F. SPECIAL PROVISIONS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTE

[Note: This condition should be included in the Permit only if the facility handles ignitable, reactive or incompatible wastes. If the facility does not handle ignitable, reactive or incompatible wastes, insert the terms “Not Applicable” for this condition.]

III.F.1. Ignitability and Ignition Precautions

The Permittee shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste by following these requirements: [40 CFR 267.17(a)]

- a. The Permittee shall separate ignitable or reactive wastes and protect them from sources of ignition or reaction such as: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (for example, from heat-producing chemical reactions), and radiant heat;
- b. While ignitable or reactive waste is being handled, the Permittee shall confine smoking and open flames to specially designated locations; and
- c. “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

III.F.2. Reactivity Precautions

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For treatment or storage of ignitable or reactive waste, or mixing incompatible waste or incompatible wastes and other materials, the Permittee shall take precautions to prevent reactions that: [40 CFR 267.17(b)]

- a. Generate extreme heat or pressure, fire or explosions, or violent reactions;
- b. Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;
- c. Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
- d. Damage the structural integrity of the device or facility; and
- e. Threaten human health or the environment in any similar way.

III.F.3. Documentation

The Permittee shall document compliance with Permit Conditions III.F.1 and III.F.2. The Permittee may base this documentation on references to published scientific or engineering literature, data from trial tests (for example bench scale or pilot scale tests), waste analyses (as specified in Permit Condition III.B), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions. [40 CFR 267.17(c)]

III.G. LOCATION STANDARDS

III.G.1. Location

Pursuant to 40 CFR 267.18(a), the Permittee shall not locate portions of new facilities where hazardous waste will be treated or stored within 61 meters (200 feet) of a fault that has had displacement in Holocene time. For purposes of this Permit, the following definitions shall be used:

Fault means a fracture along which rocks on one side have been displaced with respect to those on the other side.

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Displacement means the relative movement of any two sides of a fault measured in any direction.

Holocene means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present. Procedures for demonstrating compliance with this standard are specified in 40 CFR 270.14(b)(11).

III.G.2. 100-Year Flood Plain

[Note: this permit condition only applies if the facility is location within a 100-year flood plain. If the facility is not located within a 100-year flood plain, insert the terms “Not Applicable” for this condition.]

The facility shall be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood, unless the Permittee can demonstrate to the Regional Administrator’s satisfaction that the Permittee shall safely remove the waste, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters. All information to be considered in demonstrating that the Permittee can meet this requirement shall be provided to the Regional Administrator. For purposes of this Permit, the following definitions apply:

100-year flood plain means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.

Washout means the movement of hazardous waste from the active portion of the facility as a result of flooding.

100-year flood means a flood that has a one percent chance of being equaled or exceeded in any given year. [40 CFR 267.18(b)]

III.H. PREPAREDNESS AND PREVENTION

[Note: this condition applies if the facility treats or stores hazardous waste under a 40 CFR Part 270, Subpart I standardized permit, except as otherwise provided in 40 CFR 267.1(b), which refers to 40 CFR Part 261 Subpart A or 40 CFR 264.1(f) and (g). If the facility is exempt, briefly discuss the reasoning for the exemption.]

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III.H.1. General Design and Operation Standards

The facility shall be designed, constructed, maintained, and operated in a manner which shall minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface water, that could threaten human health or the environment. [40 CFR 267.31]

III.H.2. Required Equipment

[Note: this condition does not apply if the facility can demonstrate that none of the wastes handled or maintained at the facility could potentially cause any fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface water, that could threaten human health or the environment. If the requirements of this condition do not apply, insert the terms “Not Applicable” for this condition and provide a brief justification for the exemption.]

The Permittee shall ensure that the facility will be equipped with the following [40 CFR 267.32]:

- a. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
- b. A device immediately available at the scene of operations, such as a telephone or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
- c. Portable fire extinguishers and fire control equipment. Fire control equipment shall include special foam-, dry chemical- or inert gas-based extinguishing equipment;.
- d. Spill control equipment;
- e. Decontamination equipment; and
- f. Water at an adequate volume and pressure to supply: water hose streams; foam-producing equipment; automatic sprinklers; or water spray systems.

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III.H.3. Testing and Maintenance of Equipment

The Permittee shall test and maintain all required facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment listed, as necessary, to assure its proper operation in time of emergency. [40 CFR 267.33]

III.H.4. Access to Communications or Alarm Systems

[Note: this condition is not applicable if communications or alarm system devices are not required, as indicated in Permit Condition III.H.2. If these systems are not required, indicate this condition to be “Not Applicable”.]

a. Waste Handling

The Permittee shall ensure that all personnel shall have immediate access to an internal alarm system or emergency communications device, either directly or through visual or voice contact with another employee whenever hazardous waste is being poured, mixed, spread, or otherwise handled. [40 CFR 267.34(a)]

b. Single Person

The Permittee shall ensure that any employee, when working alone without the immediate presence of another employee, shall have immediate access to a device, such as a telephone at the area of operations, or a hand-held two-way radio, capable of summoning external emergency assistance. [40 CFR 267.34(b)]

III.H.5. Required Aisle Space

The Permittee shall maintain an aisle space of **[insert actual spacing, e.g., 3 feet]**. This aisle space shall be maintained and allow for the unobstructed movement of personnel, fire protection, fire protection equipment, spill control equipment, and decontamination equipment to any area of operations during an emergency. [40 CFR 267.35] **[Insert this condition only if applicable to the facility. If it is not, insert “Not applicable”.]**

III.H.6. Arrangements with Local Authorities

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a. Arrangements and Agreements

Pursuant to 40 CFR 267.36(a), the Permittee shall attempt to make arrangements and agreements with local authorities, as appropriate for the waste to be handled at the facility and the potential for the need of services. The following arrangements and agreements shall be attempted:

- i. Arrangements to familiarize police, fire departments and emergency response teams with the layout of the facility and associated hazards, places where personnel are normally working, entrances to roads and roads within the facility, and possible evacuation routes;
- ii. Agreements designating primary emergency authority to a specific police and/or a specific fire department when more than one police and/or fire department may respond to an emergency;
- iii. Agreements with any other organizations that may provide support to the primary emergency authority;
- iv. Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
- v. Arrangements to familiarize hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases.

b. Documentation of Refusal

The Permittee shall document in the operating record if State or local authorities listed in Permit Condition III.H.6.a decline to enter into arrangements or agreements for assisting during an emergency. [40 CFR 267.36(b)]

III.I. CONTINGENCY PLAN AND EMERGENCY PROCEDURES

[Note: this condition applies if a facility that treats or stores hazardous waste under a 40 CFR Part 270, Subpart I standardized permit, except as provided in 40 CFR 267.1(b).]

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The Permittee shall have a contingency plan for the facility that is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. The Permittee shall implement the provisions of the plan immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment. [40 CFR 267.51(a) and (b)]

III.I.1. Contents of the Contingency Plan

Pursuant to 40 CFR 267.52(a), the Permittee shall maintain a Contingency Plan that meets all of the following criteria:

- a. The Contingency Plan shall describe the actions facility personnel will take to comply with Permit Conditions III.I and III.I.5 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility;
- b. The Contingency Plan shall describe all arrangements agreed upon by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, as outlined in Permit Condition III.H.6.a;
- c. The Contingency Plan shall provide a list of names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (Permit Condition II.I.4), and the Permittee shall keep the list up to date. Where more than one person is listed, one person shall be named as primary emergency coordinator and the others shall be listed in the order in which they will assume responsibility as alternates;
- d. The Contingency Plan shall include a current list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. In addition, the Permittee shall include the location and a physical description of each item on the list, and a brief outline of its capabilities; and
- e. The Contingency Plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. The Permittee shall describe signal(s)

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to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

III.I.2. Spill Prevention, Control, and Countermeasures (SPCC) Plan

If the Permittee has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan under 40 CFR Part 112, or some other emergency or contingency plan, the Permittee may amend that plan to incorporate hazardous waste management provisions that will comply with the requirements of Permit Condition III.I. [40 CFR 267.52(b)]

III.I.3. Distribution

The Permittee shall maintain a copy of the Contingency Plan, and all amendments and revisions, at the facility. The Permittee shall also submit a copy of the plan, and all amendments and revisions, to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon in the event of an emergency. [40 CFR 267.53]

III.I.4. Amendment of Plan

Pursuant to 40 CFR 267.54, the Permittee shall review the Contingency Plan and amend the plan, if necessary, whenever:

- a. This Permit is revised;
- b. The Contingency Plan fails during an emergency;
- c. The Permittee modifies the facility, in either its design, construction, operation, maintenance, or other circumstance, in a manner that materially increases the potential for fires, explosions, or releases of hazardous waste constituents, and/or changes the response necessary in an emergency;
- d. The Permittee modifies the list of emergency coordinators; and/or
- e. The Permittee modifies the list of emergency equipment.

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III.I.5. Emergency Coordinator

The Permittee shall designate at least one employee who shall be responsible for coordinating all emergency response measures. This person shall be the Emergency Coordinator and shall be either on the facility premises or on call at all times. The Emergency Coordinator shall be available to respond to an emergency by reaching the facility within a short period of time. The Emergency Coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, the Permittee shall ensure that the Emergency Coordinator has the authority to commit the resources needed to carry out the contingency plan. [40 CFR 267.55]

III.I.6. Required Emergency Procedures

a. Immediate Actions

The Permittee shall ensure that in the event of an imminent or actual emergency situation, the Emergency Coordinator, or designee, shall immediately activate the internal facility alarm or communications system to notify all facility personnel and shall notify, if warranted, appropriate State and local agencies with designated response roles. [40 CFR 267.56(a)]

b. Release, Fire or Explosion

Pursuant to 40 CFR 267.56(b), in the event there is a release, fire, or explosion, the Emergency Coordinator shall:

- i. Immediately identify the character, exact source, amount, and areal extent of any released materials. The Emergency Coordinator may do this by observation or review of facility records or manifests, and, if necessary, by chemical analysis [40 CFR 267.56(b)(1)]; and
- ii. Assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion. **[For example the assessment**

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would consider the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-off from water or chemical agents used to control fire and heat-induced explosions.] [40 CFR 267.56(b)(2)]

c. Reporting Findings

Pursuant to 40 CFR 267.56(c), if the Emergency Coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the Emergency Coordinator shall report the findings as follows:

- i. If the Emergency Coordinator's assessment indicates that evacuation of local areas may be advisable, he shall immediately notify appropriate local authorities and shall be available to help appropriate officials decide whether local areas should be evacuated [40 CFR 267.56(c)(1)]; and
- ii. The Emergency Coordinator shall immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll-free number 800/424-8802). The report shall include:
 - (a) Name and telephone number of the reporter;
 - (b) Name and address of facility;
 - (c) Time and type of incident (for example, a release or a fire);
 - (d) Name and quantity of material(s) involved, to the extent known;
 - (e) The extent of injuries, if any; and
 - (f) The possible hazards to human health or the environment outside the facility. [40 CFR 267.56(c)(2)]

d. Mitigative Measures

During an emergency, the Emergency Coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operations, collecting and containing release waste, and

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removing or isolating waste piles, waste pile containers and/or other containers. [40 CFR 267.56(d)]

e. Monitoring

In the event the facility stops operations in response to a fire, explosion, or release, the Emergency Coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, as appropriate. [40 CFR 267.56(e)]

III.I.7. Post Emergency Procedures

Immediately after an emergency, the Emergency Coordinator shall provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. [40 CFR 267.57(a)]

The Emergency Coordinator also shall ensure that, in the affected area(s) of the facility [40 CFR 267.57(b)]:

- a. No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
- b. All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

III.I.8. Notification and Record Keeping

The Emergency Coordinator shall notify the Regional Administrator, and appropriate State and local authorities, that the facility is in compliance with Permit Condition III.I.7 before operations are resumed in the affected area(s) of the facility. [40 CFR 267.58(a)]

Pursuant to 40 CFR 267.58(b), the Emergency Coordinator shall note the time, date, and details of any incident that requires implementing the contingency plan in the operating record. Within 15 days after the incident, the Emergency Coordinator shall submit a written report on the incident to the Regional Administrator. The Emergency Coordinator shall include the following in the report:

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- a. The name, address, and telephone number of the owner or operator (Permittee);
- b. The name, address, and telephone number of the facility;
- c. The date, time, and type of incident (e.g., fire, explosion);
- d. The name and quantity of material(s) involved;
- e. The extent of injuries, if any;
- f. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- g. The estimated quantity and disposition of recovered material that resulted from the incident.

III.J. RECORDKEEPING, REPORTING AND NOTIFICATION

[Permit Condition III.J. applies if the facility treats or stores hazardous waste under a 40 CFR Part 270, Subpart I standardized permit, except as provided in 40 CFR 267.1(b).]

In addition to the Permit Conditions herein, the Permittee shall comply with the manifest requirements of 40 CFR Part 262 whenever a shipment of hazardous waste is initiated from the facility. [40 CFR 267.70]

III.J.1. Recordkeeping

Pursuant to 40 CFR 267.71 (a) and (b), the Permittee shall keep a written operating record at the facility, until facility closure, and shall record the following information, as it becomes available:

- a. A description and the quantity of each type of hazardous waste generated, and the method(s) and date(s) of its storage and/or treatment at the facility as required by Appendix I of 40 CFR Part 264;
- b. The location of each type of hazardous waste within the facility and the quantity at each

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location;

- c. Records and results of waste analyses and waste characterization determinations you perform as specified in Permit Conditions III.B.2 and III.F, and 40 CFR 264.1063;
- d. Summary reports and details of all incidents that require you to implement the contingency plan as specified in Permit Condition III.I.8;
- e. Records and results of inspections as required in Permit Condition III.D. These records and results shall be kept for three years;
- f. Monitoring, testing or analytical data, and corrective action when required by Permit Module VI and 40 CFR 264.1063(d) through 264.1063(i), and 40 CFR 264.1064;
- g. All closure cost estimates as required in Permit Condition VII.B;
- h. Certification, at least annually, that there is a facility program in place to reduce the volume and toxicity of hazardous waste that is generated to the degree that is economically practicable; and that the proposed method of treatment or storage is that practicable method currently available that minimizes the present and future threat to human health and the environment;
- i. For an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration if applicable, required under 40 CFR 268.7; and
- j. For an on-site storage facility, the information in the notice (except the manifest number), and the certification and demonstration if applicable, required under 40 CFR 268.7.

III.K. CLOSURE

[Permit Condition III.K. applies this is a facility that treats or stores hazardous waste under a 40 CFR Part 270, Subpart I standardized permit, except as provided in 40 CFR 267.1(b).] [40 CFR 267.110]

The Permittee shall obtain clean closure of the facility in compliance with the following permit

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conditions. If clean closure is not obtainable, the Permittee shall obtain an individual post-closure permit separate from this Permit.

III.K.1. Closure Standards

Pursuant to 40 CFR 267.111, once the Permittee has stopped operation of the unit(s), the Permittee shall close storage and treatment units in a manner that:

- a. Minimizes the need for further maintenance; [40 CFR 267.111(a)]
- b. Controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; [40 CFR 267.111(b)]
- c. Meets the closure requirements of Permit Condition III.K; [40 CFR 267.111(c)]
- d. All hazardous waste and hazardous waste residues are removed from the containment system(s); and [40 CFR 267.176]
- e. All remaining buildings, liners, busses, and soil containing or contaminated with hazardous waste or hazardous waste residues are either removed or decontaminated. [40 CFR 267.176]

III.K.2. Closure Procedures

To close a facility, the Permittee shall have an approved closure plan and follow notification requirements in Permit Condition III.K.2.d. [40 CFR 267.112]

- a. Written Closure Plan

[Note: the EPA is considering the option of not requiring a closure plan, as the requirement is for clean closure of all units. Any closure requirements specific to the facility would be incorporated into the permit conditions. The Regional Administrator would instead use inspections and certifications to assure that the unit(s) were closed in accordance with the clean closure performance standards.]

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- i. Pursuant to 40 CFR 267.112(a)(1), the Permittee shall submit to the Regional Administrator a written closure plan at least 180 days prior to closure. The Regional Administrator shall approve the closure plan before closure work at the facility begins, and the plan will become a condition of any RCRA permit; and
 - ii. Pursuant to 40 CFR 267.112(a)(2), the Regional Administrator's approval of the plan shall ensure that the approved plan is consistent with all of Permit Condition III.K.
- b. Contents of Closure Plan

The closure plan shall identify steps necessary to perform partial and/or final closure of the facility. Pursuant to 40 CFR 267.112(b), the closure plan shall at a minimum include:

- i. A description of how each hazardous waste management unit at the facility will be closed in compliance with Permit Condition III.K.1;
- ii. A description of how final closure of the facility will be conducted in accordance with Permit Condition III.K.1. The description shall identify the maximum extent of the operations which will be unclosed during the active life of the facility;
- iii. An estimate of the maximum inventory of hazardous wastes ever on site during the active life of the facility and a detailed description of the methods to be used during partial and/or final closure, such as methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the type(s) of off-site hazardous waste management units to be used, if applicable;
- iv. A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial or final closure. These might include procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;
- v. A detailed description of other activities necessary during the closure period to ensure that partial or final closure satisfies the closure performance standards; and

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vi. A schedule for closure of each hazardous waste management unit, and for final closure of the facility. The schedule shall include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that allow tracking of progress of partial or final closure.

c. Amending a Closure Plan

The Permittee shall submit a written request to the Regional Administrator for a permit modification, following applicable procedures in 40 CFR 124.211 to amend the closure plan at any time before the notification of final closure of the facility. The Permittee shall include a copy of the amended closure plan with the written request for review or approval by the Regional Administrator. The Regional Administrator shall approve, disapprove, or modify this amended plan in accordance with the procedures in 40 CFR 124.211 and 270.320. [40 CFR 267.112(c)]

d. Notification Before Final Closure

The Permittee shall notify the Regional Administrator in writing at least 45 days before the date that it is expected for final closure of a containment building. [40 CFR 267.112(d)(1)]

The date when the Permittee anticipates to begin closure must be no later than 30 days after the date that any hazardous waste management unit receives the known final volume of hazardous wastes. [40 CFR 267.112(d)(2)]

If this Permit is terminated, or if the Permittee is otherwise ordered, by judicial decree or final order under Section 3008 of RCRA, to cease receiving hazardous wastes or to close, then the requirements of this Permit Condition (III.K.2.d) do not apply. However, the Permittee shall close the facility following the deadlines established in Permit Condition III.K.3. [40 CFR 267.112(d)(3)]

III.K.3. Closure Schedule

Within 90 days after the final volume of hazardous waste is sent to a unit, the Permittee shall

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treat or remove from the unit all hazardous wastes following the approved closure plan. [40 CFR 267.115(a)]

The Permittee shall complete final closure activities following the approved closure plan within 180 days after the final volume of hazardous wastes is sent to the unit. [40 CFR 267.115(b)]

The Permittee may remove hazardous wastes and decontaminate or dismantle equipment in accordance with the approved final closure plan at any time before or after notification of final closure. [40 CFR 267.115(c)]

III.K.4. Decontamination and Disposal

The Permittee shall properly dispose of or decontaminate all contaminated equipment, structures, and soils during the partial and final closure periods. By removing any hazardous wastes or hazardous constituents during partial and final closure, The Permittee may become a generator of hazardous waste and shall handle that waste following all applicable requirements of 40 CFR Part 262. [40 CFR 267.116]

III.K.5. Certification of Closure

Within 60 days of the completion of final closure of each unit under this Permit, the Permittee shall submit to the Regional Administrator, by registered mail, a certification that each hazardous waste management unit or facility, as applicable, has been closed following the specifications in the closure plan. Both the Permittee and an independent registered professional engineer shall sign the certification. The Permittee shall furnish documentation supporting the independent registered professional engineer's certification to the Regional Administrator upon request until the Regional Administrator releases the Permittee from the financial assurance requirements for closure under Permit Condition VII.C.9. [40 CFR 267.117]

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MODULE IV - CONTAINMENT BUILDINGS

[Note: this permit module applies if the facility treats or stores hazardous waste in containment buildings, except as provided otherwise in 40 CFR Part 261 Subpart A or 40 CFR 264.1(f) and (g). Unique permit conditions may also be addressed in Module V, Supplemental Information. Storage and/or treatment in the containment building is not land disposal as defined in 40 CFR 268.2, if the unit complies with the Permit Conditions of this Module.]

IV.A. GENERAL DESCRIPTION

[Insert a general description of the containment building(s). This includes a brief overview of each of the buildings, types of wastes to be handled, whether it will be used for storage or treatment, secondary containment, air emission controls (40 CFR Part 264 Subpart BB), etc.]

IV.B. DESIGNATED CONTAINMENT BUILDING(S)

The Permittee shall store and/or treat hazardous wastes in the designated containment buildings described in Permit Condition IV.A and as specified in Table IV-1. The Permittee shall not store and/or treat waste in excess of the maximum capacities for each containment building identified in Table IV-1.

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TABLE IV-1
[insert facility name or area name] Containment Building
Waste Types and Design Capacities

CONTAINMENT BUILDING & LOCATION	DESIGN SPECIFICATIONS	EPA HAZARDOUS WASTE TYPE	PRIMARY DESIGN BARRIER AND SECONDARY CONTAINMENT	MAXIMUM VOLUME OF WASTE Pounds (lb) or Tons (T)
[Building A-1, Room B1]	[insert design specifications, dimensions, treatment or storage, materials of construction, additional design requirements is storing liquids, etc.]	[soils contaminated with specific K wastes]	[brief description]	[3,785 lb]

IV.C. PERMITTED AND PROHIBITED WASTE IDENTIFICATION

IV.C.1. Permitted Waste

[Note: the permit writer should specify specific wastes (may refer to Table IV-1) and waste form (solid, liquid or both).]

The Permittee may store hazardous waste at **[insert containment building(s)]**. Table IV-1 above shows the maximum amounts of hazardous waste that the Permittee shall store within each containment building, subject to the terms of this Permit.

The Permittee may treat hazardous waste at **[insert containment building(s)]**. Table IV-1 above shows the maximum amounts of hazardous waste that the Permittee shall treat within each containment, subject to the terms of this Permit.

The Permittee shall ensure that all waste solutions bear the appropriate EPA Hazardous Waste Codes.

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IV.C.2. Prohibited Waste

The Permittee shall not store, manage or treat any hazardous waste that does not comply with Permit Condition IV.C.1.

IV.D. DESIGN AND OPERATING STANDARDS

[Note: EPA shall consider standards established by professional organizations generally recognized by the industry such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM) in judging the structural integrity requirements of this permit condition. (40 CFR 267.1101)]

The Permittee shall ensure that the containment building(s) comply with the design and operating standards in this Permit Condition.

IV.D.1. Design Criteria

- a. The containment building shall be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements, (e.g., precipitation, wind, run-on), and to assure containment of managed wastes. [40 CFR 267.1101(a)]
- b. The floor and containment walls of the unit, including the secondary containment system, if required by Permit Condition IV.E, shall be designed and constructed of manmade materials of sufficient strength and thickness to:
 - i. Support themselves, the waste contents, and any personnel and heavy equipment that operates within the unit; and
 - ii. Prevent failure due to:
 - (a) Pressure gradients, settlement, compression, or uplift;
 - (b) Physical contact with the hazardous wastes to which they are exposed;
 - (c) Climatic conditions;

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- (d) Stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls; and
- (e) Collapse or other failure. [40 CFR 267.1101(b)]

IV.D.2. Waste Compatibility

The Permittee shall ensure that all surfaces in contact with hazardous wastes are chemically compatible with those wastes. [40 CFR 267.1101(c)]

The Permittee shall not place incompatible hazardous wastes or treatment reagents in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail. [40 CFR 267.1101(d)]

IV.D.3. Primary Barrier

The containment building shall have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and be appropriate for the physical and chemical characteristics of the waste to be managed. [40 CFR 267.1101(e)]

IV.D.4. Exceptions to Design Criteria

If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement of Permit Condition IV.D.2 may be made for light-weight doors and windows that meet these criteria:

- a. The light-weight doors and windows provide an effective barrier against fugitive dust emissions under Permit Condition IV.J.1; and
- b. The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings. [40 CFR 267.1101(f)]

IV.D.5. Certification

The Permittee shall obtain certification by a qualified registered professional engineer that the

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containment building design meets the requirements in Permit Conditions IV.D.1, IV.D.2, IV.D.3, IV.D.4, IV.E, and IV.F. [40 CFR 267.1101(h)]

IV.E. SECONDARY CONTAINMENT

[Note: pursuant to 40 CFR 267.1107, a containment building can serve as secondary containment for tanks. However, use of a containment building for secondary containment should be addressed in the Standardized Permit for the tank system, and not in this Permit.]

IV.E.1. Design and Operating Standards

[Note: these conditions only apply if liquids will be stored or treated in the containment building. If no liquids will be present, insert “Not applicable. The containment building shall not be used to store or treat liquids.”]

If, as determined by the paint filter test, by a visual examination, or by other appropriate means, the containment building shall be used to manage hazardous wastes containing free liquids or treated with free liquids, the Permittee shall comply with the following conditions.

a. Primary Barrier

The Permittee shall maintain a primary barrier (e.g., a geomembrane covered by a concrete wear surface) designed and constructed of materials to prevent the migration of hazardous constituents into the barrier. [40 CFR 267.1103(a)]

b. Liquid Collection and Removal

i. The Permittee shall maintain a liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building. [40 CFR 267.1103(b)]

ii. The primary barrier shall be sloped to drain liquids to the associated collection system. [40 CFR 267.1103(b)(1)]

iii. The Permittee shall collect and remove liquids and waste, at the earliest practicable time, to minimize hydraulic head on the containment system. [40 CFR

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267.1103(b)(2)]

c. Secondary Containment

- i. The Permittee shall maintain a secondary containment system, including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier. [40 CFR 267.1103(c)]
- ii. The Permittee shall construct the secondary containment system using materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. [40 CFR 267.1103(c)(3)]
- iii. The Permittee shall design the area in which the treatment will be conducted to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building. [40 CFR 267.1103(c)(2)] **[Note: this only applies if treatment will be conducted in the containment building. Insert “Not applicable, the containment building shall not be used to treat wastes,” if appropriate.]**

d. Leak Detection

- i. The Permittee shall maintain a leak detection system capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practical time. [40 CFR 267.1103(c)]
- ii. The Permittee shall meet the requirements of the leak detection component of the secondary containment system by installing a system that is, at a minimum:
 - (a) Constructed with a bottom slope of 1 percent or more; and
 - (b) Constructed of a granular drainage material with a hydraulic conductivity of $1E10^{-2}$ cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of $3E10^{-5}$ m²/sec or more. [40 CFR 267.1103(c)(1)]

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IV.E.2. Mixed Secondary Containment

[Note: this permit condition only applies to containment buildings with areas that require secondary containment and areas that do not. If the containment building does not have areas both with and without secondary containment, insert “Not applicable. The containment building does not have areas both with and without secondary containment.”]

If within the same containment building there are areas requiring secondary containment and areas not requiring secondary containment, the Permittee shall ensure that the containment building is designed and operated in accordance with Permit Conditions IV.D and IV.E. [40 CFR 267.1105(a)]

The Permittee shall also take measures contain all liquids to areas with secondary containment and to prevent the release of liquids or wet materials into areas without secondary containment. [40 CFR 267.1105(b)]

The Permittee shall maintain in the facility’s operating log a written description of the operating procedures used to maintain the integrity of the areas without secondary containment. [40 CFR 267.1105(c)]

IV.E.3. Waiver from Secondary Containment

Notwithstanding any other provision of this Permit, the Regional Administrator may waive requirements for secondary containment for a permitted containment building where the Permittee:

- a. Demonstrates that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements; and
- b. Containment of managed wastes and dust suppression liquids can be assured without a secondary containment system. [40 CFR 267.1104]

IV.F. PREVENTION OF RELEASES

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The Permittee shall use controls and practices to ensure containment of the hazardous waste within the unit. At a minimum, the Permittee shall:

1. Maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;
2. Maintain the level of the stored/treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;
3. Take measures to prevent personnel or by equipment used in handling the waste from tracking hazardous waste out of the unit;
4. Designate an area to decontaminate equipment; and
5. Collect and properly manage any rinsate. [40 CFR 267.1102(a), (b), and (c)]

The Permittee shall use controls and practices for fugitive dust emissions and pollution control practices in conjunction with Permit Conditions IV.J.1 and IV.J.2. [40 CFR 267.1102(d)]

IV.G. SPECIAL REQUIREMENTS FOR IGNITABLE, REACTIVE OR INCOMPATIBLE WASTE

[If no ignitable, reactive or incompatible wastes are to be stored or treated in the containment building, insert “Not applicable. The Permittee shall not store or treat any ignitable, reactive, or incompatible wastes in any area of the containment building.”]

IV.G.1. Ignitable and Reactive Wastes

The Permittee shall not place ignitable or reactive waste in the containment building, unless:

- a. The waste is treated, rendered, or mixed before or immediately after placement in the containment building so that the resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under 40 CFR 261.21 or 40 CFR 261.23 and results in a waste, mixture, or dissolved material that meets the conditions of Permit Condition III.E.2;

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- b. The waste is stored or treated in such a way that waste is protected from any material or conditions that may cause the waste to ignite or react; or
- c. The containment building is used solely for emergencies.

The Permittee shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981).

IV.G.2. Incompatible Wastes

The Permittee shall not place incompatible wastes, or incompatible wastes and materials, in the same containment building, unless the conditions of Permit Condition III.E.2 are met.

IV.H. RESPONSE TO LEAKS OR SPILLS

Throughout the active life of the containment building, if the Permittee detects a condition that could lead to or has caused a release of hazardous waste, the Permittee shall repair the condition promptly.

IV.H.1. Actions

Upon detection of a condition that has lead to a release of hazardous waste (for example, upon detection of leakage from the primary barrier) the Permittee shall:

- a. Enter a record of the discovery in the facility operating record;
- b. Immediately remove the portion of the containment building affected by the condition from service;
- c. Determine what steps must be taken to repair the containment building, to remove any leakage from the secondary collection system, and to establish a schedule for accomplishing the cleanup and repairs; and
- d. Within 7 days after the discovery of the condition, notify the Regional Administrator of the condition, and within 14 working days, provide a written notice to the Regional

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Administrator with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work. [40 CFR 267.1106(a)]

IV.H.2. Notification

The Regional Administrator shall review the information submitted and make a determination regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete. The Regional Administrator shall notify the Permittee of the determination and the underlying rationale in writing. [40 CFR 267.1106(b)]

Upon completing all repairs and cleanup, the Permittee shall notify the Regional Administrator in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with Permit Condition IV.H.1.d. [40 CFR 267.1106(c)]

IV.I. INSPECTION SCHEDULES AND PROCEDURES

The Permittee shall comply with the inspection schedules and procedures contained in Permit Condition III.D.

The Permittee shall also inspect and record in the facility's operating record, at least once every seven days, all data gathered from monitoring equipment and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect the signs of hazardous waste. [40 CFR 267.1101(g)]

IV.J. AIR EMISSION STANDARDS

The Permittee shall manage all hazardous waste placed in the containment building in accordance with the requirements of 40 CFR Part 264 Subpart BB.

IV.J.1. Fugitive Dust

The Permittee shall take measures to control fugitive dust emissions such that any openings (e.g., doors, windows, vents, cracks, etc.) exhibit no visible emissions (refer to 40 CFR Part 60, Appendix A, Method 22--Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares). [40 CFR 267.1102(d)]

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IV.J.2. Particulate Collection Devices

The Permittee shall operate and maintain all associated particulate collection devices (e.g., fabric filter and electrostatic precipitator) with sound air pollution control practices.

The Permittee shall effectively maintain this state of no visible emissions at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit. [40 CFR 267.1102(d)]

IV.K. PREPARATION FOR CLOSURE

Upon removal of the containment building from operation and in preparation for closure, the Permittee shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste, unless the waste does not meet the criteria of a hazardous waste as outlined in 40 CFR 261.3(d).

The closure plan, closure activities, cost estimates for closure, and financial responsibility for containment buildings must meet all of the requirements specified in Permit Condition III.B and Module VII of this Permit. [40 CFR 267.1108]

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MODULE V - SUPPLEMENTAL INFORMATION

[Appropriate facility-specific conditions, if any, should be made and included as conditions of the draft permit. These proposed facility-specific conditions would go beyond the nationwide conditions in the uniform portion of the standardized permit. The site-specific conditions that would be imposed are those that are necessary for corrective action purposes or otherwise to ensure protection of human health and the environment. The permit writer may impose permit conditions necessary for corrective action purposes comes from RCRA section 3004(u) and (v) and EPA regulations at 40 CFR 267.101. Authority (and your obligation) to impose permit conditions that ensure protection of human health and the environment (including conditions requiring cleanup of any contamination not subject to 3004(u) and (v)) comes from the “omnibus” provision of RCRA section 3005(c)(3) and EPA regulations at 40 CFR 270.32(b)(2). It is anticipated that in certain cases communities may raise the need for site-specific conditions, or actually propose such conditions, during the proposed pre-application meeting.]

If some of the general design or management standards of 40 CFR Part 267 are not adequate for a particular facility, more stringent standards would be necessary. However, if more stringent standards are necessary for a particular facility, add those conditions in this supplemental portion of the standardized permit. In some situations, there may be no need for additional site-specific conditions to satisfy regulatory requirements or to ensure protection of human health and the environment, and that a facility could operate under the terms of the uniform portion of the permit alone. In these situations, no additional conditions, beyond those in the uniform portion, would be written in this Module as part of the draft permit.

This Module is retained to allow for special site-specific information.

The information to be contained herein is to be determined on a site-specific basis by Regional Administrator. This may include Compliance Schedules or corrective action. If no Supplemental Information is necessary, insert “Not Applicable”.]

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MODULE VI - RELEASES FROM SOLID WASTE MANAGEMENT UNITS

[Note: this Permit Condition applies if the Permittee treats or stores hazardous waste under a 40 CFR Part 270, Subpart I standardized permit, except as provided in 40 CFR 267.1(b), or unless the facility currently has a permit that imposes requirements for corrective action under 40 CFR 264.101. For example, the Permittee does not have to comply with this section if they are the Permittee of a remediation waste site unless the site is part of a facility that is subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes. If releases from solid waste management units do not apply to the facility, insert the terms “Not Applicable” and provide a brief discussion of the basis for the exemption.]

This Permit Condition should not be used to specify facility-specific permit conditions for corrective action, but only general, non-facility-specific terms related to corrective action. Facility-specific corrective action measures should be addressed in Module V, Supplemental Information.]

VIA. GENERAL DESCRIPTION

The Permittee shall institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit. [40 CFR 267.101(a)]

For all solid waste management units, the Permittee shall both submit to the Regional Administrator and maintain the following general information on-site:

1. Location of unit(s);
2. Designation of type of unit(s);
3. General dimensions and structure of unit(s);
4. Engineering drawings;
5. Dates of operation;
6. Types of managed wastes; and
7. Volumes or quantities of waste.

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VI.B. RELEASES

Specific corrective action permit conditions are specified in the supplemental portion (Module V) of this standardized permit, in accordance with this Permit Condition and 40 CFR Part 264, Subpart S. [40 CFR 267.101(b)]

VI.C. SCHEDULES OF COMPLIANCE

The Regional Administrator shall include in the supplemental portion of your standardized permit Schedules of Compliance for corrective action (where corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing corrective action are specified in the supplemental portion (Module V) of this Permit. [40 CFR 267.101(b)]

VI.D. IMPLEMENTATION

The Permittee shall implement corrective action beyond the facility property boundary, where necessary to protect human health and the environment, unless the Permittee demonstrates to the satisfaction of the Regional Administrator that, despite best efforts, the Permittee was unable to obtain the necessary permission to undertake such actions. In addition, the Permittee shall not be relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases shall be determined on a case-by-case basis, and shall be addressed in Module V of this Permit. [40 CFR 267.101(c)]

VI.E. FINANCIAL ASSURANCE

The Permittee shall provide assurances of financial responsibility for corrective action as specified in Permit Condition VI.D. [40 CFR 267.101(c)]

VI.F. ALTERNATE AUTHORITY CLEANUP PROVISIONS

[Note: this section discusses alternate authority cleanup provisions for solid waste management units. At this time, EPA is still seeking comment and evaluating how EPA may incorporate these alternate provisions into the standardized permit.]

[At facilities where cleanup is completed satisfactorily prior to issuance of this Permit, EPA or the State authorized for corrective action must make a determination that no additional

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corrective action is necessary to protect human health and the environment and consequently includes no provisions requiring corrective action in this Permit (except those necessary to address future releases). Where corrective action is not completed satisfactorily prior permit issuance of this Permit, there may be a number of approaches to allow cleanups conducted under alternate State cleanup programs to satisfy the RCRA permit requirements for corrective action under Section 3004(u) and (v).]

VI.F.1. Postponement and Deferral

EPA is soliciting comment on whether to recommend, under certain circumstances, two methods of addressing, within the RCRA permit, the cleanups conducted pursuant to alternate State authorities. Both methods address situations where corrective action is determined by the Agency to be necessary to protect human health and the environment at the time of permit issuance. Under the first method, referred to as “postponement”, the permit issuing agency would postpone the determination of RCRA-specific corrective action provisions until after a cleanup under an alternate State authority is completed. Under the second method, referred to as “deferral”, the permit issuing agency would make a determination that a cleanup conducted under an alternate authority will satisfy the corrective action requirements at the site, then completely defer corrective action requirements to the alternate program.]

VI.F.2. VCP Guidance Criteria

[Under discussion]

VI.F.3. Post-Closure Rule Criteria

[Under discussion]

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MODULE VII - FINANCIAL REQUIREMENTS AND LIABILITY

[The Permit Conditions for financial and liability requirements apply to the Permittee who treat or store hazardous waste under this standardized permit, except as provided in 40 CFR 267.1(b), or if the Permittee is a State or Federal government. If the Permittee is exempt from these requirements, insert the terms “Not Applicable” for this Module and provide a brief discussion for the basis of the exemption.]

[For Permittees subject to the financial and liability requirements, the Permittee shall be required to prepare a closure cost estimate, demonstrate financial assurance for closure, and demonstrate financial assurance for liability. In addition, the Permittee shall notify the Regional Administrator is named as a debtor in a bankruptcy proceeding under Title 11 (Bankruptcy), U.S. Code.]

VII.A. DEFINITIONS

Pursuant to 40 CFR 267.141, general terms used in this Module are defined as:

1. Closure plan means the plan for closure prepared in accordance with the requirements of 40 CFR 267.112.
2. Current closure cost estimate means the most recent of the estimates prepared in accordance with 40 CFR 267.142 (a), (b), and (c).
3. Parent corporation means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a “subsidiary” of the parent corporation.

The following terms are used in the specifications for the financial tests for closure and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:

1. Assets means all existing and all probable future economic benefits obtained or controlled by a particular entity.
2. Current plugging and abandonment cost estimate means the most recent of the estimates

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prepared in accordance with 40 CFR 144.62(a), (b), and (c) of this chapter.

3. Independently audited refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.
4. Liabilities means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.
5. Tangible net worth means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

In the liability insurance requirements the terms bodily injury and property damage shall have the meanings given these terms by applicable State law. However, these terms do not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The Agency intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of this part and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

1. Accidental occurrence means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.
2. Legal defense costs means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance
3. Sudden accidental occurrence means an occurrence which is not continuous or repeated in nature.
4. Substantial business relationship means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or

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operator is demonstrated to the satisfaction of the applicable EPA Regional Administrator.

VII.B. COST-ESTIMATE FOR CLOSURE

[The requirements for the closure cost-estimate were written to take into account the different regulatory and operating status of facilities that will seek a standardized permit. The three types or groups of facilities are: 1) those facilities currently subject to 40 CFR Part 265 Subpart H interim status standards and currently providing financial assurance; 2) facilities operating under RCRA permit and providing financial assurance under 40 CFR Part 264 Subpart H, but wish to transfer the permit to a standardized permit; and 3) new facilities that will adopt the standardized permit and begin operation.]

Various methods used to prepare cost estimates exist, and may be used. For example, cost estimates may be based on past experience in closing other facilities, cost-estimating handbooks, and references to specific quotes or cost estimates from contractors may be applied in determining the closure cost estimate. Regardless of the method applied in determining the closure cost estimate, the cost estimate must meet all of the requirements of 40 CFR 267.142 and the Permittee must demonstrate that the estimate meets these requirements.]

VII.B.1. Closure Cost-Estimate

Pursuant to 40 CFR 267.142(a), the Permittee shall maintain at the facility a detailed written estimate, in current dollars, of the cost of closing the facility. The closure cost estimate shall also be developed in agreement with Permit Conditions III.K.1 through III.K.3. The closure cost estimate shall:

- a. Equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive;
- b. Be based on the costs to the Permittee of hiring a third party to close the facility. The Permittee shall use costs for on-site disposal if the Permittee can demonstrate that on-site disposal capacity shall exist at all times over the life of the facility;

[Note: a third party is a party who is neither a parent nor a subsidiary of the

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owner or operator.]

- c. Not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and
- d. The Permittee shall not incorporate a zero cost for hazardous wastes, or non-hazardous wastes that might have economic value.
- e. Within 30 days after submitting a closure plan under Permit Condition III.K.2, the Permittee shall revise the closure cost estimate so that it is in accordance with the closure plan.

VII.B.2. Adjustment for Inflation

During the active life of the facility, the Permittee shall adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Permit Condition VII.C. For Permittees using the financial test or corporate guarantee, the closure cost estimate shall be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in Permit Condition VII.C.6. The adjustment shall either be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product published by the U.S. Department of Commerce in its Survey of Current Business. [40 CFR 267.142(b)]

[Note: the inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year. The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate. Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.]

VII.B.3. Documentation

The Permittee shall keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with Permit Condition VII.B.1; and the

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latest adjusted closure cost estimate after any adjustment as in accordance with Permit Condition VII.B.2. [40 CFR 267.142(c)]

VII.C. FINANCIAL ASSURANCE FOR CLOSURE

The Permittee shall establish financial assurance for closure of each containment building unit that he owns or operates. In establishing financial assurance for closure, the Permittee shall choose from the financial assurance mechanisms in Permit Conditions VII.C.1 through VII.C.7. The Permittee may also use a combination of mechanisms for a single facility if the Permittee meets the requirement in Permit Condition VII.C.8, or may use a single mechanism for multiple facilities as in Permit Condition VII.C.9. [40 CFR 267.143]

[Note: the Permittee has the option of determining which mechanism he will apply for establishing financial assurance for closure. Therefore, not all of the mechanisms presented in Permit Conditions VII.C.1 through VII.C.9 will be applicable. Under each Permit Condition that discusses a financial assurance mechanism that is not to be applied, insert the terms “This mechanism will not be applied in establishing financial assurance for closure.”]

VII.C.1. Closure Trust Fund [40 CFR 267.143(a)]

[Note: for a closure trust fund, the Permittee shall meet the requirements of 40 CFR 264.143(a)(1) and (2) and 264.143(a)(6) through (12), in addition to the requirements in 40 CFR 267.143(a).]

a. Trust Agreement

- i. The Permittee shall satisfy the requirements of Permit Condition VII.C.1 by establishing a closure trust fund which conforms to the requirements of Permit Condition VII.C.1 and by submitting an originally signed duplicate of the trust agreement to the Regional Administrator. The Permittee of a new facility shall submit the originally signed duplicate of the trust agreement to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State Agency. [40 CFR 264.143(a)(1)]

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- ii. The wording of the trust agreement shall be identical to the wording specified in 40 CFR 264.151(a)(1), and the trust agreement shall be accompanied by a formal certification of acknowledgment. [40 CFR 264.143(a)(2) and 40 CFR 267.143(a)(5)]

[Note: for an example of a formal certification acknowledgment, refer to 40 CFR 264.151(a)(2)]

- iii. Schedule A of the trust agreement shall be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement. [40 CFR 264.143(a)(2) and 40 CFR 267.143(a)(5)]

b. Payment Into Trust Fund

- i. Payments into the trust fund for a new facility shall be made annually by the Permittee over the remaining operating life of the facility as estimated in the closure plan, or over 3 years, whichever period is shorter. This period of time is hereafter referred to as the “pay-in period”. [40 CFR 267.143(a)(1)]
- ii. For a new facility, the first payment into the closure trust fund shall be made before the facility may accept the initial placement of waste. A receipt from the trustee shall be submitted by the Permittee to the Regional Administrator before this initial storage of waste. The first payment shall be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in Permit Condition VII.C.9 for multiple mechanisms. Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment. [40 CFR 267.143(a)(2)]

Note: The Permittee determines the amount of each subsequent payment by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period. Mathematically, the formula is: Next Payment = (Current Closure Estimate--Current Value of the Trust Fund) Divided by Years Remaining in the Pay-In Period.]

- iii. The Permittee of a facility existing on the effective date of this Permit Condition

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may establish a trust fund to meet this Permit Condition's financial assurance requirements. If the value of the trust fund is less than the current closure cost estimate when a final approval of this Permit is granted for the facility, the Permittee shall pay the difference into the trust fund within 60 days. [40 CFR 267.143(a)(3)]

- iv. The Permittee may accelerate payments into the trust fund or deposit the full amount of the closure cost estimate when establishing the trust fund. However, the Permittee shall maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Permit Conditions VII.C.1.b.2 and VII.C.1.b.3. [40 CFR 267.143(a)(4)]

c. Post Pay-In Period

- i. After the pay-in period is completed and whenever the current closure cost estimate changes, the Permittee shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the Permittee, within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in Permit Conditions VII.C.1 through VII.C.9 to cover the difference. [40 CFR 264.143(a)(6)]
- ii. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the Permittee may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate. [40 CFR 264.143(a)(7)]

d. Substitution of Financial Assurance

If the Permittee substitutes other financial assurance as specified in Permit Conditions VII.C.1 through VII.C.9 for all or part of the trust fund, the Permittee may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate covered by the trust fund. [40 CFR 264.143(a)(8)]

e. Request to Release Funds

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Within 60 days after receiving a request from the Permittee for release of funds as specified in Permit Conditions VII.C.1.c and VII.C.1.d, the Regional Administrator shall instruct the trustee to release to the Permittee such funds as the Regional Administrator specifies in writing. [40 CFR 264.143(a)(9)]

f. Reimbursements

After beginning partial or final closure, the Permittee, or another person authorized to conduct partial or final closure, shall request reimbursements for partial or final closure expenditures by submitting itemized bills to the Regional Administrator. The Permittee shall request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Regional Administrator shall instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with 40 CFR 264.143(i) that the Permittee is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the trustee to make such reimbursements, the Regional Administrator shall provide the Permittee with a detailed written statement of reasons. [40 CFR 264.143(a)(10)]

g. Termination of Trust

Pursuant to 40 CFR 264.143(a)(11), the Regional Administrator shall agree to termination of the trust when:

- i. The Permittee substitutes alternate financial assurance as specified in Permit Condition VII.C.1; or
- ii. Within 60 days after receiving certifications from the Permittee and an independent registered professional engineer that final closure has been

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completed in accordance with the approved closure plan, the Regional Administrator shall notify the Permittee in writing that he is no longer required to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been in accordance with the approved closure plan. The Regional Administrator shall provide the Permittee a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan. [40 CFR 264.143(i)]

VII.C.2. Surety Bond Guaranteeing Payment Into Closure Trust Fund (40 CFR 267.143(b))

[Note: Pursuant to 40 CFR 267.143(b), permittees may use the “surety bond guaranteeing payment into a closure trust fund,” as specified in 40 CFR 264.143(b), including the use of the surety bond instrument specified at 40 CFR 264.151(b), and the standby trust specified at 40 CFR 264.143(b)(3).

The Permittee may satisfy the requirements of this Permit Condition by obtaining a surety bond which conforms to the requirements of this Permit Condition and submitting the bond to the Regional Administrator. (40 CFR 264.143(b)(1))

a. New Facility

The Permittee of a new facility shall submit the bond to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond shall be effective before this initial receipt of hazardous waste. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury. [40 CFR 264.143(b)(1)]

b. Wording of Bond

The wording of the surety bond must be identical to the wording specified in 40 CFR 264.151(b). [40 CFR 264.143(b)(2)]

c. Standby Trust Fund

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Pursuant to 40 CFR 264.143(b)(3), the Permittee shall establish a standby trust fund. Under the terms of the bond, all payments made thereunder shall be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund shall meet the requirements specified in 40 CFR 264.143(a), except that:

- i. An originally signed duplicate of the trust agreement shall be submitted to the Regional Administrator with the surety bond; and
- ii. Until the standby trust fund is funded pursuant to the requirements of this Permit Condition, the following are not required by these regulations:
 - (a) Payments into the trust fund as specified in 40 CFR 264.143(a);
 - (b) Updating of Schedule A of the trust agreement to show current closure cost estimates;
 - (c) Annual valuations as required by the trust agreement; and
 - (d) Notices of nonpayment as required by the trust agreement.
- d. Guarantee of Bond

Pursuant to 40 CFR 264.143(b)(4), the bond shall guarantee that the Permittee shall:

- i. Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or
- ii. Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Regional Administrator becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or
- iii. Provide alternate financial assurance, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days after receipt by both

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the Permittee and the Regional Administrator of a notice of cancellation of the bond from the surety.

e. Bond Obligation

Under the terms of the bond, the surety shall become liable on the bond obligation when the Permittee fails to perform as guaranteed by the bond. [40 CFR 264.143(b)(5)]

f. Penal Sum

i. The penal sum of the bond shall be in an amount at least equal to the current closure cost estimate, except as provided in Permit Condition VII.C.7. [40 CFR 264.143(b)(6)]

ii. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the Permittee, within 60 days after the increase, shall either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator. [40 CFR 264.143(b)(7)]

g. Cancellation of Bond

i. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the Permittee and to the Regional Administrator. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the Permittee and the Regional Administrator, as evidenced by the return receipts. [40 CFR 264.143(b)(8)]

ii. The Permittee may cancel the bond if the Regional Administrator has given prior written consent based on his receipt of evidence of alternate financial assurance. [40 CFR 264.143(b)(9)]

VII.C.3. Surety Bond Guaranteeing Performance of Closure (40 CFR 267.143(c))

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[Note: pursuant to 40 CFR 267.143(c), the permittee may use the “surety bond guaranteeing performance of closure,” as specified in 40 CFR 264.143(c), the submission and use of the surety bond instrument specified at 40 CFR 264.151(c), and the standby trust specified at 40 CFR 264.143(c)(3).

The Permittee may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this Permit Condition and by submitting the bond to the Regional Administrator. (40 CFR 264.143(c)(1))

a. New Facility

The Permittee of a new facility shall submit the bond to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond shall be effective before this initial receipt of hazardous waste. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury. [40 CFR 264.143(c)(1)]

b. Wording of Bond

The wording of the surety bond shall be identical to the wording specified in 40 CFR 264.151(c). [40 CFR 264.143(c)(2)]

c. Standby Trust Fund

Pursuant to 40 CFR 264.143(c)(3), the Permittee shall establish a standby trust fund. Under the terms of the bond, all payments made thereunder shall be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust shall meet the requirements specified in 40 CFR 264.143(a), except that:

- i. An originally signed duplicate of the trust agreement shall be submitted to the Regional Administrator with the surety bond; and
- ii. Unless the standby trust fund is funded pursuant to the requirements of this Permit Condition, the following are not required by these regulations:

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- (a) Payments into the trust fund as specified in 40 CFR 264.143(a);
- (b) Updating of Schedule A of the trust agreement to show current closure cost estimates;
- (c) Annual valuations as required by the trust agreement; and
- (d) Notices of nonpayment as required by the trust agreement.

d. Guarantee of Bond

Pursuant to 40 CFR 264.143(c)(4), the bond shall guarantee that the Permittee shall:

- i. Perform final closure in accordance with the closure plan and other requirements of this Permit for the facility whenever required to do so; or
- ii. Provide alternate financial assurance, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days after receipt by both the Permittee and the Regional Administrator of a notice of cancellation of the bond from the surety.

e. Bond Obligation

Under the terms of the bond, the surety shall become liable on the bond obligation when the Permittee fails to perform as guaranteed by the bond. Following a final administrative determination pursuant to section 3008 of RCRA that the Permittee has failed to perform final closure in accordance with the approved closure plan and other permit requirements when required to do so, under the terms of the bond the surety shall perform final closure as guaranteed by the bond or shall deposit the amount of the penal sum into the standby trust fund. [40 CFR 264.143(c)(5)]

f. Penal Sum

The penal sum of the bond shall be in an amount at least equal to the current closure cost estimate. [40 CFR 264.143(c)(6)]

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Whenever the current closure cost estimate increases to an amount greater than the penal sum, the Permittee, within 60 days after the increase, shall either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator. [40 CFR 264.143(c)(7)]

g. Cancellation of Bond

i. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the Permittee and to the Regional Administrator. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the Permittee and the Regional Administrator, as evidenced by the return receipts. [40 CFR 264.143(c)(8)]

ii. The Permittee may cancel the bond if the Regional Administrator has given prior written consent. The Regional Administrator shall provide such written consent when:

(a) The Permittee substitutes alternate financial assurance; or

(b) The Regional Administrator releases the Permittee from the requirements of this Permit Condition in accordance with 40 CFR 264.143(i). [40 CFR 264.143(c)(9)]

h. Liability of Surety

The surety shall not be liable for deficiencies in the performance of closure by the Permittee after the Regional Administrator releases the Permittee from the requirements of Permit Condition VII.C and in accordance with 40 CFR 264.143(i). [40 CFR 264.143(c)(10)]

VII.C.4. Closure Letter of Credit

[Note: pursuant to 40 CFR 267.143(d), the permittee may use the “closure letter of

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credit,” as specified in 40 CFR 264.143(d), the submission and use of the irrevocable letter of credit instrument specified at 40 CFR 264.151(d), and the standby trust specified at 40 CFR 264.143(d)(3).

The Permittee may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Permit Condition and by submitting the letter to the Regional Administrator. (40 CFR 264.143(d)(1))

a. New Facility

The Permittee of a new facility shall submit the letter of credit to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit shall be effective before this initial receipt of hazardous waste. The issuing institution shall be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State Agency. [40 CFR 264.143(d)(1)]

b. Wording of Letter

The wording of the letter of credit shall be identical to the wording specified in 40 CFR 264.151(d). [40 CFR 264.143(d)(2)]

c. Standby Trust Fund

Pursuant to 40 CFR 264.143(d)(3), the Permittee shall establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator shall be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund shall meet the requirements of the trust fund specified in 40 CFR 264.143(a), except that:

- i. An originally signed duplicate of the trust agreement shall be submitted to the Regional Administrator with the letter of credit; and
- ii. Unless the standby trust fund is funded pursuant to the requirements of this Permit

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Condition, the following are not required by these regulations:

- (a) Payments into the trust fund as specified in 40 CFR 264.143(a);
- (b) Updating of Schedule A of the trust agreement to show current closure cost estimates;
- (c) Annual valuations as required by the trust agreement; and
- (d) Notices of nonpayment as required by the trust agreement.

d. Letter from Permittee

The letter of credit shall be accompanied by a letter from the Permittee referring to the letter of credit by number, issuing institution, and date. The letter shall also provide the following information: the facility EPA Identification Number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit. [40 CFR 264.143(d)(4)]

e. Period of Issuance

The letter of credit shall be irrevocable and issued for a period of at least 1 year. The letter of credit shall provide that the expiration date shall be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the Permittee and the Regional Administrator by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the Permittee and the Regional Administrator have received the notice, as evidenced by the return receipts. [40 CFR 264.143(d)(5)]

f. Value of Credit

The letter of credit shall be issued in an amount at least equal to the current closure cost estimate, except as provided in 40 CFR 264.143(g). [40 CFR 264.143(d)(6)]

g. Change in Current Closure Cost Estimate

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- i. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the Permittee, within 60 days after the increase, shall either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance to cover the increase. [40 CFR 264.143(d)(7)]
- ii. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator. [40 CFR 264.143(d)(7)]

h. Failure to Perform

Following a final administrative determination pursuant to section 3008 of RCRA that the Permittee has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the Regional Administrator shall draw on the letter of credit. [40 CFR 264.143(d)(8)]

i. Termination of Letter of Credit

- i. If the Permittee does not establish alternate financial assurance and obtain written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the Permittee and the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Regional Administrator shall draw on the letter of credit. The Regional Administrator may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Regional Administrator shall draw on the letter of credit if the Permittee has failed to provide alternate financial assurance and obtain written approval of such assurance from the Regional Administrator. [40 CFR 264.143(d)(9)]
- ii. The Regional Administrator shall return the letter of credit to the issuing institution for termination when:

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- (a) The Permittee substitutes alternate financial assurance; or
- (b) The Regional Administrator releases the Permittee from the requirements of this Permit Condition in accordance with 40 CFR 264.143(i). [40 CFR 264.143(d)(10)]

VII.C.5. Closure Insurance (40 CFR 267.143(e))

Note: Pursuant to 40 CFR 267.143(e), Permittees may use “closure insurance,” as specified in 40 CFR 264.143(e), utilizing the certificate of insurance for closure specified at 40 CFR 264.151(e).

The Permittee may satisfy the requirements of this section by obtaining closure insurance, which conforms to the requirements of this Permit Condition, and by submitting a certificate of such insurance to the Regional Administrator. (40 CFR 264.143(e)(1))

a. New Facility

The Permittee of a new facility shall submit the certificate of insurance to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance shall be effective before this initial receipt of hazardous waste. At a minimum, the insurer shall be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States. [40 CFR 264.143(e)(1)]

b. Wording of Certificate of Insurance

The wording of the certificate of insurance shall be identical to the wording specified in 40 CFR 264.151(e). [40 CFR 264.143(e)(2)]

c. Face Amount

The closure insurance policy shall be issued for a face amount at least equal to the current closure cost estimate, except as provided in 40 CFR 264.143(g). [40 CFR 264.143(e)(3)]

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[Note: the term “face amount” means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.]

d. Policy Guarantees

- i. The closure insurance policy shall guarantee that funds will be available to close the facility whenever final closure occurs; and
- ii. The policy shall also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Regional Administrator, to such party or parties as the Regional Administrator specifies. [40 CFR 264.143(e)(4)]

e. Reimbursements

After beginning partial or final closure, the Permittee, or any other person authorized to conduct closure, shall request reimbursements for closure expenditures by submitting itemized bills to the Regional Administrator. The Permittee shall request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Regional Administrator shall instruct the insurer to make reimbursements in such amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, the Regional Administrator may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with 40 CFR 264.143(i), that the Permittee is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the insurer to make such reimbursements, the Regional Administrator shall provide the Permittee with a detailed written statement of reasons. [40 CFR 264.143(e)(5)]

f. Maintenance of Policy

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The Permittee shall maintain the policy in full force and effect until the Regional Administrator consents to termination of the policy by the Permittee as specified in Permit Condition VII.C.5.j. Failure to pay the premium, without substitution of alternate financial assurance as specified in this Permit Condition, shall constitute a significant violation of these regulations, warranting such remedy as the Regional Administrator deems necessary. Such violation shall be deemed to begin upon receipt by the Regional Administrator of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration. [40 CFR 264.143(e)(6)]

g. Assignment of Policy

Each policy shall contain a provision allowing assignment of the policy to a successor Permittee. Such assignment shall be conditional upon consent of the insurer, provided such consent is not unreasonably refused. [40 CFR 264.143(e)(7)]

h. Continuance of Policy

- i. The policy shall provide that the insurer shall not cancel, terminate, or fail to renew the policy except for failure to pay the premium. [40 CFR 264.143(e)(8)]
- ii. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. [40 CFR 264.143(e)(8)]
- iii. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the Permittee and the Regional Administrator. Cancellation, termination, or failure to renew shall not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Regional Administrator and the Permittee, as evidenced by the return receipts. [40 CFR 264.143(e)(8)]
- iv. Cancellation, termination, or failure to renew shall not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

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- (a) The Regional Administrator deems the facility abandoned; or
 - (b) This Permit is terminated or revoked or a new permit is denied; or
 - (c) Closure is ordered by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or
 - (d) The Permittee is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or
 - (e) The premium due is paid. [40 CFR 264.143(e)(8)]
- i. Change in Current Closure Cost Estimate
- i. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the Permittee, within 60 days after the increase, shall either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance to cover the increase. [40 CFR 264.143(e)(9)]
 - ii. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator. [40 CFR 264.143(e)(9)]
- j. Termination of Insurance Policy

The Regional Administrator shall give written consent to the Permittee that he shall terminate the insurance policy when:

- i. The Permittee substitutes alternate financial assurance; or
- ii. The Regional Administrator releases the Permittee from the requirements of Permit Condition VII.C., in accordance with 40 CFR 264.143(i). [40 CFR 264.143(e)(10)]

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VII.C.6. Corporate Financial Test

[Note: Pursuant to 40 CFR 267.143(f), if the Permittee satisfies the requirements of this Permit Condition, the Permittee shall demonstrate financial assurance up to amount specified in this Permit Condition.]

a. Financial component

- i. Pursuant to 40 CFR 267.143(f)(1)(i), the Permittee shall satisfy one of the following three conditions:
 - (a) A current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; or
 - (b) A ratio of less than 1.5 comparing total liabilities to net worth; or
 - (c) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
- ii. Pursuant to 40 CFR 267.143(f)(1)(ii), the tangible net worth of the Permittee shall be greater than:
 - (a) The sum of the current environmental obligations, including guarantees, covered by a financial test plus \$10 million except as provided in Permit Condition VII.C.6.a.ii.B; or
 - (b) \$10 million in tangible net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the environmental obligations covered by a financial test are recognized as liabilities on the Permittee's audited financial statements, and subject to the approval of the Regional Administrator; or
- iii. The Permittee shall have assets located in the United States amounting to at least the sum of environmental obligations covered by a financial test as described in

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Permit Condition VII.C.6.b.i.A.1. [40 CFR 267.143(f)(1)(iii)]

b. Recordkeeping and Reporting Requirements

i. Submissions to the Regional Administrator

(a) Pursuant to 40 CFR 267.143(f)(2)(i)(1), the Permittee shall submit to the Regional Administrator a letter signed by the Permittee's chief financial officer that:

(i) Lists all the applicable current types, amounts, and sums of environmental obligations covered by a financial test. These obligations include both obligations in the programs which EPA directly operates and obligations where EPA has delegated authority to a State or approved a State's program. These obligations include, but are not limited to:

(a) Liability, closure, post-closure and corrective action cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR 264.101, 264.142, 264.144, 264.147, 265.142, 265.144, and 265.147.;

(b) Cost estimates required for municipal solid waste management facilities under 40 CFR 258.71, 258.72, and 258.73;

(c) Current plugging cost estimates required for UIC facilities under 40 CFR 144.62; and

(d) Cost estimates required for petroleum underground storage tank facilities under 40 CFR 280.93;

(e) Cost estimates required for PCB storage facilities under 40 CFR 761.65;

(f) Any financial assurance required under, or as part of an

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action undertaken under, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and

- (g) Any other environmental obligations that are assured through a financial test.
- (ii) Provides evidence demonstrating that the firm meets the conditions of either Permit Conditions VII.C.6.a.1.a, or VII.C.6.a.1.b, or VII.C.6.a.1.c and Permit Conditions VII.C.6.a.2 and VII.C.6.a.3. [40 CFR 267.143(f)(2)(i)(A)]
- (b) A copy of the independent certified public accountant's unqualified opinion of the Permittee's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the Permittee's financial statements shall receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion shall be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Regional Administrator may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Regional Administrator deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Regional Administrator does not allow use of the test, the Permittee shall provide alternate financial assurance that meets the requirements of this section within 30 days after the notification of disallowance. [40 CFR 267.143(f)(2)(i)(B)]
- (c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that Permittee satisfies Permit Condition VII.C.6.a.1.b or Permit Condition VII.C.6.a.1.c that are different from data in the audited financial statements referred to in Permit Condition VII.C.b.1.b or any other audited financial statement or data filed with the SEC, then a special report from the Permittee's independent certified public accountant to the Permittee is required. The special report shall be based upon an agreed upon procedures engagement in

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accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences. [40 CFR 267.143(f)(2)(i)(C)]

- (d) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in Permit Condition VII.C.6.a.2.b, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided. [40 CFR 267.143(f)(2)(i)(D)]

ii. Submittals for New Facility

The Permittee of a new facility shall submit the items specified in Permit Condition VII.C.6.b.i to the Regional Administrator at least 60 days before placing waste in the facility. [40 CFR 267.143(f)(2)(ii)]

iii. Updates at Close of Fiscal Year

After the initial submission of items specified in Permit Condition VII.C.6.b.i, the Permittee shall send updated information to the Regional Administrator within 90 days following the close of the Permittee's fiscal year. The Regional Administrator may provide up to an additional 45 days for the Permittee who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information shall consist of all items specified in Permit Condition VII.C.6.b.i. [40 CFR 267.143(f)(2)(iii)]

iv. Exemptions from Submittals

The Permittee shall no longer required to submit the items specified in Permit

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Condition VII.C.6.b or comply with the requirements of Permit Condition VII.C.6 when either the Permittee substitutes alternate financial assurance that is not subject to these recordkeeping and reporting requirements (Permit Condition VII.C.6.b) or the Regional Administrator releases the Permittee from the requirements of this Permit Condition in accordance with Permit Condition VII.C.10. [40 CFR 267.143(f)(2)(iv)]

v. Alternate Financial Assurance

Pursuant to 40 CFR 267.143(f)(2)(v), if the Permittee no longer meets the requirements of Permit Condition VII.C.6.a, the Permittee shall not use the financial test to demonstrate financial assurance. Instead the Permittee shall:

- (a) Send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. The Permittee shall send this notice by certified mail within 90 days following the close of the Permittee's fiscal year for which the year-end financial data show that the Permittee no longer meets the requirements of this section; and
- (b) Provide alternative financial assurance within 120 days after the end of such fiscal year.

vi. Failure to Meet Requirements

The Regional Administrator, based on a reasonable belief that the Permittee may no longer meet the requirements of Permit Condition VII.C.6.a, shall require at any time the Permittee to provide reports of its financial condition in addition to or including current financial test documentation as specified in Permit Condition VII.C.6.b. If the Regional Administrator finds that the Permittee no longer meets the requirements of Permit Condition VII.C.6.a, the Permittee shall provide alternate financial assurance that meets the requirements of Permit Condition VII.C.6. [40 CFR 267.143(f)(2)(vi)]

VII.C.7. Corporate Guarantee

a. Written Guarantee

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Pursuant to 40 CFR 267.143(g)(1), the Permittee shall meet the requirements for demonstrating financial assurance for closure by obtaining a written guarantee, and shall meet the following:

- i. The guarantor shall be the direct or higher-tier parent corporation of the Permittee, a firm whose parent corporation is also the parent corporation of the Permittee, or a firm with a “substantial business relationship” with the Permittee.
 - ii. The guarantor shall meet the requirements for Permittees in Permit Condition VII.C.6 and shall comply with the terms of the guarantee.
 - iii. The wording of the guarantee shall be identical to the wording in 40 CFR 264.151(h).
 - iv. The certified copy of the guarantee shall accompany the letter from the guarantor’s chief financial officer and accountants’ opinions.
 - v. If the guarantor’s parent corporation is also the parent corporation of the Permittee, the letter from the guarantor’s chief financial officer shall describe the value received in consideration of the guarantee.
 - vi. If the guarantor is a firm with a “substantial business relationship” with the Permittee, this letter shall describe this “substantial business relationship” and the value received in consideration of the guarantee.
- b. New Facility

For a new facility, the guarantee shall be effective and the guarantor shall submit the items in Permit Condition VII.C.7.a and the items specified in Permit Condition VII.C.6.b.i to the Regional Administrator at least 60 days before the Permittee places waste in the facility. [40 CFR 267.143(g)(2)]

- c. Terms of Guarantee

The terms of the guarantee shall provide that:

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- i. If the Permittee fails to perform closure at a facility covered by the guarantee, the guarantor shall:
 - (a) Perform, or pay a third party to perform closure (performance guarantee); or
 - (b) Establish a fully funded trust fund as specified in Permit Condition VII.C.1 in the name of the Permittee (payment guarantee). [40 CFR 267.143(g)(3)(i)]
- ii. The guarantee shall remain in force for as long as the Permittee shall comply with the applicable financial assurance requirements of Permit Condition VII.C unless the guarantor sends prior notice of cancellation by certified mail to the Permittee and to the Regional Administrator. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the Permittee and the Regional Administrator as evidenced by the return receipts. [40 CFR 267.143(g)(3)(ii)]
- iii. If notice of cancellation is given, the Permittee, within 90 days following receipt of the cancellation notice by the Permittee and the Regional Administrator, shall obtain alternate financial assurance, and submit documentation for that alternate financial assurance to the Regional Administrator. If the Permittee fails to provide alternate financial assurance and obtain the written approval of such alternative assurance from the Regional Administrator within the 90-day period, the guarantor shall provide that alternate assurance in the name of the Permittee and submit the necessary documentation for the alternative assurance to the Regional Administrator within 120 days of the cancellation notice. [40 CFR 267.143(g)(3)(iii)]
- d. Alternate Financial Assurance

If a corporate guarantor no longer meets the requirements of Permit Condition VII.C.6.a, the Permittee shall, within 90 days, obtain alternative assurance, and submit the assurance to the Regional Administrator for approval. If the Permittee fails to provide alternate financial assurance within the 90-day period, the guarantor shall provide that alternate assurance within the next 30 days, and submit it to the Regional

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Administrator for approval. [40 CFR 267.143(g)(4)]

e. Release from Requirements

The guarantor shall no longer be required to meet the requirements of Permit Condition VII.C.7 when:

- i. The Permittee substitutes alternate financial assurance; or
- ii. The Permittee is released from the requirements of this Permit Condition in accordance with Permit Condition VII.C.10. [40 CFR 267.143(g)(5)]

VII.C.8. Multiple Financial Mechanisms

The Permittee shall use more than one mechanism at a particular facility to satisfy the requirements for financial assurance for closure. The acceptable mechanisms are trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, the financial test, and the guarantee, except owners or operators cannot combine the financial test with the guarantee. The mechanisms shall be as specified in Permit Conditions VII.C.1, VII.C.2, and Permit Conditions VII.C.4 through VII.C.8, except it is the combination of mechanisms rather than a single mechanism that shall provide assurance for an amount at least equal to the cost estimate. If the Permittee uses a trust fund in combination with a surety bond or letter of credit, the Permittee may use the trust fund as the standby trust for the other mechanisms. A single trust fund may be established for two or more mechanisms. The Regional Administrator may use any or all of the mechanisms to provide for closure of the facility. [40 CFR 267.143(h)]

VII.C.9. Multiple Facilities

[Note: pursuant to 40 CFR 267.143(i), the Permittee may use a financial mechanism for multiple facilities, as specified in 40 CFR 264.143(h).]

Pursuant to 40 CFR 267.143(i), the Permittee may use a financial assurance mechanism for more than one facility. Evidence of financial assurance submitted to the Regional Administrator shall include a list showing, for each facility: the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism.

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- a. If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrators of all such Regions.
- b. The amount of funds available through the mechanism shall be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.
- c. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Regional Administrator may direct only the amount of funds designated for that facility, unless the Permittee agrees to the use of additional funds available under the mechanism.

VII.C.10. Release of Permittee

Within 60 days after receiving certifications from the Permittee and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator shall notify the Permittee in writing that the Permittee is no longer required to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Regional Administrator shall provide the Permittee with a detailed written statement of any such reasons to believe that closure has not been conducted in accordance with the approved closure plan. [40 CFR 267.143(j)]

VII.D. LIABILITY REQUIREMENTS [40 CFR 267.147]

VII.D.1. Coverage for Sudden Accidental Occurrences

- a. The Permittee shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The Permittee shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage shall be demonstrated as specified as follows: [40 CFR 267.147(a)]

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[Note: for financial assurance mechanisms that do not apply, insert the terms “Not applicable” for the permit conditions below]

- i. Trust fund for liability coverage. The Permittee shall meet the requirements of this section by obtaining a trust fund for liability coverage as specified in 40 CFR 264.147(j); or
 - ii. Surety bond for liability coverage. The Permittee shall meet the requirements of this section by obtaining a surety bond for liability coverage as specified in 40 CFR 264.147(i); or
 - iii. Letter of credit for liability coverage. The Permittee shall meet the requirements of this section by obtaining a letter of credit for liability coverage as specified in 40 CFR 264.147(h); or
 - iv. Insurance for liability coverage. The Permittee shall meet the requirements of this section by obtaining liability insurance as specified in 40 CFR 264.147(a)(1); or
 - v. Financial test for liability coverage. The Permittee shall meet the requirements of this section by passing a financial test as specified in Permit Condition VII.D.3 ; or
 - vi. Guarantee for liability coverage. The Permittee shall meet the requirements of this section by obtaining a guarantee as specified in Permit Condition VII.D.4; or
 - vii. Combination of mechanisms. The Permittee shall demonstrate the required liability coverage through the use of combinations of mechanisms as allowed by 40 CFR 264.147(a)(6); or
- b. The Permittee shall notify the Regional Administrator in writing within 30 days whenever:
- i. A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in Permit Conditions VII.D.1.a.i through VII.D.1.a.vii; or

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- ii. A Certification of Valid Claim for bodily injury or property damages caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the Permittee and third-party claimant for liability coverage under Permit Conditions VII.D.1.a.1 through VII.D.1.a.7; or
- iii. A final court order establishing a judgment for bodily injury or property damage caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the Permittee or an instrument that is providing financial assurance for liability coverage under Permit Conditions VII.D.1.a.1 through VII.D.1.a.7.

VII.D.2. Period of Coverage

Within 60 days after receiving certifications from the Permittee and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator shall notify the Permittee in writing that he is no longer required by this Permit Condition to maintain liability coverage from that facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the approved closure plan. [40 CFR 267.147(e)]

VII.D.3. Financial Test for Liability Coverage (40 CFR 267.147(f))

Pursuant to 40 CFR 267.147(f), the Permittee shall satisfy the requirements of this Permit Condition and shall demonstrate financial assurance for liability up to the amount specified in the Permit Condition VII.D.3.

a. Financial Component

- i. If using the financial test for only liability coverage, the Permittee shall have tangible net worth greater than the sum of the liability coverage to be demonstrated by this test plus \$10 million. [40 CFR 267.147(f)(1)(i)]
- ii. The Permittee shall have assets located in the United States amounting to at least the amount of liability covered by this financial test. [40 CFR 267.147(f)(1)(ii)]

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- iii. The Permittee who is demonstrating coverage for liability and any other environmental obligations, including closure under Permit Condition VII.C.6, through a financial test, shall meet the requirements of Permit Condition VII.C.6. [40 CFR 267.147(f)(1)(iii)]

- b. Recordkeeping and Reporting Requirements
 - i. The Permittee shall submit the following items to the Regional Administrator:
 - (a) A Letter signed by the Permittee's chief financial officer that provides evidence demonstrating that the firm meets the requirements of Permit Conditions VII.C.6.a.1 and VII.C.6.a.2; [40 CFR 267.147(f)(2)(i)(A)]

 - (b) A copy of the independent certified public accountant's unqualified opinion of the Permittee's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the Permittee's financial statements shall receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Regional Administrator shall evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Regional Administrator deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Regional Administrator does not allow use of the test, the Permittee shall provide alternate financial assurance within 30 days after the notification of disallowance; and [40 CFR 267.147(f)(2)(i)(B)]

 - (c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the Permittee satisfies Permit Conditions VII.D.3.a.1 and VII.D.3.a.2 that are different from data in the audited financial statements referred to in Permit Condition VII.D.3.b.i.B or any other audited financial statement or data filed with the SEC, then a special report from the Permittee's independent certified public accountant to the Permittee is required. The special report shall be based upon an agreed upon procedures engagement in accordance with

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professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences. [40 CFR 267.147(f)(2)(i)(C)]

- ii. The Permittee of a new facility shall submit the items specified in Permit Condition VII.D.3.b.1 to the Regional Administrator at least 60 days before placing waste in the facility. [40 CFR 267.147(f)(2)(ii)]
- iii. After the initial submission of items specified in Permit Condition VII.D.3.b.1, the Permittee shall send updated information to the Regional Administrator within 90 days following the close of the Permittee's fiscal year. The Regional Administrator shall provide up to an additional 45 days for the Permittee who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information shall consist of all items specified in Permit Condition VII.D.3.b.i. [40 CFR 267.147(f)(2)(iii)]
- iv. Pursuant to 40 CFR 267.147(f)(2)(iv), the Permittee is no longer required to submit the items specified in Permit Condition VII.D.3.b or comply with the requirements of Permit Condition VII.D.3 when:
 - (a) The Permittee substitutes alternate financial assurance that is not subject to the recordkeeping and reporting requirements of Permit Condition VII.D.3.b; or
 - (b) The Regional Administrator releases the Permittee from the requirements of this section in accordance Permit Condition VII.C.10.
- v. Pursuant to 40 CFR 267.147(f)(2)(v), the Permittee who no longer meets the requirements of Permit Condition VII.D.3.a.1 cannot use the financial test to demonstrate financial assurance. The Permittee who no longer meets the requirements of Permit Condition VII.D.3.a.1, shall:
 - (a) Send notice to the Regional Administrator of intent to establish alternate

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financial assurance. The Permittee shall send this notice by certified mail within 90 days following the close the Permittee's fiscal year for which the year-end financial data show that the Permittee no longer meets the requirements of Permit Condition VII.D.3; and

- (b) Provide alternative financial assurance within 120 days after the end of such fiscal year.

- vi. The Regional Administrator, based on a reasonable belief that the Permittee may no longer meet the requirements of Permit Condition VII.D.3.a, shall require at any time the Permittee to provide reports of its financial condition in addition to or including current financial test documentation as specified in Permit Condition VII.D.3.b. If the Regional Administrator finds that the Permittee no longer meets the requirements of Permit Condition VII.D.3.a, the Permittee shall provide alternate financial assurance. [40 CFR 267.147(f)(2)(vi)]

VII.D.4. Guarantee for Liability Coverage

- a. Written Guarantee and Wording of Guarantee
 - i. Subject to Permit Condition VII.D.4.b, the Permittee shall meet the requirements of this Permit Condition by obtaining a written guarantee, hereinafter referred to as "guarantee". The guarantor shall be the direct or higher-tier parent corporation of the Permittee, a firm whose parent corporation is also the parent corporation of the Permittee, or a firm with a "substantial business relationship" with the Permittee. The guarantor shall meet the requirements for the Permittee in Permit Conditions VII.D.3.a through VII.D.3.c. [40 CFR 267.147(g)(1)]
 - ii. The wording of the guarantee shall be identical to the wording specified in 40 CFR 264.151(h)(2). [40 CFR 267.147(g)(1)]
 - iii. A certified copy of the guarantee shall accompany the items sent to the Regional Administrator as specified in Permit Condition VII.D.3.b. One of these items shall be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the Permittee, this letter shall describe the value received in consideration of the guarantee. If the guarantor is a

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firm with a “substantial business relationship” with the Permittee, this letter shall describe this “substantial business relationship” and the value received in consideration of the guarantee. [40 CFR 267.147(g)(1)]

- iv. If the Permittee fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden accidental occurrences arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor shall do so up to the limits of coverage. [40 CFR 267.147(g)(1)(i)]

b. Incorporation

- i. In the case of corporations incorporated in the United States, a guarantee shall be used to satisfy the requirements Permit Condition VII.D.4 only if the Attorneys General or Insurance Commissioners of the State in which the guarantor is incorporated and each State in which a facility covered by the guarantee is located, have submitted a written statement to EPA (the Regional Administrator) that a guarantee, executed as described in this Permit Condition and 40 CFR 264.151(h)(2), is a legally valid and enforceable obligation in that State. [40 CFR 267.147(g)(2)(i)]
- ii. In the case of corporations incorporated outside the United States, a guarantee shall be used to satisfy the requirements of Permit Condition VII.D.4 only if:
 - (a) The non-U.S. corporation has identified a registered agent for service of process in each State in which a facility covered by the guarantee is located and in the State in which it has its principal place of business; and
 - (b) The Attorney General or Insurance Commissioner of each State in which a facility covered by the guarantee is located and the State in which the guarantor corporation has its principal place of business, has submitted a written statement to EPA (Regional Administrator) that a guarantee, executed as described in this Permit Condition and 40 CFR 264.151(h)(2), is a legally valid and enforceable obligation in that State. [40 CFR 267.147(g)(2)(ii)]

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VII.E. INCAPACITY

VII.E.1. Notification

The Permittee shall notify the Regional Administrator by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the Permittee as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 267.143(g) and 267.147(g) shall make such a notification if he is named as debtor, as required under the terms of the corporate guarantee. [40 CFR 267.148(a)]

VII.E.2. Establishment of Financial Assurance

The Permittee who fulfills the requirements Permit Conditions VII.C or VII.D by obtaining a trust fund, surety bond, letter of credit, or insurance policy shall be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The Permittee shall establish other financial assurance or liability coverage within 60 days after such an event. [40 CFR 267.148(b)]

VII.F. STATE ASSUMPTION OF RESPONSIBILITY

VII.F.1. Evaluation of State Assumption of Responsibility

- a. If a State either assumes legal responsibility for the Permittee's compliance with the closure care or liability requirements or assures that funds shall be available from State sources to cover those requirements, the Permittee shall be in compliance with the requirements of Permit Conditions VII.C and VII.D, if the Regional Administrator determines that the State's assumption of responsibility is at least equivalent to the financial mechanisms specified in this Permit Condition. [40 CFR 267.150(a)]
- b. The Regional Administrator shall evaluate the equivalency of State guarantees principally in terms of certainty of the availability of funds for the required closure care activities or liability coverage and the amount of funds that shall be made available. The Regional

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Administrator shall also consider other factors as he deems appropriate. [40 CFR 267.150(a)]

- c. The Permittee shall submit to the Regional Administrator a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the Permittee requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this Permit Condition. [40 CFR 267.150(a)]
- d. The letter from the State shall include, or have attached to it, the following information: the facility's EPA Identification Number, name, and address, and the amount of funds for closure care or liability coverage that are guaranteed by the State. [40 CFR 267.150(a)]
- e. The Regional Administrator shall notify the Permittee of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this Permit Condition. The Regional Administrator shall require the Permittee to submit additional information as is deemed necessary to make this determination. Pending this determination, the Permittee shall be deemed to be in compliance with the requirements of Permit Conditions VII.C or VII.D, as applicable. [40 CFR 267.150(a)]

VII.F.2. Approved State Assumption of Responsibility

If a State's assumption of responsibility is found acceptable as specified in Permit Condition VII.F.1 except for the amount of funds available, the Permittee shall use both the State's assurance and additional financial mechanisms. The amount of funds available through the State and Federal mechanisms shall at least equal the amount required by Permit Condition VII.F. [40 CFR 267.150(b)]

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ATTACHMENT 1 - WASTE ANALYSIS PLAN

The WAP should provide for how compatibility of waste with container (if applicable) and secondary containment materials (if applicable) will be demonstrated. If the facility does not intend to have secondary containment systems or wastes with free liquids, the WAP should provide test procedures and results, or other documentation, which shows that the wastes do not contain free liquids. The suggested test for free liquids is the Paint Filter Liquids Test, Method 9095 in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846.

Examples of waste profile forms or other forms of documentation used in the WAP should be provided.

1. FACILITY DESCRIPTION

A brief discussion of the facility and the general types of waste to be managed (stored or treated) in the tank system and the types of processes or activities that generate waste. If the tank is a treatment tank, then activities conducted to mix or blend wastes should be discussed.

2. WASTE IDENTIFICATION

A detailed discussion of all the wastes and waste streams to be stored, managed or treated in the permitted tank systems. Typically this information is tabulated and should also contain EPA Waste Codes. If the wastes are subject to land disposal restrictions (LDR) requirements, then this should be addressed. Generators have special waste analysis requirements under the LDR program. 40 CFR 268.7 requires generators to conduct waste analysis to determine the regulatory status of the waste with respect to the treatment standards prior to land disposal.

3. PARAMETERS AND RATIONALE

This should list each of the parameters that have been chosen for analysis and should also provide an explanation for the rationale behind the selection of these parameters. This section of the WAP should address:

- a. All selected parameters to be analyzed for;
- b. Rationale for selected parameters;
- c. Wastes to be managed and their hazard characteristics (this should also address treated wastes and end products and by-products of treatment);

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- d. Hazardous waste treatment processes and appropriateness of parameters to be analyzed for to those processes;
- e. Process tolerance limits;
- f. Waste characterization data;
- g. Reactive or ignitable wastes;
- h. Potential incompatible wastes;
- i. Physical states of wastes (solid, liquid or gas);
- j. Physical properties; and
- k. Sources of wastes and variability of waste composition.

4. TEST METHODS

Each test method (test name and reference, e.g., EPA Test No.) should be provided that will be used for each of the chosen parameters. Specifically, this section of the WAP should address:

- a. Test parameters;
- b. Physical state of samples;
- c. Wastes and waste constituents;
- d. Potential interferences;
- e. Test methods;
- f. Acceptability of test methods;
- g. Accuracy and limits of detection; and
- h. Quality assurance and quality control (QA/QC) program.

5. SAMPLING METHODS

This section should identify and reference (e.g., ASTM) the sampling methods that will be used to obtain a representative sampling of each waste to be analyzed. This section should also provide a discussion of why the chosen method is appropriate for the type and nature of the waste, and specifically should address:

- a. Physical state of wastes;
- b. Potential for layered waste;
- c. Sampling devices, sampling equipment, and procedures;
- d. Locations of sampling;
- e. Randomness or representativeness of samples;

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- f. Composite versus grab samples;
- g. Frequency of sampling and analysis;
- h. Sample containers;
- i. Method of identifying samples;
- j. Chain-of-custody procedures;
- k. Preservation of samples;
- l. Holding times; and
- m. QA/QC program.

6. PROCESS KNOWLEDGE/ACCEPTABLE KNOWLEDGE

If acceptable knowledge is utilized to characterize the wastes, then the WAP must describe in detail the process used to characterize the waste. The process must be documented and supporting data provided.

7. ADDITIONAL REQUIREMENTS FOR WASTES GENERATED OFF-SITE

This section of the WAP should address:

- a. Nature of wastes to be received from off-site;
- b. Volume of shipments and variability or waste composition;
- c. Pre-acceptance testing;
- d. Physical states of wastes;
- e. Potential for layering of waste;
- f. Physical inspection and fingerprint analysis of incoming waste loads;
- g. Sampling devices and procedures for fingerprinting of incoming waste loads;
- h. Fingerprint analysis methods;
- i. Re-analysis procedures when test results are inconsistent with previous data;
- j. Criteria for waste acceptance/rejection;
- k. Procedure for returning or rerouting rejected waste loads;
- l. Statistical basis for number of samples; and
- m. QA/QC program.

8. ADDITIONAL WASTE REQUIREMENTS

The facility will need to demonstrate compliance with the 40 CFR Part 264 Subparts AA, BB, and CC

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air emission standards.

9. DEMONSTRATION OF TREATMENT EFFECTIVENESS

If the Permittee intends to treat waste, a demonstration of the effectiveness of waste treatment and the appropriateness of the selected treatment method should be provided. This must also be provided if treatment is required for compliance with LDR standards for prior to shipment of waste to a disposal facility.

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ATTACHMENT 2 - PERSONNEL TRAINING

This Attachment serves as an outline for the basis elements that should be included in the site personnel training program.

1. OUTLINE OF TRAINING PROGRAM

This section should contain an outline of both introductory and continuing training programs by the Permittee to prepare personnel to operate or maintain the facility in a safe manner and in compliance with the conditions of the permit. A brief description of how training will be designed to meet actual job tasks should be provided. On-the-job training is typically acceptable for compliance with these requirements.

1.1 Job Titles and Descriptions

The job title and job description should be provided for each position at the facility that is related to hazardous waste management.

1.2 Training Content, Frequency and Techniques

The plan should describe the content, frequency and techniques used in both introductory and continuing training for each employee and job position. The training requirements (including those related to implementation of the contingency plan) and relevance of the training for each job position should be provided.

1.3 Training Director

It should name the training director and demonstrate that the training director is a person trained in hazardous waste management procedures. The plan should stipulate that the training director will teach employees hazardous waste management procedures and contingency plan implementation relative to employment position.

1.4 Training for Emergency Response

The training plan should demonstrate that facility personnel will be able to respond effectively to emergencies. This should be accomplished through training personnel in emergency

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procedures, emergency equipment, and emergency systems. As applicable to specific job positions, the training program should also include:

- a. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
- b. How to identify and operate the key parameters for automatic waste feed cut-off systems;
- c. Locations of and how to operate communication systems and alarm systems;
- d. Procedures for responding to fires;
- e. Procedures for providing response to incidents of groundwater contamination; and
- f. How to shutdown all operations in the event of an emergency.

2. IMPLEMENTATION OF TRAINING PROGRAM

The plan should indicate that all training must be successfully completed by facility personnel within six months of their employment, assignment to the facility, or transfer to a new position within the facility, whichever is later. The plan should also stipulate that for employees hired after the effective date of these requirements, the employee must not work in unsupervised positions until they have completed the training requirements.

3. ANNUAL REVIEW

The plan should stipulate that an annual review of the initial training received for each employee will be conducted as part of the continuing education training.

4. DOCUMENTATION AND RECORDKEEPING

The section of the plan should provide documentation that the training requirements for each employee have been met and that records of the training will be maintained. The Permittee should maintain the following documentation on-site:

4.1. Job Title/Job Description

For each position at the facility that is related to hazardous waste management, a specific job title should be assigned. The facility should provide the name of each employee currently filling each job position. In addition, a written description for each position should be maintained.

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The description should include, at a minimum, the requisite skill(s) required for the position, education level necessary, all other required qualifications, and the duties required of each employee for the position.

4.2. Training Content, Frequency and Techniques

The plan should specify what training is required for each job position. This should include both introductory and continuing training. The plan should also provide the frequency for continuing training (e.g., annual refresher). A description of the each specific training “course” should be provided. If on-the-job training is included as part of the continuing training, this should also be detailed.

4.3. Record of Training

The plan should stipulate that training and job experiences for each personnel shall be documented to be maintained on-site.

4.4. Recordkeeping

The plan should indicate that all training records for all current employees will be maintained on-site until the time of facility closure. In addition, the plan should provide that all training records for former employees will be maintained for at least three years from the last day the employee worked at the facility. The plan should provide how training records from personnel from a previous company will be incorporated into the employee file. The plan should also include where on-site personnel training records will be maintained.

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ATTACHMENT 3 - CONTINGENCY PLAN

The Contingency Plan or Spill Prevention Control and Countermeasures (SPCC) Plan, as amended for hazardous waste, should describe the actions facility personnel will take to minimize hazards to human health and the environment in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to the air, soil, or surface water at the facility. The information contained in the Contingency Plan will supplement the conditions of the Permit (Permit Condition III.I)

1. GENERAL INFORMATION

1.1. Facility Information

This should include the facility name, operator, site plan and description of facility operations.

1.2. Maintenance of Copies

The Contingency Plan must be maintained at the facility. This section should provide the location of where the Plan is maintained and accessible on-site.

2. IMPLEMENTATION

This section should describe how and when the Contingency Plan will be implemented.

3. EMERGENCY COORDINATOR

Provide the names, addresses, office and home telephone numbers, and duties of the primary and alternate coordinators. In addition, a statement of authorization of the coordinator to commit necessary resources to plan responses should be provided.

4. EMERGENCY EQUIPMENT

Provide a list of all emergency equipment at each building or area at the facility. This information may be tabulated, but it should list all emergency equipment and exact location of the equipment within the building, area, etc.

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4.1 Fire Control Equipment

Provide a list of all fire control equipment and the location of these devices. In addition, the plan should provide a description of the general capabilities of each piece of equipment. If any wastes require special treatment in the event of a fire, it should be discussed.

Fire equipment addressed in the plan should include but not be limited to fire extinguishers (e.g., dry chemical), fire alarm pull boxes and/or push button stations, automatic fire suppression sprinkler systems, automatic thermal alarms, and fire hydrants.

4.2 Spill Control Equipment

Discuss all spill control equipment and the location of this equipment. This may include secondary containment systems, absorptive materials, dike, berms, and spill alarm systems. The Contingency Plan should also discuss any special waste handling procedures in the event of a spill.

4.3. Communication Equipment

All communication devices should be discussed and the location of these devices provide. Communication devices include, but are not limited to telephones, two-way radios, fire alarms, drop-box push stations, evacuation alarms, continuous air monitoring alarms, ventilation alarms, the public address (PA) system, and a site-wide paging system.

4.4 Decontamination Equipment

In the event of a spill or leak, personnel decontamination equipment will be required. The location of all decontamination equipment should be provided. Often, a facility map indicating locations of personnel decontamination equipment (e.g., eyewash) will be included as part of the Contingency Plan. In addition, capabilities of equipment should be provided. If the facility manages any waste requiring special decontamination procedures, this should be discussed in detail. Decontamination equipment should include items such as safety showers, eyewash stations, and Material Safety Data Sheets (MSDS).

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4.5 Personal Protective Equipment (PPE)

Discuss what levels of PPE will be required for a given spill or leak. The locations of all PPE should be provided. PPE discussed should include, as appropriate, respirators, respirator canisters/cartridges, self-contained breathing apparatus (SCBA), PPE clothing, and locations of change rooms.

4.6 Other

Other site-specific emergency equipment should be discussed. For example, this may include equipment such as transportation vehicles, potable emergency generators, front end loaders, and forklifts. The locations of these items on-site should be provided.

5. EMERGENCY PROCEDURES FOR CONTAINMENT BUILDING LEAKS

5.1. Immediate Actions

Specify procedures to be used when responding to containment building leaks.

5.2. Removing Waste

Specify that if the release was from the containment building, within 24-hours of detection of the leak, or at the earliest practical time, as much of the waste will be removed as necessary to prevent further release of hazardous material to the environment and to allow for inspection and repair of the system.. If materials were released to a secondary system, specify that all released materials will be removed within 24 hours or in as timely a manner as possible to prevent harm to human health and the environment.

5.3. Containment of Visible Releases

Specify that a visual inspection of the release will be immediately conducted. Demonstrate that based upon the visual inspection, further migration of the leak to soils and surface water will be prevented. Indicate that any visible contamination of the soil or surface water will be removed and properly disposed of.

Describe the criteria that will be used to assess the possible hazards to human health and the

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environment as a result of a fire, release, or explosion, and the need for evacuation and notification of authorities.

5.4. Notification

Describe the methodology for immediate notification of facility personnel and necessary state or local authorities. This should include notification of the on-scene coordinator for the areas or the National Response Center.

5.5 Identification of Hazardous Materials

Describe the procedures for identification of hazardous materials involved in an emergency.

5.6 Control Procedures

Specify specific controls that will be taken in the event of a fire, release, or explosion.

5.7 Prevention of Recurrence or Spread

Describe the necessary steps to be taken to ensure that fires, releases, or explosions do not occur, reoccur or spread to other hazardous wastes at the facility.

5.8 Storage and Treatment of Released Material

Provide for treatment, storage, or disposal of any material that results from a fire, release, or explosion at the facility.

5.9 Incompatible Wastes

Describe the provisions for prevention of incompatible waste from being treated, stored or located in the affected areas until clean-up procedures are completed. This may also include a discussion of removal of potentially incompatible wastes from an area in the event of a fire, release, or explosion.

6. EVACUATION PLAN

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The Contingency Plan should contain clearly written evacuation routes and muster areas for the facility. In addition, a map clearly illustrating these evacuation routes and muster areas should be included. The evacuation maps should also be posted in or near all work areas, with the locations of the maps provided in the Contingency Plan. This section should also include any special instructions specific to the facility.

7. COORDINATING AGREEMENTS

Describe the coordination agreements with local police and fire departments, hospitals, contractors, and state and local emergency response teams to familiarize them with the facility and actions needed in case of an emergency. Documentation of refusal to enter into a coordination agreement should be contained in the Contingency Plan.

8. PROVISION FOR REPAIR OF CONTAINMENT BUILDING

Discuss that any condition that could lead to or has caused a release of hazardous waste should be promptly repaired. In addition, discuss the following:

- a. Entering the record of discovery in the facility operating record;
- b. Immediately removing from service that portion of the containment building affected by the condition;
- c. Determining what steps must be taken to repair the unit, remove leakage from the secondary containment system, and establishing a schedule for cleanup and repair; and
- d. Indication that the containment building will be completely or partially removed from service if required by the Regional Administrator.

Discuss certification and inspection requirements following any leaks and repairs.

9. POST EMERGENCY PROCEDURES

Describe the procedures for ensuring that all emergency equipment listed in the Contingency Plan is cleaned and fit for its intended use before operations are resume.

10. NOTIFICATION AND RECORD KEEPING

This section should outline the recordkeeping and notification requirements of 40 CFR 267.58. This

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should include notifying the Regional Administrator within seven days of the incident, and appropriate State and local authorities, that the facility is in compliance with the Permit (Permit Condition III.I.7) before operations are resumed in the affected area(s) of the facility.

The Contingency Plan should stipulate that the Emergency Coordinator will note the time, date, and details of any incident that requires implementing the contingency plan in the operating record. In addition, the Plan should detail that within 14 days after the incident, the Emergency Coordinator will submit a written report on the incident to the Regional Administrator and that this report will include the following in the report:

- a. The name, address, and telephone number of the owner or operator (Permittee);
- b. The name, address, and telephone number of the facility;
- c. The date, time, and type of incident (e.g., fire, explosion);
- d. The name and quantity of material(s) involved;
- e. The extent of injuries, if any;
- f. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- g. The estimated quantity and disposition of recovered material that resulted from the incident.

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ATTACHMENT 4 - CLOSURE PLAN

Under a standardized permit, the closure plan is not required to be submitted to the Regional Administrator until at least 180 days prior to closure. The closure plan must meet the requirements of 40 CFR Part 267 Subpart G as well as the requirements in 40 CFR 267.173, 267.201, and 267.1108. This attachment provides a general guide to the type of information that should be included in the closure plan. The closure plan should include a description of how each containment building will be closed and provide a description of how final facility closure will be conducted. Under a standardized permit, clean closure is the desired endpoint. However, if clean closure can not be obtained, the Permittee is required to obtain an individual post-closure permit, that is separate from the standardized permit.

1. CLOSURE PERFORMANCE STANDARD

This should describe how closure will minimize the need for further maintenance. The section should include what controls will be in place to either minimize or eliminate the potential of escape of hazardous waste, hazardous waste constituents, leachate, contaminated run-off or hazardous waste decomposition products to the ground, surface water or groundwater once closure is complete. For the standardized permit, this should result in the removal of all hazardous wastes and hazardous waste byproducts and the decontamination of all environmental media.

Cleanup levels for potentially contaminated soil, surface water and/or groundwater, as applicable, should also be discussed.

This section of the Closure Plan should also discuss how closure will comply with the closure requirements of 40 CFR Part 267 Subpart G and any unit-specific closure requirements of the permit.

2. FINAL CLOSURE ACTIVITIES

This section should describe all the activities necessary to obtain final closure. For containment buildings, the closure plan should describe how all hazardous waste, hazardous waste residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with waste and leachate will be removed or decontaminated at closure and managed as hazardous waste. The following sections should address: hazardous waste removal from containment buildings and equipment; decontamination of all components; verification of decontamination; disposal of waste and residues; and maximum inventories.

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2.1. Methodologies for Closure

Describe what methods will be used to reach closure.

2.2. Maximum Extent of Operations

Describe the maximum extent of operations that will be active at the facility during closure and for the life of the facility.

2.3. Maximum Waste Inventory

Describe the maximum inventory of wastes that could be in storage, treatment, or disposal at anytime during the active life of the facility. If multiple containment buildings are present, describe the sequence in which the unit will be operated during the active life of the facility and the order in which they will be closed.

2.4. Inventory Removal

Discuss the methods for removing, transporting, treating, storing, or disposing of all hazardous waste. Identify the type(s) of off-site hazardous waste management units that are to be used.

2.5. Decontamination and Verification

2.5.1 Decontamination of Containment Buildings, System Components, Bases, Equipment, and Soil

Associated with the closure of each containment building, provide a detailed description of the steps needed to decontaminated or dispose of all buildings, system components, bases, and soils. The following should be included:

- a. Decontamination procedures;
- b. Criteria for determining decontamination;
- c. List of all buildings and system components;
- d. List of all bases on which buildings or components were placed or were part of secondary containment;
- e. Description and amounts of potentially contaminated soil;

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- f. Disposal of contaminated materials, including building materials, components, base materials, and soils; and
- g. Decontamination of cleanup materials and equipment.

2.5.2 Decontamination Verification

Demonstrate the decontamination has been effective and meets the performance standards have been met. Also demonstrate that any hazardous constituents left at the unit will not impact any environmental media in excess of EPA-established exposure levels and that direct contact with these constituents will not pose a threat to either human health or the environment.

2.6. Miscellaneous Activities

Describe any site-specific miscellaneous activities as applicable.

3. SAMPLING AND ANALYTICAL PROCEDURES

This section should describe the procedures and methods for sampling, analysis, and documentation applicable to closure activities. It is recommended that all sampling and analysis be conducted in accordance with EPA-approved procedures, such as those in *SW-846*.

3.1 Soil Sampling

Provide the sampling procedures to be used for the collection of soils. Include sampling methods, sample depths, location and number of samples. Also describe background soil locations and methods for determining background soil concentrations.

3.2 Liquid Sampling

Provide the sampling procedures to be used for the collection of liquids, including decontamination liquids and surface water, if applicable. Include sampling methods, sample depths, location and number of samples. Also describe background levels and methods for determining background concentrations.

3.3 Cleaning of Sampling Equipment

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Provide methods for cleaning of sampling equipment in between sample locations.

3.4. Sample Handling and Documentation

Discuss where samples will be analyzed. Discuss sample labeling, sample containers, sample preservation, packaging and sealing, and chain-of-custodies. Discuss information that will be documented in a field log book at the time of each sampling event (e.g., location of sample, date and time of sample, sampling team members, field measurements, etc.).

3.5 Analytical Procedures

List the procedures and/or methods that will be used for sample analysis, including the test methods for each parameter or groups of parameters. Include a discussion of samples for laboratory quality assurance/quality control (QA/QC). Provide target detection limits.

3.6 Field and Laboratory QA/QC

Discuss field QC activities, such as duplicate samples, trip blanks, field blanks and equipment rinsate blanks. Discuss the frequency at which these samples will be taken.

Discuss field calibration of instruments, if applicable.

4. SCHEDULE FOR CLOSURE

Include a schedule for closure. The schedule should include from the approval of the closure plan through final submission of the closure plan to the Regional Administrator. Table 4-1 is an abbreviated example of a closure schedule.

TABLE 4-1
Closure Schedule for Containment Building A-1 at ABC Chemical

ACTIVITY	MAXIMUM TIME REQUIRED
Notification of intent to close	-90 days
Approval of Closure Plan	Day 0

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TABLE 4-1
Closure Schedule for Containment Building A-1 at ABC Chemical

ACTIVITY	MAXIMUM TIME REQUIRED
Begin closure activities (removal of wastes and decontamination)	Day 10
Analyze samples	Day 50
Perform final cleanup (removal of decontamination wastes and equipment)	Day 120
Verification of decontamination	Day 150
Submit Closure Report to Regional Administrator	Day 180

5. COST ESTIMATE FOR CLOSURE

A closure cost estimate should be submitted, although it may be submitted separate from the closure plan. The cost estimate should comply with the terms of the permit, Permit Module VII.

6. POST-CLOSURE

Under a standardized permit, clean closure is required. However, in the event that a facility can not obtain clean closure, an individual post-closure permit must be obtained by the Permittee. This post-closure permit would be separate from this standardized permit. However, in order for the Permittee to still be in compliance with this permit, the Permittee would still be required to remove all waste, decontaminate the storage unit and clean up any spills during closure.

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ATTACHMENT 5 - ENGINEERING SPECIFICATION

The Permittee should submit engineering drawings as applicable. Examples of engineering drawings that may be provided are:

- Detailed drawings of the containment building, including system layout; specifications for the containment building and system components;
- Facility drawings;
- Self-containment pallets or other secondary containment systems;
- Air emission control specifications;
- Diagram of piping, instrumentation and process flow; and
- Leak detection system designs (if applicable).