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PART 256—GUIDELINES FOR DEVELOPMENT AND IMPLEMENTATION OF STATE SOLID WASTE MANAGEMENT PLANS

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EDITORIAL NOTE: For approval of State solid waste management plans see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart A—Purpose, General Requirements, Definitions

§ 256.01 Purpose and scope of the guidelines.

(a) The purpose of these guidelines is to assist in the development and implementation of State solid waste management plans, in accordance with section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6942(b)) (the ''Act''). These guidelines contain methods for achieving the objectives of environmentally sound management and disposal of solid and hazardous waste, resource conservation, and maximum utilization of valuable resources.

(b) These guidelines address the minimum requirements for approval of State plans as set forth in section 4003 of the Act. These are:

(1) The plan shall identify, in accordance with section 4006(b), (i) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (ii) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (iii) the means for coordinating regional

planning and implementation under the State plan.

(2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (i) utilized for resource recovery or (ii) disposed of in sanitary landfills (within the meaning of section 4004(a)) or otherwise disposed of in an environmentally sound manner.

(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.

(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

(6) The plan shall provide for resource conservation or recovery and for the disposal of solid waste in sanitary landfills or for any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound.

(c) These guidelines address the requirement of section 4005(c) that a State plan:

> Shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule of compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed five years from the date of publication of the inventory).

§ 256.02 Scope of the State solid waste management plan.

(a)(1) The State plan shall address all solid waste in the State that poses potential adverse effects on health or the environment or provides opportunity for resource conservation or resource recovery. The plan shall consider:

(i) Hazardous wastes;

(ii) Residential, commercial and institutional solid waste;

(iii) Wastewater treatment sludge;

(iv) Pollution control residuals;

(v) Industrial wastes;

(vi) Mining wastes;

(vii) Agricultural wastes;

(viii) Water treatment sludge; and

(ix) Septic tank pumpings.

(2) The State plan shall consider the following aspects of solid waste management:

(i) Resource conservation;

(ii) Source separation;

(iii) Collection;

(iv) Transportation;

(v) Storage;

(vi) Transfer;

(vii) Processing (including resource recovery);

(viii) Treatment; and

(ix) Disposal.

(b) The State Plan shall establish and justify priorities and timing for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the State, the extent of the solid waste management problem, the health, environmental and economic impacts of the problem, and the resources and management approaches available.

(c) The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and meeting the requirements of these quidelines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.

(d) The State plan shall cover a minimum of a five year time period from the date submitted to EPA for approval.

(e) The State plan shall identify existing State legal authority for solid waste management and shall identify modifications to regulations necessary to meet the requirements of these guidelines.

§ 256.03 State plan submission, adoption, and revision.

(a) To be considered for approval, the State plan shall be submitted to EPA

within a reasonable time after final promulgation of these guidelines.

(b) Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.

(c) The plan shall be developed in accord with public participation procedures required by Subpart G of this part.

(d) The plan shall contain procedures for revision. The State plan shall be revised by the State, after notice and public hearings, when the Administrator, by regulation, or the State determines, that:

(1) The State plan is not in compliance with the requirements of these guidelines;

(2) Information has become available which demonstrates the inadequacy of the plan; or

(3) Such revision is otherwise necessary.

(e) The State plan shall be reviewed by the State and, where necessary, revised and readopted not less frequently than every three years.

(f) States which are developing a complete State plan may submit the portion of the plan designed to satisfy the requirements of §256.26 prior to submission of the complete plan.

[44 FR 45079, July 31, 1979, as amended at 46 FR 47051, Sept. 23, 1981]

§ 256.04 State plan approval, financial assistance.

(a) The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that:

(1) It meets the requirements of these guidelines which address sections 4003(1), (2), (3), and (5), and

(2) It contains provisions for revision pursuant to §256.03.

(b) The Administrator shall review approved plans from time to time, and if he determines that revisions or corrections are necessary to bring such plan into compliance with all of the requirements of these guidelines, including the requirements which address sections 4003(4) and (6) and any new or revised requirement established by amendment to this part, he shall notify the State and provide an opportunity for such revisions and corrections and for an appeal and public hearing. If the plan continues to remain out of compliance, he shall withdraw his approval of such plan.

(c) Such withdrawal of approval shall cease to be effective upon the Administrator's determination that the State plan complies with the requirements of these guidelines.

(d) The Administrator shall approve a State application for financial assistance under subtitle D of the Act, and make grants to such State, if the Administrator determines that the State plan continues to be eligible for approval and is being implemented by the State.

(e) Upon withdrawal of approval of a State plan, the Administrator shall withhold Federal financial and technical assistance under subtitle D (other than such technical assistance as may be necessary to assist in obtaining reinstatement of approval) until such time as approval is reinstated. (Procedures for termination of financial assistance and for settlement of disputes are contained in 40 CFR part 30, appendix A, articles 7 and 8.)

(f) If a State submits to EPA the portion of the plan by which entities may, pursuant to §256.26, obtain timetables or schedules of compliance for complying with the open dumping prohibition, the Administrator shall approve such portion of the plan if he determines that:

(1) The portion submitted satisfies the requirements of §256.26;

(2) The State has the general legal authority to issue and enforce compliance schedules; and

(3) The remainder of the plan is being developed in conformity with these guidelines and will be completed within a reasonable period of time.

In giving partial plan approval, the Administrator shall specify in writing the timetable for completion of the final plan as required in paragraph (f)(3) of this section.

[44 FR 45079, July 31, 1979, as amended at 46 FR 47051, Sept. 23, 1981]

§ 256.05 Annual work program.

(a) The annual work program submitted for financial assistance under

section 4008(a)(1) and described in the grant regulations (40 CFR part 35) shall be reviewed by the Administrator in order to determine whether the State plan is being implemented by the State.

(b) The Administrator and the State shall agree on the contents of the annual work program. The Administrator will consider State initiatives and priorities, in light of the goals of the Act, in determining annual work programs for each State. The annual work program represents a State's obligation incurred by acceptance of financial assistance.

(c) Annual guidance for the development of State work programs will be issued by EPA. While this guidance will establish annual national priorities, flexibility will be provided in order to accommodate differing State priorities.

(d) The following documents developed under the State plan shall be included by reference in the annual work program:

(1) Substate solid waste management plans,

(2) Plans for the development of facilities and services, including hazardous waste management facilities and services, and

(3) Evidence of actions or steps taken to close or upgrade open dumps.

(e) The annual work program shall allocate the distribution of Federal funds to agencies responsible for the development and implementation of the State plan.

§ 256.06 Definitions.

Terms not defined below have the meanings assigned them by section 1004 of the Act.

The Act means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*).

Criteria means the ''Criteria for Classification of Solid Waste Disposal Facilities'', 40 CFR Part 257, promulgated under section 4004(a) of the Act.

Facility refers to any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, including hazardous waste, whether such facility is associated with facilities generating such wastes or not.

Implementation means putting the plan into practice by carrying out planned activities, including compliance and enforcement activities, or ensuring such activities are carried out.

Inactive facility means a facility which no longer receives solid waste.

Inventory of open dumps means the inventory required under section 4005(b) and is defined as the list published by EPA of those disposal facilities which do not meet the criteria.

Operator includes facility owners and operators.

A *permit* is an entitlement to commence and continue operation of a facility as long as both procedural and performance standards are met. The term ''permit'' includes any functional equivalent such as a registration or license.

Planning includes identifying problems, defining objectives, collecting information, analyzing alternatives and determining necessary activities and courses of action.

Provide for in the phrase ''the plan shall (should) provide for'' means explain, establish or set forth steps or courses of action.

The term *shall* denotes requirements for the development and implementation of the State plan.

The term *should* denotes recommendations for the development and implementation of the State plan.

Substate refers to any public regional, local, county, municipal, or intermunicipal agency, or regional or local public (including interstate) solid or hazardous waste management authority, or other public agency below the State level.

Subpart B—Identification of Responsibilities; Distribution of Funding

§ 256.10 Requirements.

(a) In accordance with sections 4003(1) and 4006 and the interim guidelines for identification of regions and agencies for solid waste management

(40 CFR part 255), the State plan shall provide for:

(1) The identification of the responsibilities of State and substate (regional, local and interstate) authorities in the development and implementation of the State plan;

(2) The means of distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and

(3) The means for coordinating substate planning and implementation.

(b) Responsibilities shall be identified for the classification of disposal facilities for the inventory of open dumps.

(c) Responsibilities shall be identified for development and implementation of the State regulatory program described in subpart C of this part.

(d) Responsibilities shall be identified for the development and implementation of the State resource conservation and resource recovery program described in subpart D of this part.

(e) State, substate and private sector responsibilities shall be identified for the planning and implementation of solid and hazardous waste management facilities and services.

(f) Financial assistance under sections 4008(a) (1) and (2) shall be allocated by the State to State and substate authorities carrying out development and implementation of the State plan. Such allocation shall be based on the responsibilities of the respective parties as determined under section 4006(b).

§ 256.11 Recommendations.

(a) Responsibilities should be identified for each of the solid waste types listed in § 256.02(a)(1).

(b) Responsibilities should be identified for each of the aspects of solid waste management listed in § 256.02(a)(2).

(c) Responsibilities should be identified for planning and designating ground water use with respect to design and operation of solid waste disposal facilities.

(d) Responsibilities should be identified for the development and implementation of the authorized State hazardous waste management program under subtitle C of the Act.

(e) The State plan should include a schedule and procedure for the continuing review, reassessment and reassignment of responsibilities.

Subpart C—Solid Waste Disposal Programs

§ 256.20 Requirements for State legal authority.

In order to comply with sections 4003 (2) and (3), the State plan shall assure that the State has adequate legal authority to prohibit the establishment of new open dumps and to close or upgrade existing open dumps. The prohibition of the establishment of new open dumps shall take effect no later than six months after the date of promulgation of the criteria or on the date of approval of the State plan, whichever is later.

§ 256.21 Requirements for State regulatory powers.

In order to comply with section 4003(4), the State plan shall provide for the establishment of State regulatory powers. These powers:

(a) Shall be adequate to enforce solid waste disposal standards which are equivalent to or more stringent than the criteria for classification of solid waste disposal facilities (40 CFR part 257). Such authority shall be as definitive as possible and clearly establish the means for compliance.

(b) Shall include surveillance capabilities necessary to detect adverse environmental effects from solid waste disposal facilities. Such capabilities shall include access for inspection and monitoring by regulatory officials and the authority to establish operator monitoring and reporting requirements.

(c) Shall make use of a permit program which ensures that the establishment of new open dumps is prohibited.

(d) Shall have administrative and judicial enforcement capabilities, including enforceable orders, fines or other administrative procedures, as necessary to ensure compliance.

§ 256.22 Recommendations for State regulatory powers.

In order to assist compliance with section 4003(4), the following are recommendations for State regulatory powers as may be necessary to prohibit new open dumps and close or upgrade all existing open dumps.

(a) Solid waste disposal standards:

(1) Should be based on the health and environmental impacts of disposal facilities.

(2) Should specify design and operational standards.

(3) Should take into account the climatic, geologic, and other relevant characteristics of the State.

(b) Surveillance systems should establish monitoring requirements for facilities.

(1) Every facility should be evaluated for potential adverse health and environmental effects. Based on this evaluation, instrumentation, sampling, monitoring, and inspection requirements should be established.

(2) Every facility which produces leachate in quantities and concentrations that could contaminate ground water in an aquifer should be required to monitor to detect and predict contamination.

(3) Inspectors should be trained and provided detailed instructions for checking on the procedures and conditions that are specified in the engineering plan and site permit. Provisions should be made to ensure chain of custody for evidence.

(c) Facility assessment and prescription of remedial measures should be carried out by adequately trained or experienced professional staff, including engineers and geologists.

(d) The State permit system should provide the administrative control to prohibit the establishment of new open dumps and to assist in meeting the requirement that all wastes be used or disposed in an environmentally sound manner.

(1) Permitting procedures for new facilities should require applicants to demonstrate that the facility will comply with the criteria.

(2) The permit system should specify, for the facility operator, the location, design, construction, operational, monitoring, reporting, completion and maintenance requirements.

(3) Permit procedures should include provisions to ensure that future use of the property on which the facility is located is compatible with that property's use as a solid waste disposal facility. These procedures should include identification of future land use or the inclusion of a stipulation in the property deed which notifies future purchasers of precautions necessitated by the use of the property as a solid waste disposal facility.

(4) Permits should only be issued to facilities that are consistent with the State plan, or with substate plans developed under the State plan.

(e) The enforcement system should be designed to include both administrative procedures and judicial remedies to enforce the compliance schedules and closure procedures for open dumps.

(1) Permits, surveillance, and enforcement system capabilities should be designed for supporting court action.

(2) Detection capabilities and penalties for false reporting should be provided for.

§ 256.23 Requirements for closing or upgrading open dumps.

In meeting the requirement of section 4003(3) for closing or upgrading open dumps:

(a) The State plan shall provide for the classification of existing solid waste disposal facilities according to the criteria. This classification shall be submitted to EPA, and facilities classified as open dumps shall be published in the inventory of open dumps.

(b) The State plan shall provide for an orderly time-phasing of the disposal facility classifications described in paragraph (a) of this section. The determination of priorities for the classification of disposal facilities shall be based upon:

(1) The potential health and environmental impact of the solid waste disposal facility;

(2) The availability of State regulatory and enforcement powers; and

(3) The availability of Federal and State resources for this purpose.

(c) For each facility classified as an open dump the State shall take steps

to close or upgrade the facility. Evidence of that action shall be incorporated by reference into the annual work program and be made publicly available. When the State's actions concerning open dumps are modified, the changes shall be referenced in subsequent annual work programs.

(d) In providing for the closure of open dumps the State shall take steps necessary to eliminate health hazards and minimize potential health hazards. These steps shall include requirements for long-term monitoring or contingency plans where necessary.

§ 256.24 Recommendations for closing or upgrading open dumps.

(a) All sources of information available to the State should be used to aid in the classification of facilities. Records of previous inspections and monitoring, as well as new inspections and new monitoring, should be considered.

(b) The steps to close or upgrade open dumps established under § 256.23(c) should be coordinated with the facility needs assessment described in § 256.41.

(c) A determination should be made of the feasibility of resource recovery or resource conservation to reduce the solid waste volume entering a facility classified as an open dump; and feasible measures to achieve that reduction should be implemented.

(d) At the time of classification of existing solid waste disposal facilities pursuant to § 256.23, the State should consider developing appropriate timetables or schedules by which any responsible party can be brought into compliance with the open dumping prohibition pursuant to §§ 256.26 and 256.27.

[44 FR 45079, July 31, 1979, as amended at 46 FR 47051, Sept. 23, 1981]

§ 256.25 Recommendation for inactive facilities.

Inactive facilities that continue to produce adverse health or environmental effects should be evaluated according to the criteria. The State plan should provide for measures to ensure that adverse health or environmental effects from inactive facilities are minimized or eliminated. Such measures may include actions by disposal facility owners and operators, notification of the general public, adjacent residents and other affected parties and notification of agencies responsible for public health and safety.

§ 256.26 Requirement for schedules leading to compliance with the prohibition of open dumping.

In implementing the section 4005(c) prohibition on open dumping, the State plan shall provide that any entity which demonstrates that it has considered other public or private alternatives to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, may obtain a timetable or schedule for compliance which specifies a schedule of remedial measures, and an enforceable sequence of actions, leading to compliance within a reasonable time (not to exceed 5 years from the date of publication of the inventory).

§ 256.27 Recommendation for schedules leading to compliance with the prohibition of open dumping.

In reviewing applications for compliance schedules under § 256.26, the State should consider the availability of processing and disposal facilities, the likelihood of environmental damage from disposal at available facilities, the existence of State or substate requirements (including other compliance schedules) applicable to available facilities, cost constraints, existing contractual agreements and other pertinent factors.

Subpart D—Resource Conservation and Resource Recovery Programs

§ 256.30 Requirements.

(a) In order to comply with sections 4003(2) and (6) as they pertain to resource conservation and recovery, the State plan shall provide for a policy and strategy for encouragement of resource recovery and conservation activities.

(b) In order to comply with section 4003(5), the State plan shall provide that no local government within the State is prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

§ 256.31 Recommendations for developing and implementing resource conservation and recovery programs.

(a) In order to encourage resource recovery and conservation, the State plan should provide for technical assistance, training, information development and dissemination, financial support programs, market studies and market development programs.

(b) In order to comply with the requirement of § 256.30(b) regarding long-term contract prohibitions, the State plan should provide for:

(1) Review of existing State and local laws and regulations pertinent to contracting for resource recovery services or facilities.

(2) Reporting of all laws and regulations found to be in violation of this requirement to the executive officer of the administrative agency responsible for the statute.

(3) Development of an administrative order or a revised law or regulation or any other preliminary step for the removal or amending of a law or regulation in violation of this requirement.

(4) Development of a strategy for the consideration of the legislature to prohibit and/or remove from State or local law provisions in violation of this requirement.

(c) The State plan should aid and encourage State procurement of products containing recovered materials in accord with section 6002 of the Act. To assist this effort, the State plan should provide for:

(1) The development of a policy statement encouraging the procurement of recovered materials, wherever feasible;

(2) The identification of the key purchasing agencies of the State, along with potential uses of recovered materials by these agencies; and,

(3) The development of a plan of action to promote the use of recovered materials through executive order, legislative initiative, or other action that the State deems necessary.

(d) In order to encourage resource recovery and conservation, the State plan should provide for the elimination, to the extent possible, of restrictions on the purchase of goods or services, especially negotiated procurements, for resource recovery facilities. This should include:

(1) Review of existing State and local laws pertinent to the procurement of equipment and services for the design, construction and operation of resource recovery facilities;

(2) Listing of all laws that limit the ability of localities to negotiate for the procurement of the design, construction, or operation of resource recovery facilities;

(3) Development of administrative orders or legislation or other action that would eliminate these restrictions; and

(4) Development of a strategy and plan of action for the consideration of the legislature for execution of administrative orders or other action that would eliminate these restrictions.

(e) The State plan should encourage the development of resource recovery and resource conservation facilities and practices as the preferred means of solid waste management whenever technically and economically feasible. The State plan should provide for the following activities:

(1) The composition of wastes should be analyzed with particular emphasis on recovery potential for material and energy, including fuel value, percentages of recoverable industrial wastes, grades of wastepaper, glass, and nonferrous and ferrous metals.

(2) Available and potential markets for recovered materials and energy should be identified, including markets for recoverable industrial wastes; wastepapers; ferrous and non-ferrous metals; glass; solid, liquid, or gaseous fuels; sludges; and tires. The following should be evaluated: location and transportation requirements, materials and energy specifications of user industries, minimum quantity requirements, pricing mechanisms and long-term contract availability.

(3) Resource recovery feasibility studies should be conducted in regions of the State in which uses or markets for recovered materials or energy are identified. These studies should review various technological approaches, environmental considerations, institutional and financial constraints, and economic feasibility.

(4) Source separation, recycling and resource conservation should be utilized whenever technically and economically feasible.

(5) Mixed waste processing facilities for the recovery of energy and materials should be utilized whenever technically and economically feasible.

(6) Source separation, resource conservation and mixed waste processing capacity should be combined to achieve the most effective resource conservation and economic balance.

Subpart E—Facility Planning and Implementation

§ 256.40 Requirements.

In order to comply with section 4003(6), the State plan shall provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner.

§ 256.41 Recommendations for assessing the need for facilities.

(a) In meeting the requirement for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices, the State plan should provide for an assessment of the adequacy of existing facilities and practices and the need for new or expanded facilities and practices.

(1) The needs assessment should be based on current and projected waste generation rates and on the capacities of presently operating and planned facilities.

(2) Existing and planned resource conservation and recovery practices and their impact on facility needs should be assessed.

(3) Current and projected movement of solid and hazardous waste across State and local boundaries should be assessed.

(4) Special handling needs should be determined for all solid waste categories.

(5) Impact on facility capacities due to predictable changes in waste quantities and characteristics should be estimated.

(6) Environmental, economic, and other constraints on continued operation of facilities should be assessed.

(7) Diversion of wastes due to closure of open dumps should be anticipated.

(8) Facilities and practices planned or provided for by the private sector should be assessed.

(b) The State plan should provide for the identification of areas which require new capacity development, based on the needs assessment.

§ 256.42 Recommendations for assuring facility development.

(a) The State plan should address facility planning and acquisition for all areas which are determined to have insufficient recovery, storage, treatment and disposal capacity in the assessment of facility needs.

(b) Where facilities and practices are found to be inadequate, the State plan should provide for the necessary facilities and practices to be developed by responsible State and substate agencies or by the private sector.

(c) For all areas found to have five or fewer years of capacity remaining, the State plan should provide for:

(1) The development of estimates of waste generation by type and characteristic,

(2) The evaluation and selection of resource recovery, conservation or disposal methods,

(3) Selection of sites for facilities, and

(4) Development of schedules of implementation.

(d) The State plan should encourage private sector initiatives in order to meet the identified facility needs.

(e) In any area having fewer than 2 years of projected capacity, the State plan should provide for the State to take action such as acquiring facilities or causing facilities to be acquired.

(f) The State plan should provide for the initiation and development of environmentally sound facilities as soon as practicable to replace all open dumps.

(g) The State plan should provide for the State, in cooperation with substate agencies, to establish procedures for choosing which facilities will get priority for technical or financial assistance or other emphasis. Highest priority should be given to facilities developed to replace or upgrade open dumps.

(h) The State plan should provide for substate cooperation and policies for free and unrestricted movement of solid and hazardous waste across State and local boundaries.

Subpart F—Coordination With Other Programs

§ 256.50 Requirements.

Section 4003(1) requires the State solid waste management plan to idenifty means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts that grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. In order to meet these requirements:

(a) The State solid waste management plan shall be developed in coordination with Federal, State, and substate programs for air quality, water quality, water supply, waste water treatment, pesticides, ocean protection, toxic substances control, noise control, and radiation control.

(b) The State plan shall provide for coordination with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). In identifying agencies for solid waste management planning and implementation, the State shall review the solid waste management activities being conducted by water quality planning and management agencies designated under section 208 of the Clean Water Act. Where feasible, identification of such agencies should be considered during the identification of responsibilities under subpart B of this part. Where solid waste management and water quality agencies are separate entities, necessary coordination procedures shall be established.

(c) The State plan shall provide for coordination with the National Pollutant Discharge Elimination System (NPDES) established under section 402 of the Clean Water Act, as amended (33 U.S.C. 1342). The issuance of State facility permits and actions taken to close or upgrade open dumps shall be timed, where practicable, to coordinate closely with the issuance of a new or revised NPDES permit for such facility.

(d) The State plan shall provide for coordination with activities for municipal sewage sludge disposal and utilization conducted under the authority of section 405 of the Clean Water Act, as amended (33 U.S.C. 1345), and with the program for construction grants for publicly owned treatment works under section 201 of the Clean Water Act, as amended (33 U.S.C. 1281).

(e) The State plan shall provide for coordination with State pretreatment activities under section 307 of the Clean Water Act, as amended (33 U.S.C. 1317).

(f) The State plan shall provide for coordination with agencies conducting assessments of the impact of surface impoundments on underground sources of drinking water under the authority of section 1442(a)(8)(C) of the Safe Drinking Water Act (42 U.S.C. 300j–1).

(g) The State plan shall provide for coordination with State underground injection control programs (40 CFR Parts 122, 123, 124, and 146) carried out under the authority of the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*) and with the designation of sole source aquifers under section 1424 of that Act.

(h) The State plan shall provide for coordination with State implementation plans developed under the Clean Air Act (42 U.S.C. 7401 *et seq.*; incineration and open burning limitations; and, State implementation plan requirements impacting resource recovery systems).

(i) The State plan shall provide for coordination with the Army Corps of Engineers permit program (or authorized State program) under section 404 of the Clean Water Act, as amended (33 U.S.C. 1344) for dredge and fill activities in waters of the United States.

(j) The State plan shall provide for coordination with the Office of Endangered Species, Department of the Interior, to ensure that solid waste management activities, especially the siting of disposal facilities, do not jeopardize the continued existence of an endangered or threated species nor result in the destruction or adverse modification of a critical habitat.

(k) The State plan shall provide for coordination, where practicable, with programs under:

(1) The Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*; disposal of chemical substances and mixtures).

(2) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 1362 *et seq.;* disposal and storage of pesticides and pesticide containers).

(3) The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1420 *et seq.*; disposal in ocean waters).

(l) The State plan shall provide for coordination, where practicable, with programs of other Federal agencies, including:

(1) Department of the Interior.

(i) Fish and Wildlife Service (wetlands),

(ii) Bureau of Mines and Office of Surface Mining (mining waste disposal and use of sludge in reclamation),

(iii) U.S. Geological Survey (wetlands, floodplains, ground water);

(2) Department of Commerce, National Oceanic and Atmospheric Administration (coastal zone management plans);

(3) Water Resources Council (floodplains, surface and ground waters);

(4) Department of Agriculture, including Soil Conservation Service (land spreading solid waste on food chain croplands);

(5) Federal Aviation Administration (locating disposal facilities on or near airport property);

(6) Department of Housing and Urban Development (701 comprehensive planning program, flood plains mapping);

(7) Department of Defense (development and implementation of State and substate plans with regard to resource recovery and solid waste disposal programs at various installations);

(8) Department of Energy (State energy conservation plans under the Energy Policy and Conservation Act (42 U.S.C. 6321)); and

(9) Other programs.

(m) The State plan shall provide for coordination, where practicable, with solid waste management plans in neighboring States and with plans for Indian reservations in the State.

Subpart G—Public Participation

§ 256.60 Requirements for public participation in State and substate plans.

(a) State and substate planning agencies shall:

(1) Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan, which shall include any parties that request to be on the list, the owner or operator of each facility classified as an open dump and any other parties which the State determines to be affected by or interested in the plan;

(2) Provide depositories of relevant information in one or more convenient locations; and

(3) Prepare a responsiveness summary, in accord with 40 CFR 25.8, where required by this subpart or by an approved public participation work plan, which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to the public input.

(b) State and substate planning agencies shall provide information and consult with the public on plan development and implementation. Provision of information and consultation shall occur both early in the planning process (including the preparation and distribution of a summary of the proposed plan) and on major policy decisions made during the course of plan development, revision and implementation. To meet this requirement, planning agencies shall:

(1) Publicize information in news media having broad audiences in the geographic area;

(2) Place information in depositories maintained under paragraph (a)(2) of this section;

(3) Send information directly to agencies, organizations and individuals on the list maintained under paragraph (a)(1) of this section; and

(4) Prepare and make available to the public a responsiveness summary in accord with 40 CFR 25.8.

(c) State and substate planning agencies shall conduct public hearings (and public meetings, where the agency determines there is sufficient interest) in accord with 40 CFR 25.5 and 25.6. The purpose of the hearings and meetings is

to solicit reactions and recommendations from interested or affected parties and to explain major issues within the proposed plan. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR 25.8.

[44 FR 45079, July 31, 1979, as amended at 46 FR 47051, Sept. 23, 1981]

§ 256.61 Requirements for public participation in the annual State work program.

(a) A public participation work plan in accord with 40 CFR 25.11 shall be included in the annual State work program.

(b) The State shall consult with the public in the development of the annual work program. One month prior to submission of the draft work program to the Regional Administrator, as required by 40 CFR part 35, the draft work program shall be made available to the public at the State information depositories maintained under §256.60(a)(2). The public shall be notified of the availability of the draft work program, and a public meeting shall be held if the planning agency determines there is sufficient interest.

(c) The State shall comply with the requirements of Office of Management and Budget Circular No. A–95.

(d) Copies of the final work program shall be placed in the State information depositories maintained under §256.60(a)(2).

§ 256.62 Requirements for public participation in State regulatory development.

(a) The State shall conduct public hearings (and public meetings where the State determines there is sufficient interest) on State legislation and regulations, in accord with the State administrative procedures act, to solicit reactions and recommendations. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR 25.8.

(b) In advance of the hearings and meetings required by paragraph (a) of this section, the State shall prepare a fact sheet on proposed regulations or legislation, mail the fact sheet to agencies, organizations and individuals on the list maintained under §256.60(a)(1) and place the fact sheet in the State information depositories maintained under §256.60(a)(2).

§ 256.63 Requirements for public participation in the permitting of facilities.

(a) Before approving a permit application (or renewal of a permit) for a resource recovery or solid waste disposal facility the State shall hold a public hearing to solicit public reaction and recommendations on the proposed permit application if the State determines there is a significant degree of public interest in the proposed permit.

(b) This hearing shall be held in accord with 40 CFR 25.5.

§ 256.64 Requirements for public participation in the open dump inventory.

(a) The State shall provide an opportunity for public participation prior to submission of any classification of a facility as an open dump to the Federal Government. The State shall accomplish this by providing notice as specified in §256.64(b) or by using other State administrative procedures which provide equivalent public participation.

(b) The State may satisfy the requirement of §256.64(a) by providing written notice of the availability of the results of its classifications to all parties on the list required under §256.60(a)(1) at least 30 days before initial submission of these classifications to the Federal Government. For those parties on the list required under §256.60(a)(1) who are owners or operators of facilities classified as open dumps, such notice shall indicate that the facility has been so classified.

[46 FR 47052, Sept. 23, 1981]

§ 256.65 Recommendations for public participation.

(a) State and substate planning agencies should establish an advisory group, or utilize an existing group, to provide recommendations on major policy and program decisions. The advisory group's membership should reflect a balanced viewpoint in accord with 40 CFR 25.7(c).

(b) State and substate planning agencies should develop public education programs designed to encourage informed public participation in the development and implementation of solid waste management plans.

[44 FR 45079, July 31, 1979. Redesignated and amended at 46 FR 47052, Sept. 23, 1981]

PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

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257.74 Structural integrity criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment.
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GROUNDWATER MONITORING AND CORRECTIVE ACTION

257.90 Applicability.
257.91 Groundwater monitoring systems.
257.92 [Reserved]
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