



# Resource Conservation and Recovery Act Public Participation Manual

**December 31, 2016**

United States Environmental Protection Agency  
Office of Land and Emergency Management  
5305P  
Washington, DC 20460

530-R-16-013

# NOTICE

---

This manual reviews regulatory requirements and provides policy guidance to help implement the Resource Conservation and Recovery Act (RCRA) program. The policies in the manual are not final Agency action, but are intended solely as guidance. They are not intended, nor can they be relied on, to create any rights enforceable by any party in litigation with the U.S. Environmental Protection Agency. Officials may decide to follow the guidance provided in this document, or to act at variance with the guidance, based on an analysis of site or facility circumstances. The Agency reserves the right to change this guidance at any time without public notice.

This manual replaces and supersedes the 1996 RCRA Public Participation Manual (EPA 530-R-96-007). It is for Agency staff, owners/operators of hazardous waste management facilities, community members and public interest organizations.

# TABLE OF CONTENTS

---

<b>NOTICE</b> .....	<b>I</b>
<b>TABLE OF CONTENTS</b> .....	<b>II</b>
<b>ACRONYMS AND ABBREVIATIONS</b> .....	<b>IV</b>
<b>PREFACE</b> .....	<b>V</b>
Audience for the RCRA Public Participation Manual .....	V
2016 Version.....	VI
How to Use the RCRA Public Participation Manual .....	VI
Other Resources.....	VII
<b>CHAPTER 1: INTRODUCTION</b> .....	<b>1</b>
Goals of RCRA Public Participation.....	1
RCRA and Its 1984 Amendments.....	2
Evolution of RCRA Public Participation .....	4
Addressing Environmental Justice in Public Participation.....	4
The EPA’s Agency-Wide Public Involvement Policy .....	5
<b>CHAPTER 2: BUILDING A FOUNDATION FOR SUCCESSFUL PUBLIC PARTICIPATION</b> .....	<b>7</b>
Definition and Description of Public Participation .....	7
Planning for Successful Public Participation .....	10
The Community Member’s Role .....	13
Key Considerations When Planning Public Participation .....	16
Communicating Risk Effectively .....	16
Assessing and Addressing Environmental Justice, Cultural, and Tribal Concerns.....	18
Supporting Community-Based Environmental Protection .....	20
Coordinating and Collaborating with EPA Programs and Other Agencies .....	200
Assessing and Responding to Technical Assistance Needs.....	211
Using Traditional and New Media Effectively.....	233
Planning for Public Participation When Resources are Limited.....	255
Evaluating Public Participation Activities.....	255
<b>CHAPTER 3: PUBLIC PARTICIPATION DURING THE RCRA (BASE)PERMITTING PROCESS</b> .....	<b>277</b>
Introduction .....	277
Overview of Public Participation in the Permitting Process .....	277
Public Participation Roles During the Permitting Process .....	300

Step One: Pre-Application Stage.....	300
Step Two: Application Stage.....	333
Step Three: Preparation of Draft Permit Stage .....	344
Step Four: Final Permit Design Stage .....	366
Public Participation During the Life of a Permit.....	377
Permit Modifications .....	377
Closure and Post-Closure at Permitted Facilities.....	43
Public Participation at Interim Status Facilities .....	433
Interim Status Facility Operation .....	44
Closure and Post-Closure at Interim Status Facilities.....	444
<b>CHAPTER 4: PUBLIC PARTICIPATION IN RCRA CORRECTIVE ACTION UNDER PERMITS AND RCRA § 3008(H) ORDERS .....</b>	<b>466</b>
Introduction .....	466
Overview of Public Participation in Corrective Action.....	477
Special Considerations for Public Participation Activities Under RCRA § 3008(h) Orders.....	488
Public Participation Roles During RCRA Corrective Action.....	488
RCRA Facility Assessment (RFA) – Initial Site Assessment.....	500
RCRA Facility Investigation (RFI) – Site Characterization.....	511
Interim Measures.....	522
Corrective Measures Study (CMS) – Evaluation of Remedial Alternatives.....	533
Remedy Selection.....	544
(CMI) – Remedy Implementation.....	555
Completion of the Remedy.....	566
<b>CHAPTER 5: RCRA PUBLIC PARTICIPATION ACTIVITIES .....</b>	<b>577</b>
Introduction .....	577
Public Participation Plans .....	577
Assessing the Community.....	588
Planning for Participation.....	599
Other Required and Optional Public Participation Activities.....	600

# ACRONYMS AND ABBREVIATIONS

---

Agency	U.S. Environmental Protection Agency
ANPR	Advance Notice of Proposed Rulemaking
ATSDR	Agency for Toxic Substances and Disease Registry
CAG	Community Advisory Group
CBEP	Community Based Environmental Protection
CEI	Community Engagement Initiative
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CMI	Corrective Measures Implementation
CMS	Corrective Measures Study
EJ	Environmental Justice
EPA	Environmental Protection Agency
FR	Federal Register
HSWA	Hazardous and Solid Waste Amendments
HW	Hazardous Waste
NEJAC	National Environmental Justice Advisory Council
NOD	Notice of Deficiency
OLEM	Office of Land and Emergency Management (renamed from OSWER in 2015)
OSWER	Office of Solid Waste and Emergency Response (renamed OLEM in 2015)
PEHSU	Pediatric Environmental Health Specialty Units
PTAP	Partners in Technical Assistance Program
RCRA	Resource Conservation and Recovery Act
RFA	RCRA Facility Assessment
RFI	RCRA Facility Investigation
SWMU	Solid Waste Management Unit
TANA	Technical Assistance Needs Assessment
TSD	Treatment, Storage and Disposal Facility

# PREFACE

---

The U.S. Environmental Protection Agency (EPA) and its partner states implement the Resource Conservation and Recovery Act (RCRA) program. The RCRA program protects our communities and the environment from the threats of solid and hazardous waste, cleans up land and water, conserves resources, and empowers community members by delivering information and opportunities that enable communities to participate in decision-making processes. Since Congress enacted the RCRA program in 1976, it has achieved remarkable improvements in the protection of human health and the environment by more effective management of hazardous and solid wastes.

This manual explains how to implement public participation activities throughout the RCRA permitting and corrective action processes. In the same way that a user's manual explains how a car or an appliance works, this manual explains how RCRA public participation works and how community members, regulators and industry can cooperate to make it better.

The manual emphasizes the importance of cooperation and communication, and highlights the public's role in providing valuable input during the permitting and corrective action processes. It also furthers EPA's commitments to early and meaningful involvement for communities, open access to information, and the important role of public participation in addressing environmental justice concerns.

The manual aims to promote consistent national policy on these issues. It does not substitute for RCRA statutory or regulatory requirements, nor is it a regulation itself. It does not impose legally binding requirements on EPA, states or the regulated community and may not apply to a particular situation based upon the circumstances. EPA, state, tribal and local decision-makers retain the discretion to adopt approaches on a case-by-case basis that differ from the guidance in this manual, where appropriate.

## **Audience for the RCRA Public Participation Manual**

EPA wrote this manual to help all stakeholders involved in the RCRA permitting or corrective action processes, particularly those who conduct public participation activities.

### ***If you are a government regulator:***

This manual provides details about public participation requirements, outlines EPA's current policies, and encourages increased public input into RCRA decision-making. It provides information on how to open a dialogue with other stakeholders, assess communities and be sensitive to their concerns, plan for public participation, fulfill statutory and regulatory requirements, and go beyond the requirements where appropriate.

### ***If you own or operate a hazardous waste management facility:***

This manual describes when and how to conduct public participation activities. It lays out the owner/operator's responsibilities and activities, and identifies how the permitting agency (or EPA, in states that have no authorized corrective action programs) conducts other activities. It discusses how to more effectively interact with the community around the facility, act in ways that are sensitive to their concerns, and cooperate and communicate with all stakeholders. It also describes public participation opportunities that go beyond the statutory or regulatory requirements.

***If you are a community member or a member of a local community group:***

This manual describes the many public participation activities that RCRA requires. It points out steps that agencies, companies and public interest groups can take to provide additional public input into the RCRA process. It also contains links to other resources to learn more about RCRA and public participation.

***If you are a member of a public interest or environmental group:***

This manual discusses the federal requirements for public participation. It explains how organizations can get involved and provides useful tips for working with other stakeholders. It bases these tips on the experience of people who conduct public participation. It also explains how to conduct public participation activities and provides links to resources for more information.

## **2016 Version**

This 2016 RCRA Public Participation Manual replaces the 1996 version. The updates and revisions to the document reflect current regulations, policies and practices. It presents new information about technical assistance, environmental justice, social media and other topics that have come to the forefront since the 1996 edition.

For many years since the 1996 edition, RCRA permitting programs focused on issuing initial permits. Today, however, permit maintenance and modifications account for most permitting activity since the majority of hazardous waste management facilities are already permitted. This 2016 manual includes updated and expanded information about permit modifications, the level of public participation corresponding to each permit modification classification, and best practices for site-specific public participation.

## **How to Use the RCRA Public Participation Manual**

This manual provides general guidance about how to conduct public participation activities at RCRA facilities. While users can read the entire document, each chapter is an independent reference and resource. The manual's chapters are:

- **Chapter 1: Introduction** discusses the goals of RCRA public participation, provides an overview of the history of RCRA public participation, and describes the evolution of EPA's approach to RCRA public participation from its beginnings in the late 1970s to the present.
- **Chapter 2: Building a Foundation for Successful Public Participation** explains some basic principles that often lead to successful public participation at RCRA facilities.
- **Chapter 3: Public Participation During the RCRA Permitting Process** discusses the basic steps in the RCRA permitting process and the public participation activities that accompany those steps. It also provides a list of additional participation activities to supplement the requirements.
- **Chapter 4: Public Participation in RCRA Corrective Action Under Permits and RCRA § 3008(H) Orders** details EPA's public participation guidelines for the corrective action program. It reflects the current EPA position on these issues as the corrective action program continues to evolve.
- **Chapter 5: RCRA Public Participation Activities** provides detailed descriptions of dozens of public participation techniques—required and optional, formal and informal. It explains all the public participation methods mentioned in the previous chapters and provides information on additional methods.

## **Other Resources**

Readers are encouraged to consult the relevant RCRA statutory provisions and regulations in the Code of Federal Regulations (CFR), [40 CFR part 25](#) (EPA's public participation rules for RCRA, Safe Drinking Water Act and Clean Water Act programs) and [40 CFR 124 subparts A B and G \(general and specific RCRA permit decision-making regulations\)](#), and to visit EPA's hazardous waste [website](#) to learn more about public participation activities required by each permitting program. This manual also highlights additional resources throughout the text.



# CHAPTER 1: INTRODUCTION

---

This chapter discusses the goals of RCRA public participation, provides an overview of the history of RCRA public participation, and describes the evolution of EPA's approach to RCRA public participation from its beginnings in the late 1970s to the present.

This manual covers federal public participation requirements. States may have additional requirements.

## Goals of RCRA Public Participation

RCRA brings government, private industry, public interest groups and communities together to make important decisions about hazardous waste management facilities. Public participation plays an integral role in this decision-making. EPA uses the term public participation for the activities where permitting agencies and permittees encourage public input and feedback, have a conversation with the public, provide access to decision-makers, incorporate public viewpoints and preferences, and demonstrate that decision-makers have considered those viewpoints and preferences (see 40 Code of Federal Regulations (CFR) § 25.3(b)).

The public refers to not only local community members but also representatives of consumer, environmental, faith, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations (see 40 CFR § 25.3(a)). It is important to note that these larger, national groups may not always have the same interests as local community members. Local communities should have a more primary role in local decisions that directly impact their day-to-day lives.

There are many reasons for agencies, facilities and interest groups to engage the public, and many reasons for community members to participate fully in RCRA decision-making:

- Community members are more likely to accept and support RCRA actions when they have had an active role in shaping the decision. When a regulatory agency or facility shows that it is willing to listen to community concerns, it establishes the foundation for improved understanding, even if community members do not agree with the outcome.
- RCRA and its implementing regulations require facilities and permitting agencies to conduct public participation activities. Additional public participation activities can complement the required activities.
- Public input helps agencies, permittees and prospective applicants reach better technical solutions and make better policy decisions. With public input, technical staff can better account for local circumstances in permitting and corrective action decisions, and mitigate risk more effectively.
- Permitting agencies make many controversial decisions. While these decisions rely on technical expertise, public participation in decision-making is an essential element of good government.

Both the community and permitting agency benefit from well-designed and executed RCRA public participation. RCRA host communities benefit from:

- a better understanding of the RCRA implementation process;
- opportunities to influence the decision-making process;

- a better understanding of living and doing business sustainably;
- involvement in a process that builds cohesion and promotes community inclusiveness; and
- a corrective action approach that considers a community's needs and concerns, and minimizes risks and negative impacts.

The permitting agency benefits from:

- improved access to local and historical information about exposure pathways, unique ways in which the community uses local resources, and exposure scenarios for anticipated land uses;
- better understanding of community needs and concerns, values, cultures, habits and demographic characteristics;
- increased awareness of whether certain community segments may face environmental justice concerns;
- an understanding of the community-based and government organizations and leaders that serve, interact with and have built trust within the community;
- a strong partnership with the community based on trust and respect;
- collaboration and cooperation between the community and the agency, which minimizes potential conflicts and costly, unnecessary delays;
- improved decisions, resulting in time and cost savings, helps achieve all goals (e.g., permitting, transparency, correction action, protectiveness) more quickly and efficiently;
- opportunities to engage responsible stewards who may ensure the property is managed appropriately in the future; and
- improved community acceptance and support of agency decisions.

## RCRA and Its 1984 Amendments

Congress enacted RCRA, an amendment to the Solid Waste Disposal Act, in 1976 to address the safe management and disposal of the high volumes of municipal and industrial solid waste generated nationwide. RCRA's goals were to:

- protect human health and the environment from the potential hazards of waste disposal;
- conserve energy and natural resources;
- reduce the amount of waste generated; and
- ensure environmentally sound waste management.

### RCRA's Goals

- To protect human health and the environment.
- To conserve energy and natural resources.
- To reduce waste.
- To ensure environmentally sound waste management.

RCRA continues to evolve as Congress amends the statute to reflect changing needs. Amendments to RCRA have occurred several times since 1976, most significantly in 1984. The 1984 amendments, called the Hazardous and Solid Waste Amendments (HSWA), significantly expanded the scope and requirements of RCRA.

Subtitle C of RCRA establishes a program to manage hazardous waste from cradle-to-grave and ensure that hazardous waste management protects human health and the environment. EPA established

regulations under Subtitle C regarding the generation, transportation, treatment, storage and disposal of hazardous waste. See [Title 40 of the CFR](#), parts 261-267 and parts 268-270, for these regulations.<sup>1</sup>

State authorization is a rulemaking process in which EPA delegates the primary responsibility of implementing RCRA to individual states. This process ensures national consistency and minimum standards while providing flexibility to states in implementing rules. Currently, 50 states and territories have the authority to implement the base, or initial, program. Many states also have the authority to implement additional parts of the RCRA program, such as corrective action. State RCRA programs must be at least as stringent as the federal requirements, but states can adopt requirements that are more stringent.

The Subtitle C program first identifies which solid wastes are hazardous and then establishes requirements for the three categories of hazardous waste handlers: (1) generators; (2) transporters; and (3) owners/operators of treatment, storage and disposal (TSD) facilities. This manual applies only to TSD facilities, and the term “facilities” refers only to TSD facilities. The Subtitle C regulations set technical standards for the design and safe operation of hazardous waste facilities. These standards ensure the proper management of hazardous waste in order to minimize the release of hazardous waste into the environment.

RCRA regulations serve as the basis for developing and issuing, or denying, permits to each facility. Issuing permits is essential to the Subtitle C regulatory program because that is how the regulatory agency applies the technical standards to facilities.

RCRA also requires owners/operators of RCRA facilities to clean up contamination resulting from present and past practices, including practices of previous facility owners/operators. These cleanup activities are called corrective action. HSWA significantly expanded EPA’s authority to initiate corrective action at RCRA facilities.

Section 3005(c)(3) of RCRA (codified at 40 CFR § 270.32(b)(2)) requires that each hazardous waste facility permit contain the terms and conditions necessary to protect human health and the environment. This provision is commonly called the “omnibus authority” or “omnibus provision,” and it is the way in which additional site-specific permit conditions may be incorporated into RCRA permits if these conditions are necessary to protect human health and the environment. Communities can leverage this omnibus authority through public participation to influence needed community protections.

For information on many aspects of RCRA implementation, visit EPA’s [RCRA website](#). Detailed information on specific RCRA topics (for example, Corrective Action, Permits and Interim Status, and Modifications) is available through [a series of training modules](#).

---

<sup>1</sup> 1 It is important to note the difference between how “meaningful involvement” with indigenous populations is used in the EJ context and as discussed in the [EPA’s Policy on Consultation and Coordination with Indian Tribes, May 4, 2011](#). The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, Executive Orders, and the historical relations between the United States and Indian Nations. The federal government has a trust responsibility to federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking action that may affect them or their resources.

## Evolution of RCRA Public Participation

Section 7004(b) of RCRA and EPA's permitting regulations, found at 40 CFR parts 124 and 270, form the foundation for mandatory public participation activities during the RCRA permitting process. The following chapters explain in more detail how EPA's RCRA regulations provide for public participation at all hazardous waste management facilities throughout the RCRA process, including before the permit application, through the permitting process, and during the permit's life.

Some community members, other groups and EPA initially were concerned that formal public participation began too late in the permitting process and that RCRA permitting information was not always accessible. In response to concerns, EPA expanded RCRA public participation requirements in December 1995 with the [RCRA Expanded Public Participation Rule](#). This new rule required public involvement earlier in the permitting process, expanded public notice for significant events and enhanced the exchange of permitting information. These regulations highlight EPA's support for strengthening the link between RCRA facilities and their host communities.

EPA also took steps to ensure fair public participation in the RCRA permitting process. For example, EPA Assistant Administrator Elliot Laws issued a memorandum to EPA Regional Administrators in December 1995, stating the Agency's policy to ensure equal access to permitting information and to provide an equal opportunity for all community members to be involved in the RCRA permitting process.

## Addressing Environmental Justice in Public Participation

EPA's approach to public participation evolved to incorporate guidance on addressing environmental justice (EJ) concerns. In 1993, EPA established the National Environmental Justice Advisory Council (NEJAC) to provide independent advice and recommendations to the EPA Administrator on EJ issues. In 1994, President Clinton issued Executive Order 12898, [Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#). Section 1-101 of this order directed each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations." Section 1-103 directed each federal agency to "develop an agency-wide environmental justice strategy."

To implement Executive Order 12898, EPA issued a memorandum in 1994 entitled [Integration of Environmental Justice into OSWER Policy, Guidance, and Regulatory Development](#). This memo stated that, "to the extent practicable, staff should evaluate the ecological, human health (taking into account subsistence patterns and sensitive populations) and socio-economic impacts of the proposed decision-document in minority and low-income communities." It also emphasized that "at all critical stages of development, there should be meaningful input from stakeholders, including members of the environmental justice community and members of the regulated community."

In 1996, the NEJAC published [The Model Plan for Public Participation](#). The 2013 update to the model plan, [Model Guidelines for Public Participation](#), recognizes barriers and challenges common to communities with EJ concerns, such as:

- availability of resources, including funding and staff to conduct the needed activities over the long term;
- poor or little coordination among and between various federal, state, tribal and local government agencies and other entities;
- language and cultural differences;

- identification of and coalition building among local leadership within a community;
- lack of cultural competency among agencies trying to conduct community engagement;
- lack of recognition among communities and individuals of their stakeholder status in EJ issues; and
- lack of trust between community members, regulatory agencies and regulated industries.

In *Model Guidelines for Public Participation*, the NEJAC concluded that conducting effective EJ public participation requires an approach that is “tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation.” Section 3 of the document offers recommendations for how EPA can work with EJ stakeholders to develop an effective community engagement approach. Appendix C of that document includes a 34-step *Environmental Justice Public Participation Checklist for Government Agencies*.

In 2000, EPA’s Office of General Counsel issued a memorandum on [EPA Statutory and Regulatory Authorities Under Which Environmental Justice Issues May Be Addressed in Permitting](#), which analyzed opportunities for addressing EJ issues under several EPA permitting processes, including RCRA. In this memorandum, EPA voiced its commitment to addressing EJ concerns and pointed to legal provisions that allow the agency to address such concerns in the RCRA permitting processes.

## The EPA’s Agency-Wide Public Involvement Policy

In 2003, EPA adopted a Public Involvement Policy that affirmed the Agency’s approach to involving communities in actions that affect them. The policy outlines seven steps:

*Public input can help the Agency and the permittee make better technical decisions.*

1. **Plan and budget:** Planning community engagement activities and adequately budgeting resources, such as time, money, and in-kind efforts, can help ensure an effective public involvement process. Early planning typically helps get these activities and processes moving, for both EPA and the public.
2. **Identify whom to involve:** The most important part of the public involvement process is the early identification of the interested and affected public. This step enables EPA to have direct exchanges of information, feedback and involvement with communities that Agency decisions affect.
3. **Consider providing technical or financial assistance:** Providing technical and financial assistance helps communities navigate complex scientific issues, data and documents. Many individual stakeholders cannot effectively take part in a dialogue about difficult environmental decisions because they do not have the resources to research the issues, understand the effects and results of possible decisions, or feel comfortable expressing their opinions in a public forum.
4. **Provide information and conduct outreach:** Offering information and outreach opportunities frequently and in accessible places, including online, helps communities to contribute effectively to EPA decision-making processes.
5. **Consult with and involve the public early and often:** Giving the public an opportunity to communicate their concerns, problems and alternatives can improve the Agency’s decisions and environmental outcomes. A public participation practitioner should seek every opportunity to expand and diversify public consultation and involvement processes.

6. **Review and use public input and provide feedback:** Reviewing and using comments from the public and providing feedback supports the process and confirms EPA's constructive use of feedback to those who contributed ideas.
7. **Evaluate public participation activities:** Getting feedback from the public on how well a specific public participation activity or overall process, including meetings, notices of action, and rulemakings, worked can help the agency modify and improve those processes and activities. This manual incorporates the many valuable lessons and practices learned through EPA's community engagement and public participation, including the *Model Guidelines for Public Participation*, the *Community Engagement Initiative*, and onsite experience.

# CHAPTER 2: BUILDING A FOUNDATION FOR SUCCESSFUL PUBLIC PARTICIPATION

## Faith-Based and Neighborhood Partnership Initiative

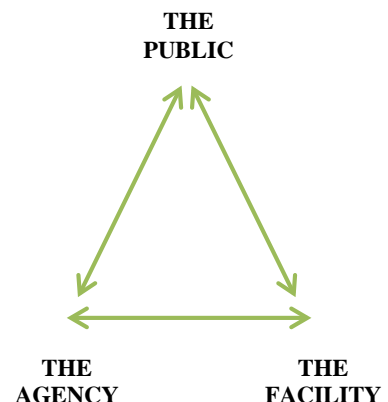
EPA joined the Faith-Based and Neighborhood Partnership Initiative, established by Executive Order 13498, to help promote interfaith dialogues and strengthen the role of community organizations. Through partnerships, EPA aims to connect similar faith-based and neighborhood organizations working on environmental projects with one another and build a network of communities in support of environmental literacy and stewardship. For example, in November 2015, EPA co-sponsored the Food Recovery Summit in South Carolina. The goal of EPA and the U.S. Department of Agriculture to cut wasted food in half by 2030 inspired this meeting, which included partners from all facets of the food system. Faith leaders worked with recycling and disposal organizations, federal agencies, universities, nonprofits, and other key stakeholders. This dialogue resulted in a “national call to action by stakeholders,” which identifies areas of focus, opportunities, and demonstrated practices to meet this national goal.

This chapter explains some basic principles that often lead to successful public participation at RCRA facilities. A successful approach to public participation involves developing a clear definition of public participation along with guiding principles that promote trust, constructive dialogue, and exceptional teamwork; careful planning of public participation activities; and addressing several key considerations.

## Definition and Description of Public Participation

Public participation plays an integral role in RCRA permitting and corrective action. The relationships between RCRA stakeholders can be represented as a triangle, with the agency, the facility owner/operator, and the public each forming a corner. Each of these stakeholders connects to the others through a line of communication. In the best-case scenario, the stakeholders interact well with each other, the lines of communication are strong between all parties, and information flows in both directions around the triangle, as shown in Exhibit 2-1. A good public participation program will create an inclusive dialogue, allowing agency staff, facility personnel and community members to talk openly and frankly with one another about RCRA-related issues and search for mutually agreeable solutions to differences.

Exhibit 2-1. The Public Participation Triangle





### Community Outreach

The permitting agency and RCRA facility should investigate the best ways to communicate with community members. Consider asking:

- **Which communication methods are most effective?** Community members may not have consistent access to electronic methods of communication. As a result, hard-copy and telephone communication may be critical to successful dissemination of information.
- **How do they receive local news?** Sources of local news could include: newspapers, radio stations, social media, direct mailings to homes, flyers in key public spaces such as a community business, or communication through churches, clergy or community organizations.

These key principles are a guide to the public participation process:

- **Be inclusive.** All interested stakeholders should be identified and invited to participate in RCRA processes. It is important to consider if there are hard-to-reach people in the community, such as people who may speak languages other than English or community members who may not trust the government because of legal status or other concerns. If the facility is in a community that is likely to have EJ concerns, additional efforts should be made to involve segments of the community that are not effectively reached by conventional approaches. If a facility affects tribal lands or any tribal members, tribal consultation is essential.<sup>2</sup>
- **Promote open and frequent communication, and practice active listening.** Public participation must start with a constructive dialogue between stakeholders. Permitting agencies and facility owner/operators should learn about the community's need for information and its preferred communication styles and methods. It is best to ask open-ended questions that encourage people to share information and express their concerns. Active two-way communication creates feedback loops that enable the Agency and the facility to monitor public interest or concern, adjust public participation activities, and respond quickly and effectively to changing needs.
- **Be honest, open and transparent.** Being honest and open is the best way to promote trust and credibility among stakeholders. By sharing information with community members and creating open and reliable lines of communication, the permitting agency and facility can create trust and cooperation that allows public debate to focus on environmental and economic impacts.
- **Be available, accessible and responsive.** The permitting agency and facility should be prepared to anticipate and respond to the community's concerns, fears and points of confusion. The permitting agency and facility should respond to questions and concerns quickly, which helps build the community's trust and confidence in EPA. If time is required to respond to a community member's request, explain when someone can provide an answer, and always follow up as promised.

---

<sup>2</sup> It is important to note the difference between how "meaningful involvement" with indigenous populations is used in the EJ context and as discussed in the [EPA's Policy on Consultation and Coordination with Indian Tribes, May 4, 2011](#). The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, Executive Orders, and the historical relations between the United States and Indian Nations. The federal government has a trust responsibility to federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking action that may affect them or their resources.



- **Promote understanding and interaction between stakeholders.** While each stakeholder shares responsibility for maintaining open and two-way communication, stakeholders' backgrounds, concerns and roles in the RCRA process differ substantially. All participants should acknowledge and account for these differences as they approach the RCRA process.
- **Help the community understand and participate meaningfully in RCRA processes.** The community will best participate in the RCRA process if it understands the process, environmental issues, health issues, and proposed facility changes, and if it is familiar with and has access to available participation tools. This access may require planning additional outreach activities, enabling community access to an independent facilitator or mediator to help resolve differences within a community or between the agency and a community, or providing technical assistance. [RCRAInfo](#) is a data tool available to EPA employees, as well as state, tribal, and territorial environmental agencies that can educate the public on RCRA facilities. The public can find data on RCRA facilities through EPA's [Cleanups in My Community, RCRAInfo Web, and Envirofacts Data Warehouse](#).
- **Start public participation early.** A good public participation effort involves the public early in the process and addresses public concerns before initial decisions. Early activity can set the tone for the permitting process and the entire life of the facility, and ensure cooperation between stakeholders. Not only does early communication give stakeholders time to develop suggestions and concerns, it also brings issues to the surface at the beginning of the RCRA process when it may be more feasible to address them.
- **Tailor public participation approaches and activities to community needs.** It is worthwhile to understand community needs before planning community involvement and outreach activities. Permitting agencies and facilities should be creative when designing or implementing effective activities to ensure that they meet the community's needs.
- **Encourage community members to be active and informed.** Individuals who wish to be involved in the RCRA process should make early contact with designated contact persons at the permitting agency. They should conduct research on the process and facility, join relevant mailing lists, visit the facility's website, advise the permitting agency and facility on the public participation methods that best suit the community, submit written comments, participate in public hearings and meetings, and follow the RCRA process closely. Permitting agencies and facilities should provide outreach that both invites and provides necessary information to community members so they can participate in the process.

*Public participation should encourage "feedback loops," or active, two-way communication.*

### Alternative Dispute Resolution

**Agency Sponsored Program:** The [Alternative Dispute Resolution Law Office](#), which is part of EPA's Office of General Counsel, is responsible for providing legal advice and counsel regarding the use of alternative dispute resolutions (ADR). In instances where negotiations are not progressing, mediation can often help the parties reach a mutually agreeable outcome. The mediator is neutral, has no decision-making authority, and helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests.

## Planning for Successful Public Participation

EPA strongly recommends creating public participation plans for RCRA facilities, although they are not required. The permitting agency typically creates these plans, which outline a community-specific framework for public participation throughout a RCRA permitting or corrective action process. Depending on the type of permitting activity, the level of public interest, and the facility’s location, the level of complexity for public participation plans can range from a simple, two-page schedule of activities to a comprehensive population study, possibly an EJ assessment, a permitting activities itinerary, and an analysis of community concerns. It can take from several days to several weeks to design and develop a public participation plan.

*Successful public participation requires careful planning and consideration.*

A public participation plan begins by assessing the level of community interest and the types and prevalence of community concerns about RCRA facilities. The permitting agency should base the plan on a variety of sources, possibly including community interviews, file searches, reviews of past media coverage, and community assessments completed by third parties. It should discuss planned activities with the facility owner/operator and work with community representatives to determine the information channels that best suit the area. It also is a good idea to consider whether the community faces the presence of numerous environmental burdens in addition to the RCRA facility. Many times these communities may also suffer disparities in health conditions compared to other communities.

Exhibit 2-2 provides a guide for determining whether public interest in a facility is likely to be low, medium, or high.

**Exhibit 2-2. Determining the Likely Level of Public Interest in a RCRA Facility**

LEVEL OF PUBLIC INTEREST	TYPE OF RCRA ACTION	COMMUNITY’S RELATIONSHIP WITH FACILITY / AGENCY	LARGER CONTEXT
Low	<ul style="list-style-type: none"> <li>The RCRA activity is unlikely to be controversial (e.g., a routine permit modification).</li> <li>There is no contamination at the facility that could come into direct contact with the public.</li> </ul>	<ul style="list-style-type: none"> <li>People do not live near the facility.</li> <li>There is a history of good relations between the facility and community members.</li> <li>Community members have expressed confidence in the agency and/or facility.</li> </ul>	<ul style="list-style-type: none"> <li>The facility receives very little media attention and is not a political issue.</li> <li>Community members have not shown any past interest in hazardous waste issues.</li> <li>Public meetings on the permit modifications have not been attended.</li> </ul>

LEVEL OF PUBLIC INTEREST	TYPE OF RCRA ACTION	COMMUNITY'S RELATIONSHIP WITH FACILITY / AGENCY	LARGER CONTEXT
Moderate	<ul style="list-style-type: none"> <li>• The RCRA action may involve activities that contribute to a public perception that the facility is not operating safely.</li> <li>• Examples may include permits for storage and on-site activities or routine corrective actions.</li> <li>• Highly toxic and/or carcinogenic waste may be involved (e.g., dioxins).</li> </ul>	<ul style="list-style-type: none"> <li>• A large number of people live near the facility.</li> <li>• There is a history of mediocre relations between the facility and community members.</li> <li>• The facility is important to the community economically, and the action may affect facility operations.</li> <li>• Community members have had little or poor contact with the agency.</li> <li>• Local elected officials have expressed concern about the facility.</li> </ul>	<ul style="list-style-type: none"> <li>• Community members have shown concern about hazardous waste issues in the past.</li> <li>• The facility receives some media attention, and there are organized environmental groups interested in the action.</li> <li>• There are other RCRA facilities or CERCLA sites in the area that have raised interest or concern.</li> </ul>

LEVEL OF PUBLIC INTEREST	TYPE OF RCRA ACTION	COMMUNITY'S RELATIONSHIP WITH FACILITY / AGENCY	LARGER CONTEXT
High	<ul style="list-style-type: none"> <li>• The RCRA action includes a controversial technology or is high profile for other reasons (e.g., media attention).</li> <li>• Highly toxic and/or highly carcinogenic waste is involved (e.g., dioxins).</li> <li>• There is potential for release of hazardous substances or constituents that pose potential harm to the community and the environment.</li> <li>• There is direct or potential community contact with contamination from the facility (e.g., contaminated drinking water wells or recreational lake).</li> </ul>	<ul style="list-style-type: none"> <li>• The nearest community population is within a one-mile radius.</li> <li>• A large number of people live near the facility.</li> <li>• There is a history of poor relations between the facility and the community.</li> <li>• The facility has violated regulations and community members have little confidence in the agency to prevent future violations.</li> <li>• There is organized community opposition to the facility's hazardous waste management practices or to the action.</li> <li>• Outside groups, such as national environmental organizations, or state or federal elected officials have expressed concern about the facility or action.</li> <li>• The economy of the area is tied to the facility's operations.</li> </ul>	<ul style="list-style-type: none"> <li>• Community members have shown concern about hazardous waste issues in the past.</li> <li>• Facility activities are covered widely in the media.</li> <li>• There is interest in the facility as a political issue, at the local, state, or federal level (e.g., statewide or national environmental groups are interested in the regulatory action).</li> <li>• There are other issues of importance to community members that could affect the RCRA action (e.g., concern over a cancer cluster near an area where a facility is applying for a permit to operate an incinerator).</li> <li>• There are other RCRA facilities or CERCLA sites nearby that have been controversial.</li> </ul>

The permitting agency can then propose activities for involving the community in the RCRA process. (See Chapter 5 for the information to include in a public participation plan.)

### Steps in Gathering Information, Planning, and Evaluating Facilities

**Step 1: Review the RCRA action.**

- Determine whether the action is likely to be controversial.

**Step 2: Talk to colleagues who have worked in the community about their interactions with the public.**

- Has there been a large degree of public interest or concern about other projects? Has the public shown confidence in the regulatory agency?

**Step 3: Review the Agency's and other sources' files on the facility.**

- Note if there are inquiries from the public or organized groups, and the level of concern they convey. Research media coverage and community discussions in newspapers, blogs, websites, social media, and other sources.

**Step 4: Formulate a preliminary impression of the community based on this information.**

**Step 5: Talk with several key community leaders to confirm or challenge this impression.**

**Step 6: Determine the anticipated level of community interest based on this information.**

Low interest: Go to Step 7.

Moderate interest: Conduct additional community interviews with at least one member of each community subgroup.

High interest: Conduct a full set of community assessment interviews.

**Step 7: Write a summary of any major concerns or issues.**

The permitting agency should prepare the public participation plan at the beginning of the RCRA process. However, these plans should be evolving documents. Public participation plans should be revised after significant changes in community concerns or activities at the facility and at least every two years for longer-term activities. These revisions should incorporate new information, reflect changes in community concerns, and evaluate whether public participation activities to date have been effective. By creating a strong plan for public participation, the permitting agency can demonstrate a commitment to active community involvement and a workable framework for future outreach.

## The Community Member's Role

Community members are encouraged to take an active role in the RCRA public participation process via formal and informal activities so they can learn about and provide input on hazardous waste activities in their communities. Individuals may want to assess the permitting situation, the agency or agencies involved, and the facility owner/operator. They can conduct this type of assessment using a variety of methods, including obtaining background information on a permitting issue from local officials, contacting research or industrial organizations, reading materials from the permitting agency, and interacting with interested community groups.

Community members can take part in the community assessment process by commenting on the proposed decision, participating in community interviews or focus groups, or through other methods. They also can contact the permitting agency or the facility—outside of any formal activity—to give early input and share their concerns. They can suggest public participation activities, meeting locations, or means of communication that will work well in their community. This input, communicated via telephone call, email, or interview, can be very helpful, especially in establishing a public participation plan. Individuals may contact other community groups that have an interest in the RCRA activity. Environmental, public interest and civic organizations can provide individuals the opportunity to participate in efforts to influence the process through mutual understanding.

### Meaningful Community Involvement in South Carolina

South Carolina's Department of Health and Environmental Control (SC DHEC), a rural community, and an out-of-state company wishing to build a facility in the small town worked together to create a winning situation.

The company planned to build on a beautiful piece of property that included an old house and a small grove of old pecan trees in a rural South Carolina community. SC DHEC's staff spoke with community residents and conveyed to the company that the community was not happy about the company coming to town or the loss of their beloved trees, which held a lot of value, memories, and identity for the dwindling rural community.

SC DHEC and the company jointly hosted two public meetings and met with individual community members to discuss concerns. After hearing and understanding the community concerns, the company decided to make a few minor changes to the design and layout of the facility to preserve the pecan trees.

Public participation has paid off for all. SC DHEC's public participation and permitting staff worked in parallel processes to address the community's concerns without delaying construction of the facility. The company understood the value of addressing the community's concerns by going beyond the regulatory requirements for public participation, and the community felt valued throughout the permitting process. This dialogue continues beyond the permitting process. During pecan season, the company hosts a community open house to connect, learn about the manufacturing process, and of course, gather pecans.

Alternatively, community members may decide to create new organizations to discuss issues or provide input into the process. Here are some steps that community members can take to be active and informed participants in RCRA processes:

- **Contact the permitting agency early.** Identify the designated contact person for the project, whose name should be on fact sheets and notices or available from the agency. Learn about the timing of any permit renewals or any upcoming or impending interim actions that may impact the community.
- **Perform an assessment.** Request background information from the permitting agency, local officials and the facility owners/operators. Ask about day-to-day activities, the decision-making structure and current policies and procedures; inquire about how the proposed activity fits into larger political issues, local planning and the facility's business plans. Request information that may open up additional solutions, including pollution prevention approaches that may reduce the amount of waste the facility manages.

- **Sign up** for the facility mailing list for notices, fact sheets and other agency documents. Join mailing lists maintained by involved environmental, public interest, tribal and civic organizations.
- **Visit online resources** such as [EnviroFacts](#), [MyEnvironment](#) or [EJSCREEN](#) to learn more about environmental health in the community.
- **Look** for zoning signs or other announcements in the newspaper or other media.
- **Communicate** to the permitting agency, the facility owner/operator and other involved groups what types of public participation activities will be most useful for the community. Inform them about the most consulted communication channels in your area (e.g., which social media sites, newspapers, and radio stations are most popular); the best locations for information repositories and public meetings; and other community information needs (e.g., multilingual publications).
- **Submit written comments** that are clear, concise and well documented. By law, permitting agencies must consider all significant written comments submitted during a formal comment period. See [Make Your Voice Heard](#) for step-by-step instructions for writing effective public comments.
- **Participate in public hearings and other meetings**, and provide oral testimony that supports your position. A public hearing is not required unless someone requests one in writing.
- **Request an informational meeting and/or conference call with the permitting agency or the appropriate organization, such as the RCRA Hazardous Waste program** if any material needs further explanation, if details about the facility need clarification, or if there are concerns about the process.
- **Follow the process closely.** Watch for Agency decisions and review its responses to public comments. Individuals may have an opportunity to appeal Agency decisions.
- **Register to receive site updates.** Sign up to receive updates from the hazardous waste management facility about upcoming events, site tours, site update mailers and newsletters.
- **Sponsor a talk, listening session or workshop** with the regulatory agency's community engagement staff and technical project manager to build community understanding and capacity.
- **Weigh in on the prioritization of solid waste management units (SWMUs)**, such as providing input on the sequence in which an order may require the order of the Corrective Measures Studies.
- **Help the regulatory agency and/or facility gain residential property access agreements** for investigating and sampling off-site areas for potential hazardous waste (HW) or HW constituents.
- **Remember that interest and input from community members are both important to the Agency and other concerned stakeholders.**



### Speaking the Language of the Community

The University of Minnesota embarked on a project to upgrade its boilers by converting from coal to natural gas. It also combined heat and power to add electricity generation to the function of the boilers. The neighborhoods surrounding the University are very diverse, and include housing from luxury condominiums to public housing. A high percentage of area residents are non-native English speakers, recent immigrants, people of low-income communities, and other minorities.

The Minnesota Pollution Control Agency (MPCA) took steps to identify and address barriers to meaningful public participation in the permitting process for this diverse and densely populated area. The MPCA used EPA's EJ View tool (which since has been replaced by EPA's EJSCREEN tool) to improve its understanding of community characteristics, and held the public meeting in a public housing complex near the facility. It provided written translations of project summaries into Somali and Oromo, two of the most commonly spoken languages in the community. MPCA also translated the public meeting announcement into Spanish and provided simultaneous oral translation and interpretation at public meetings.

## Key Considerations When Planning Public Participation

The permitting agency and facility should keep these overarching themes in mind when planning and conducting public participation activities and outreach:

- communicating risk effectively;
- assessing and addressing EJ, cultural, and tribal concerns;
- supporting community-based environmental protection;
- assessing and responding to technical assistance needs;
- coordinating and collaborating with EPA programs;
- using traditional and new media effectively;
- planning for public participation when resources are limited; and
- evaluating public participation activities.

## Communicating Risk Effectively

Public participation activities usually involve some form of risk communication. The permitting agency and facility should strive to ensure that they always take the principles of effective risk communication into consideration. Risk communication involves a conversation between the permitting agency or facility and the community, and it should be a genuine and sincere exchange that conveys important information, responds to public concerns, and identifies mutual solutions. Public input often provides technical staff with information that they can use to better account for local circumstances in permitting and corrective action decisions. The RCRA requirements for public participation help reduce risk more effectively by ensuring a meaningful exchange of information between all stakeholders.

Effective risk communication should:

- Help community members learn more about and understand the Agency's risk assessment and risk management processes and decisions, including whether conducting a site-specific risk assessment in their community is an appropriate activity.



- Help the Agency understand the community's concerns and the factors that affect their perception of risk related to the site.
- Increase mutual trust and credibility to provide community members an opportunity to participate in decision-making about community risk management.

### Considering Multiple and Cumulative Effects

Some communities may suffer from numerous environmental quality issues, including issues not associated with the RCRA facility. These communities may also suffer inequalities in health conditions. Public participation is particularly important when engaging with communities that are experiencing cumulative environmental and health impacts.

Effectively communicating information on site-related hazards and risks is a multi-step process that usually includes:

- identifying and understanding the audience;
- developing clear and informative messages with an understanding of, and respect for, the audience's concerns and perception of site-related risks;
- selecting appropriate communication methods to deliver those messages; and
- understanding that an effective risk communication process enables mutual understanding of risk-related concerns but does not guarantee consensus.

### Kettleman Hills Chemical Waste Management Site, Kettleman City, California

#### **Kettleman City, California**

In 2008, the Kettleman City community in the California Central Valley raised concerns that wind-blown polychlorinated biphenyl (PCB) particles from Chemical Waste Management (CWM) facility operations could either be deposited off-site and taken up into the food chain, or migrate as air emissions and adversely impact the community. In response to those concerns, EPA requested and CWM completed a PCB study to assess possible off-site impacts that PCB disposal operations at the CWM facility may present to human health or the environment. This was the first time a scientific study of this magnitude was conducted at a Toxic Substances Control Act (TSCA) regulated PCB storage and disposal facility as part of a permitting process. The company translated the results of the study into Spanish, and presented them to the community in written format, as well as at public hearings and workshops.

## Assessing and Addressing Environmental Justice, Cultural, and Tribal Concerns

EPA defines environmental justice as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”<sup>3</sup>

- **Fair treatment** means that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental and commercial operations or programs and policies.<sup>4</sup> EPA has expanded the concept of fair treatment to include not only the consideration of how burdens are distributed across all populations, but also how benefits are distributed.
- **Meaningful involvement** means that potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; and the public’s contribution can influence the regulatory agency’s decision. It also means that the concerns of all participants involved will be considered in the decision-making process, and that the decision-makers seek out and facilitate the involvement of those potentially affected.

To integrate EPA’s definition of environmental justice into practice, the Agency identified these best practices:

- **Identifying communities with potential**

**EJ concerns:** Some communities affected by RCRA facilities are lower income, higher minority or indigenous, or more burdened by other environmental stressors compared to the general population. Facilities and agencies should assess whether there are EJ concerns at a site because they may provide important information for cleanup and public participation purposes.

EPA’s [Guidance on Considering Environmental Justice during the Development of a Regulatory Action](#), released in May 2015, outlines several factors to help assess whether a community may have EJ concerns, including proximity to environmental hazards; susceptible populations; unique exposure pathways; multiple and cumulative effects; ability to participate in the decision-making process; and physical infrastructure.

### Using EPA’S EJSCREEN Tool

[EJSCREEN](#) is an environmental justice screening tool that EPA uses to highlight places that may warrant further review, analysis, or outreach for environmental justice concerns. The EJSCREEN tool offers a variety of powerful mapping capabilities that make it easy for users to access environmental and demographic information. EPA developed EJSCREEN to assist in meeting environmental justice goals consistent with [Executive Order 12898](#) and the goals of [Plan EJ 2014](#).

EJSCREEN can help agencies identify areas with potential EJ concerns by showing demographics and information on a variety of environmental factors that contribute to a community’s environmental burden. Agencies also should consider information from other sources. For example, health information related to asthma and cancer may be available from other sources and imported into EJSCREEN. EJSCREEN is only a first step and cannot be the basis of agency decision-making. Local knowledge and information will always be essential for an accurate assessment of a location or community.

<sup>3</sup> U.S. EPA. [Plan EJ 2014](#), Office of Environmental Justice, September 2011, p. 3.

<sup>4</sup> Ibid.

Agencies should consider using EPA's [EJSCREEN](#) tool to assess places where EJ concerns may warrant greater consideration and should then consider collecting relevant data to help identify communities with potential EJ concerns. Relevant data may include demographic data (e.g., ethnicity/race/culture, education, languages spoken, income), relevant health information (e.g., chronic lung and or cardiovascular issue rates, nutrition status), and additional environmental burdens (e.g., toxic releases, air pollution, water quality and location of dischargers) in affected regions or populations.

RCRA permitting and corrective action decisions should take sensitive sub-populations and unique exposure pathways from site contamination into account. The facility and the permitting agency should share demographic information, and information about potential environmental factors that affect the community in a timely manner. This will help ensure that the risk assessment or other site analyses or decisions consider these factors.

- **Planning and implementing enhanced public participation opportunities:** Potential EJ concerns should be considered when planning and conducting public participation activities. For sites that affect indigenous peoples, the permitting agency should consult with tribal leaders and environmental officials to discuss sacred sites, cultural significance and other concerns.

The permitting agency also should consider tailoring public participation approaches to reach out more effectively to specific populations. Examples include using translation or interpretation services; providing multilingual fact sheets and other information; partnering with community groups or community leaders; and using non-traditional media outlets for outreach. Agencies also can consider identifying non-government locations to hold public meetings; scheduling public participation activities at times other than during subsistence fishing, hunting or agricultural seasons; and continuing to distribute paper copies of outreach materials when community members lack access to electronic forms of communication.

Agencies also should consult with their [Regional Environmental Justice Coordinators](#) and [EPA Tribal Program Managers](#), and work with state, local and tribal governments to determine whether those governments can offer assistance or insights into how to meet the special needs of a community with EJ concerns.

### Policy on Tribal Environmental Justice and Tribal Consultation

It is important to note the difference between meaningful involvement with indigenous peoples and government-to-government consultation with tribes. [EPA's Policy for Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples](#) discusses meaningful involvement of indigenous peoples throughout the United States and others living in Indian country.

[EPA's Policy on Consultation and Coordination with Indian Tribes](#) discusses EPA's responsibilities to work government-to-government with federally recognized tribes. The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, executive orders, and the historical relations between the U.S. and Indian Nations. The federal government has a trust responsibility to federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking actions that may affect them or their resources.

Visit EPA's [Environmental Protection in Indian Country](#) website for information related to working with tribes and tribal consultation.

## Supporting Community-Based Environmental Protection

In 1995, EPA's OSWER released an action plan that endorsed community-based environmental protection (CBEP). CBEP is a method of solving environmental problems in the context of the community in which they occur. The action plan points to CBEP as a method that "brings the government closer to the people it is meant to serve," and it also heralds CBEP as "a new way of accomplishing traditional tasks in a more effective, more responsive manner."

Stakeholder involvement is one of the keys to CBEP. This plan points to CBEP efforts as ones that "must empower and equip the community to participate in environmental decisions, taking into account not only the human but also the ecological and socioeconomic health of a place." In this way, involvement and cooperation of the community, facility owners/operators, and agency personnel in the permitting process will fuel CBEP efforts. Increased access to information and opportunities for participation in the permitting and corrective action processes, such as those in the RCRA Expanded Public Participation Rule, will empower communities and enable them to practice CBEP.

EPA encourages permitting agencies and facility owners/operators to promote a CBEP approach by discussing RCRA issues in coordination with other environmental concerns. Agency staff should be prepared to address RCRA concerns about air and water issues that may reach beyond a particular facility. Many companies are interested in finding opportunities to reduce process wastes through pollution prevention and recycling, and the impacts of these types of reductions could affect air, water or land. Several states are embarking on whole-facility approaches to permitting to take advantage of this approach. Permitting agencies should consider using fact sheets and availability sessions to explain RCRA's relationship to other programs. Combining public meetings across program lines may also make the entire environmental picture clearer to stakeholders.

## Coordinating and Collaborating with EPA Programs and Other Agencies

Permitting agencies benefit from acting collaboratively in communities. It may be helpful for the RCRA permitting agency to work with EPA programs to communicate consistently about community goals and messages. Cross-program coordination can help EPA better address community needs and goals, and more effectively communicate the environmental and public health benefits of EPA's work to affected communities.

The [Superfund Community Involvement Handbook](#) provides guidance for members of EPA Superfund site teams on how EPA plans and implements community involvement activities at Superfund sites. The Handbook provides valuable information for other stakeholders about agency public participation priorities, and it promotes the consistent implementation of community involvement regulations, policies and practices.

EPA programs and regions can learn from each other by sharing best practices, success stories and useful contacts. They can also share new tools, such as [GeoPlatform](#) and Region 1's Community Action Tracker, which is a mapping, tracking and

**Former industrial site with underground storage tanks, Kewa Pueblo (previously known as Santo Domingo), New Mexico**

**Coordination with other federal programs:**  
The cleanup and revitalization of Kewa Pueblo is an example of how cross-program coordination can help revitalize an area. With the help of EPA Region 6, the tribe identified potential funding sources from the National Park Service, the Indian Health Service, the U.S. Department of Housing and Urban Development, the Economic Development Administration, and the U.S. Department of Agriculture to redevelop the site into a mass transit stop on the New Mexico Rail Runner Express commuter line.

reporting system that is used as a model across EPA. Coordination can also sometimes lead to the development of new, innovative multimedia strategies.

Permitting agencies should be aware of other regulated hazardous waste facilities or environmental programs in the community that EPA or other federal, state or tribal agencies administer. They should also know about any other ongoing EPA, federal, state or tribal enforcement actions nearby that might affect community attitudes toward regulatory agencies.

### **Coordinating with Other Federal Agencies: ATSDR**

The Agency for Toxic Substances and Disease Registry (ATSDR) has a strong partnership with EPA and the RCRA program. ATSDR is a federal public health agency of the U.S. Department of Health and Human Services based in Atlanta, Georgia.

EPA, states or individuals can ask ATSDR for help in evaluating and responding to public health issues at sites. These evaluations aim to find out if people are being exposed to hazardous substances and, if so, whether that exposure is harmful and should be stopped or reduced. For more information on the ATSDR health assessment process, go to [The Health Assessment Process and Your Community](#).

Community members are key participants in the public health assessment process, and effective communication is a critical part of fostering trusting relationships. The [ATSDR Communication Toolkit](#) (ACT) provides customizable tools for simplifying communication, guidance on responding to different levels of concern, and a way to set realistic expectations and measure the usefulness of the public health assessment process. ATSDR, Centers for Disease Control and Prevention and EPA created and jointly sponsored a website called Community Action for Environmental Public Health, which contains tools, links, media and other resources to assist communities in answering environmental health questions.

### **Assessing and Responding to Technical Assistance Needs**

Understanding the volume of technical information related to hazardous wastes can be a daunting task. By offering technical assistance to communities, facility owners/operators and EPA can help community members better understand technical issues related to RCRA permitting and corrective action. This can help them articulate their concerns and preferences during the decision-making process.

Because EPA has limited resources for RCRA technical assistance, agencies should consider whether they can offer community assistance through other EPA programs or non-EPA resources, such as non-governmental or other federal agencies, especially if the community has EJ concerns. Facilitation, mediation or other assistance available through the [Conflict Prevention and Resolution Center](#) also may be helpful. If any of these programs may be appropriate, the permitting agency should consider meeting with the appropriate EPA contacts to discuss opportunities to provide assistance and to coordinate outreach and public participation activities.

Technical assistance services may be available to help communities with the following:

- Reviewing, interpreting and explaining RCRA decision documents.
- Reviewing, interpreting and explaining other technical and scientific reports.
- Providing information about basic science, environmental policy and related resources.
- Providing assistance to help communities understand health risks.

- Helping the community identify reasonably anticipated future land uses to inform corrective actions and understand how land use can influence remedies.
- Enhancing community and stakeholder involvement.
- Preparing outreach materials.
- Presenting educational programs on technical issues (e.g., safety and sustainability for individuals and families at home and in the community).
- Helping to resolve conflicts among stakeholders.

Facility owners/operators, external partners or the permitting agency can provide these technical assistance services. Communities should prioritize the technical assistance support they are seeking from facility owners/operators.

### FMC's Middleport Facility, Middleport, New York

**Technical assistance for community members:** As with many RCRA sites, the Middleport site, a former pesticide formulation and packaging plant, created a community advisory group to encourage communication between government agencies and community members. The Middleport Community Input Group also benefited from access to an environmental scientist hired to review technical documents and explain complex issues to the group. Funding for the scientist was available through EPA's Technical Assistance Services for Communities (TASC) Program.

### ***Conducting a Technical Assistance Needs Assessment***

For most sites, the informal technical assistance provided directly by the facility or the Agency as part of the public participation effort will address the community's needs. However, whenever a community may have unmet needs for technical assistance, the Agency may consider conducting a Technical Assistance Needs Assessment (TANA). A TANA is a site-specific assessment to determine whether a community will benefit from additional support from EPA to help community members understand technical information. This assistance generally is provided through facility owners/operators or an external partner, such as a university or nonprofit organization. The TANA process recommends a blueprint for designing a coordinated effort to meet the community's needs for additional technical assistance while minimizing overlap in the services provided by the agency, facility and external partners.

The TANA process usually involves:

1. Interviewing community members to obtain their views on the ways in which the community is receiving technical information about a site and whether community members can readily understand the information.
2. Assessing whether additional forms of technical assistance may be appropriate to enable the community to understand and comment on facility-related technical information.

### **Managing Community Expectations for Technical Assistance Resources**

Preface any discussion of potential technical assistance or other resources with an explanation that availability of those services is contingent upon funding, and often also upon eligibility or other factors.



3. Identifying organizations in the community that are interested or involved in facility-related issues and that might provide an appropriate conduit for technical assistance services to the affected community.

A TANA may be conducted at any time, but the best time to do so is early in the process, ideally concurrently with community interviews conducted for the development of a public participation plan. A TANA can take place later if the technical assistance needs of the community cannot be adequately defined at that time, or whenever it appears that the community may need additional technical assistance.

### ***Using the TANA to Identify Technical Assistance Services and Programs for Communities***

Although EPA has not developed TANA guidance specific to RCRA, the [Superfund TANA Tool](#) includes information about conducting interviews for TANA and the types of technical assistance services for communities that may be helpful for RCRA facilities and permitting agencies. EPA can offer more formal technical assistance than an independent technical expert (and sometimes, a mediator or facilitator) provides, working with a community organization. This includes programs that:

- offer communities access to independent experts;
- provide neutral facilitation, mediation and dispute resolution services through an EPA Conflict Prevention and Resolution Services contract;
- collaborate with universities, colleges and nonprofit organizations to offer voluntary support to communities through EPA's new Partners in Technical Assistance Program (PTAP); and
- provide medical information and advice on environmental conditions that influence children's health through the [Pediatric Environmental Health Specialty Units](#) (PEHSU), a network of specialists who respond to questions from public health professionals, clinicians, policy makers and the public about children's environmental health concerns.

### ***Other Resources for Communities***

Facilities should be familiar with other resources and information sources of potential interest to community members. EPA hosts a [website of community resources, the Superfund Community Involvement Handbook](#), published in 2016, as well as a website on [RCRA public participation](#) that may be helpful. Other governmental, tribal or non-governmental programs may be able to provide funding or support to affected communities if the goals of the RCRA action align with those of the program. Close coordination between EPA programs and other federal programs can also enable communities to leverage all available resources that might benefit them. Through increased internal coordination, EPA can often help communities access a range of EPA resources, including relevant grant opportunities, technical assistance and useful data. These efforts can facilitate community dialogue and engagement while empowering communities to take an active role in the RCRA process and in addressing other environmental issues that affect them.

### **Using Traditional and New Media Effectively**

New technologies continue to change the ways people receive and share information. The rise of digital forms of communication—from websites and social media (e.g., Facebook, Twitter, Instagram and blogs), to text messaging, podcasts, videos and mobile phone apps—means that many people rely less on traditional media and often turn to new media as primary or supplemental sources of information.

Although working with traditional media remains important and is required by statute for RCRA facilities and permitting agencies, using new media will be part of an effective approach for reaching people affected by RCRA facilities. Social media may have the greatest effect on the success of public participation efforts at RCRA sites. Consider monitoring local Facebook, Twitter and other social media

sites to understand what is happening in the community, stay abreast of facility-related community attitudes, and become aware of misinformation, rumors and inaccurate community reactions that could mislead the public. It also may be useful to develop a policy to engage social media if unclear information or misinformation is present in communities. Consider establishing a site-specific EPA website to assist with a community with a high level of public interest or where misinformation is circulating. An example of a RCRA site-specific website is from EPA Region 4: [www.epa.gov/grenadacleanup](http://www.epa.gov/grenadacleanup).

### ***Working with Traditional Media***

Almost every RCRA facility generates interest in the traditional local news media. Since EPA often turns to local news media to disseminate information about site issues and activities, it is important to consider the role of the news media in public participation efforts.

The RCRA statute specifically requires the use of local newspapers and radio, but EPA strongly encourages facility owners/operators and permitting agencies to use new media well, and also to go beyond the minimum requirements, whenever possible. Permitting agencies and owners/operators should also understand the different needs of traditional radio, television and print media, as well as how new media, including online media outlets and social media, work. News releases should contain well-crafted messages tailored to each medium and their specific audiences.

To attract news media coverage, information about a local RCRA facility must be immediate in nature and relevant to the local audience. The facility is more likely to attract media coverage if the agency or owner/operator develops relationships with local reporters and editors, issues timely news releases and media advisories, makes staff members available to the media when events or issues are newsworthy, and earns the media's trust. The agency and facility should anticipate and respond to questions from the media in a timely fashion with reliable, up-to-date information.

### ***Working with Social Media***

EPA uses the term social media to refer to web-based and mobile technologies that people use to share information and ideas online. EPA's policy is to use social media, where appropriate, to meet its mission of protecting human health and the environment. As EPA's social media policy evolves, new tools and technologies appear at an increasing rate. Social media policy also varies according to each EPA region. While EPA does not endorse any particular social media site or technique, information about tools such as Facebook, Twitter, blogs and discussion forums, YouTube, Flickr and many other applications are available on [EPA's social media](#) web page.

Permitting agencies and facility owners/operators should consider applying appropriate social media technologies to public participation work whenever possible in accordance with regional policies. Keep in mind that not everyone has easy access to a computer with broadband access, and not everyone with a computer or cell phone uses social media. More significantly, access to the Internet, smartphones and other devices that deliver social media is not universal. This is particularly important to consider when the affected community has EJ concerns, and when many community members have lower incomes or might lack access to new technologies.

Research and identify the best social media mechanism to reach the community members with whom you want to communicate. Local government and community organizations generally know which social media outreach tools they have used successfully to disseminate information within the community. Social media

#### **Quick Response Codes**

Utilizing Quick Response, also known as QR, codes on signs, posters, and other printed materials is a quick method to drive traffic to a website. Community members who have a smartphone app can scan the code and go directly to the information.





should not be used *instead of* traditional channels— its use should be *in addition to* traditional media. The use of social media sometimes represents an added opportunity for engagement with a growing audience of people expecting more transparency, faster communication and more access to information than ever before. In many cases, social media may be more effective at reaching communities with EJ concerns.

Explore both traditional and new media when planning an outreach strategy. Examples of social media use at RCRA site include a [Facebook page for the Pompton Lakes DuPont RCRA site](#). You must log in to Facebook to access this page.

EPA staff should consult the Agency’s social media policy and follow Agency procedures that are in line with EPA’s social media policies and procedures for using various forms of social media. A standard policy for all of EPA is available at [Policy and Procedures for Using Social Media at EPA](#). Policy on the use of social media varies according to EPA region.

Others, including permitting agencies and facilities, also should carefully weigh the additional responsibilities that often are involved when adding a social media component to their communications strategy. Social media require a commitment to regularly updating information so that it remains fresh and current. It also is necessary to monitor social media sites carefully so that inappropriate comments are removed, online discussions and comments are appropriate and constructive, and malicious visitors to the site are detected and removed. This can involve a significant investment of time and technical IT expertise. Facilities should carefully consider their IT resources and ability to monitor and keep social media pages up to date before committing to using a social media platform as part of their overall public participation approach.

### Utilizing “In the Moment” Videos

“In the Moment” videos are timely video clips that capture EPA events as they happen. These video characteristics include:

- Videos are shared via social media.
- Videos are short.
- Videos are self-explanatory so viewers do not need background information to understand the message.

A sample video is [here](#).

Agencies and facilities can use video tools such as In-the-Moment Videos that capture on-the-spot sound bites to promote messages through social media within hours of an EPA press conference or other event. Choose moments that stand on their own, and then add an explanation of the context. Create an experience for a viewer who may have missed your event and provide a quick snippet of information about your topic.

### Planning for Public Participation When Resources are Limited

When planning public participation activities, permitting agencies should carefully consider the time and resources available to them. Government budgets recently have been cut, and the availability of funds for site travel has continued to decline. This trend is likely to continue. To meet this commitment, permitting agencies are finding creative ways to build and maintain relationships with affected communities and share information.

Using collaborative technologies such as webinars, virtual meetings and hearings, and cloud-file-sharing, along with discussion forums, newsfeeds, and availability sessions, provides many effective communication options. These tools can apply to public participation work, enabling permitting agencies to interact with community members when face-to-face meetings are not feasible. Agencies should think creatively, use the tools and technologies available, and make the best possible use of travel dollars when site trips are possible.

### Evaluating Public Participation Activities

Without concrete feedback, it can be difficult for the permitting agency and facility to determine whether their public participation activities are reaching their intended audience and working as intended. It may be useful to solicit feedback and gather information that will help the agency and facility assess how well each approach or activity is meeting its intended objective.

A key to evaluating a short- or long-term public participation effort is to identify reasonable goals and objectives for the overall public participation approach, as well as to define objectives for each activity. Questions to consider include:

- What do you want to accomplish?
- Who is your target audience?
- What do you want community members to know?
- What actions do you want community members to take because of the outreach or public participation activity?

Once the goals are set, the next steps include developing measures of success, identifying and collecting measurement data, analyzing the data and adjusting the public participation activities, if appropriate.

If possible, conduct informal and formal evaluations throughout the entire RCRA process. Obtain informal feedback through one-on-one conversations after a community meeting, e-mails, or phone calls from community members. Conduct formal evaluations through interviews, surveys, and evaluation forms (paper or digital). However, the Paperwork Reduction Act of 1980 (44 U.S.C. § 3501 et seq.) applies whenever federal agencies request identical information from 10 or more public respondents.

Use the results of the evaluation to adjust specific activities or the overall approach, if necessary. Use informal feedback to make mid-course corrections to address any issues or shortcomings as they arise. Constant and consistent evaluation of public participation efforts can help improve outreach and continuously improve their public participation approach.

# CHAPTER 3: PUBLIC PARTICIPATION DURING THE RCRA (BASE) PERMITTING PROCESS

---

## Introduction

This chapter describes the basic steps in the RCRA permitting process and the public participation activities that accompany those steps. It also provides a list of additional participation activities to supplement the requirements. (See Chapter 5 for details about public participation techniques and methods.)

*Addressing community concerns at the start of a project can prevent misunderstanding and opposition in the long term.*

All facilities that treat, store, or dispose of hazardous waste must obtain a RCRA permit, which is a legally binding document laying out the waste management activities that a facility can conduct and the conditions under which it can conduct them. New hazardous waste facilities must obtain a RCRA permit before beginning construction, and operating facilities must submit new permit applications six months before their existing permits expire.

The permit decision process is composed of several steps, each of which has public participation requirements. This manual divides the permit decision process into four stages:

- pre-application;
- application, including application submittal, agency notice, and review;
- preparation of draft permit, including preparation of the draft, public comment period, and public hearing; and
- final permit design, including response to public comments and the final permit decision.

After permits are issued, facilities often need modifications or renewals, each of which includes opportunities for public participation. In recent years, much of the RCRA permitting work has shifted from permit issuance to permit renewals and modifications. For more information on the RCRA permitting process, see [EPA's Hazardous Waste Permitting web site](#).

## Overview of Public Participation in the Permitting Process

Section 7004(b) of RCRA and EPA permitting regulations, found at parts 124 and 270 of Title 40 of the Code of Federal Regulations (CFR), form the foundation for mandatory public participation activities during the permitting process for both operating and post-closure permits. The corrective action schedule of compliance and other corrective action provisions are typically part of the RCRA permit, under 40 CFR part 270 (unless carried out under an enforcement order). Changes to these sections of the permit must follow the permit modifications procedures of the regulations [40 CFR part 270.41](#) or [270.42](#). See [Chapter 4](#) for public participation procedures for corrective action.

RCRA permitting regulations require public participation procedures during the permitting process and the life of the permit. However, situations often occur in which the facility and the agency may need to go beyond these requirements to provide for meaningful and equitable public participation. In particular, regulators, facility staff or community groups may want to consider expanded public participation activities at controversial facilities or at facilities where the affected community has a particular need for

greater involvement or access to information. Participants in the process should seek input from other stakeholders to determine if the public participation activities are adequate.

The permit decision process is lengthy and can be complex and confusing. Keeping the lines of communication open during the process takes effort from all participants. This effort is especially critical during the long periods of time when the agency is reviewing the permit or the facility may be responding to a Notice of Deficiency (NOD) described later in this chapter. The agency, the applicant and other interested groups should take steps to keep the community involved and informed during these down times.

### Ash Grove Cement, Chanute, Kansas

**RCRA Permitting Decision Process:** The Ash Grove facility is located within a 30-mile radius of three similar facilities, which made public health a major concern for community members. The facility's initial RCRA permit request in 1996 prompted EPA to fund a grant to the University of Kansas Medical Center to study air pollution, cancer, and respiratory health in Southeast Kansas. The Kansas Department of Health and Environment (KDHE) and EPA also extended the public comment period and held a public hearing regarding the permit application. Because of public interest, EPA and KDHE formed a Chanute project team of managers, counsel, and technical and regulatory experts in RCRA, air and water monitoring, and compliance to expand community engagement through additional town meetings and other communication methods. The project team also created a distribution system to get immediate feedback and time-sensitive communications both to and from the community.

The permit decision process and the required public participation activities have four key stages (see Exhibit 3-1):

#### 1. *The Pre-Application Stage*

- Facility gives public notice and holds an informal public meeting.
- Additional activities may include observation decks, facility tours, community tours, workshops, forums, facilitated discussions, news conferences, and regular updates (from construction to closure and post-closure) on social media. The facility or the permitting agency may conduct these updates about changes or progress for the community.

#### 2. *Application Submittal, Notice and Review*

- Agency issues a notice to the facility mailing list and state and local governments.
- Agency makes application available for public review.
- Additional activities may include observation decks, facility tours, community tours, workshops, forums, facilitated discussions, and news conferences.

#### 3. *Preparation of Draft Permit, Public Comment Period, and Public Hearing*

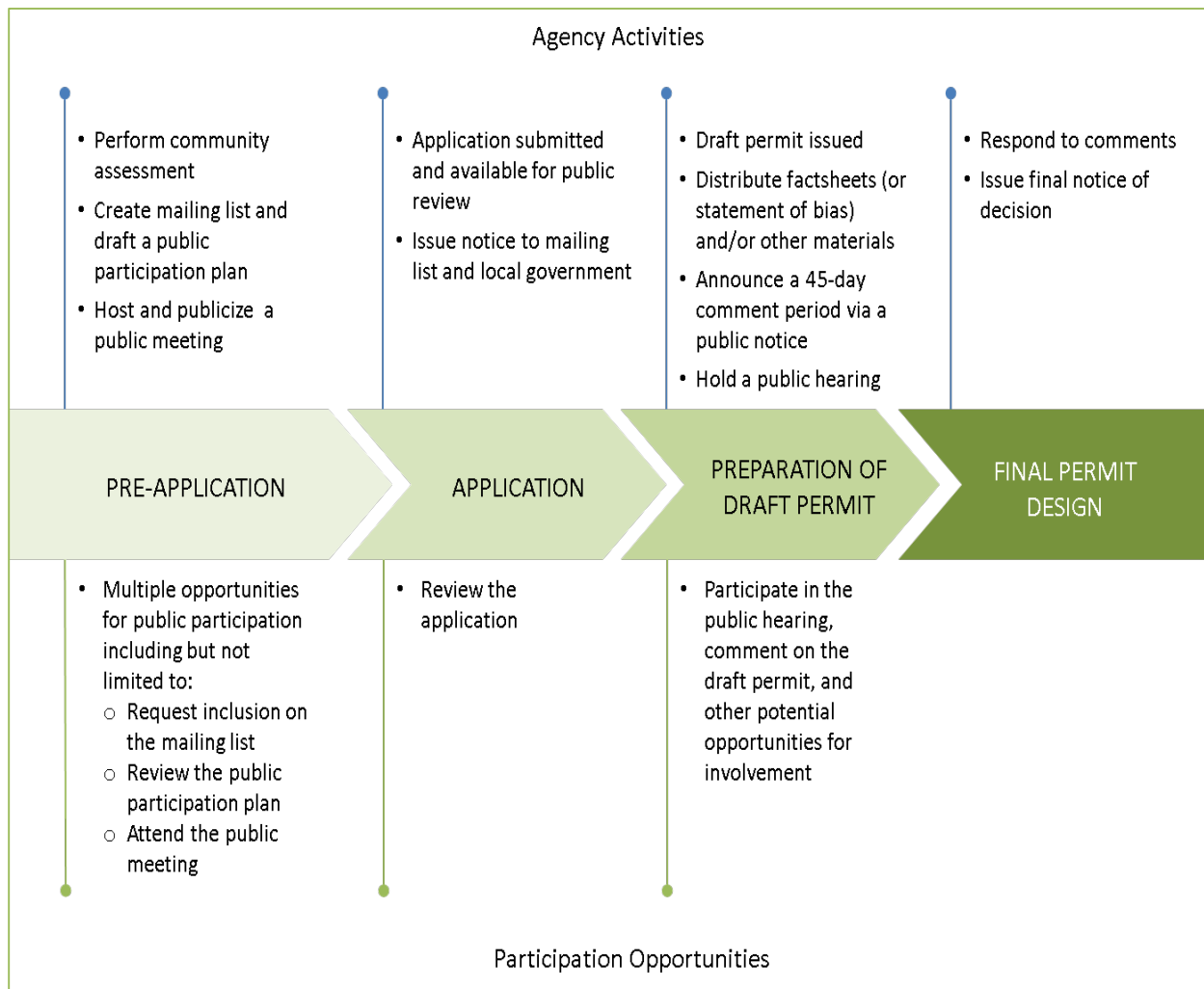
- Agency issues public notice of draft permit (or intent to deny).
- Agency prepares a fact sheet or statement of basis.
- Agency provides public notice announcing a 45-day public comment period via mailing list, newspaper and radio.

- Agency holds a public hearing, if requested or at the agency’s discretion, with a 30-day advance notice.
- Additional activities may include information sessions, workshops, news releases, and fact sheets, which may be disseminated through print or online media.

4. *Response to Public Comments and Final Permit Decision*

- Agency responds to all significant comments raised during the public comment period, or during public hearings.
- Agency issues notice of final permit decision.

**Exhibit 3-1. General Timeline of Public Participation in the RCRA Permitting Process**



## Public Participation Roles During the Permitting Process

This section introduces the four stages of the permitting process, public participation activities currently required under federal regulations and statutes, and additional policies and activities that EPA recommends for each stage.

State permitting agencies may have processes and requirements that differ from the federal requirements. [Contact your state agency](#) for more details.

### Step One: Pre-Application Stage

Early public input can improve the quality of any permitting activity; the public can contribute information and recommendations that will help agencies as they make permitting decisions and facilities as they develop their applications and proposals. Incorporating early community input can help the draft permit to be more responsive to community needs and concerns, and the community may be more likely to accept the permit conditions if it sees that its concerns have been heard.

During the pre-application stage, these public participation activities are required:

- The permit applicant must host a pre-application meeting.
- The permitting agency must create a representative facility mailing list.

#### South Carolina Department of Health and Environmental Control (SC DHEC)

**Early and meaningful public engagement:** SC DHEC recognized the need to go beyond what was required in the RCRA regulations by engaging the community early in the process, building trust, and working with industry representatives to encourage them to do more than what regulation requires. Lessons learned from the agency's practices include the importance of focusing on early communication with the community – often before a permit application is submitted or a corrective action plan is drafted. SC DHEC notes that even if not all the information is available yet, it is best to be honest and upfront about what is known at the time, and let the public know when more information is expected to be available.

### *The Pre-Application Meeting*

The RCRA Expanded Public Participation rule requires a new permit applicant (or a facility that is applying to renew a permit while making significant changes) to hold a public meeting before submitting the Part B RCRA permit application if significant changes are being requested. This meeting is the earliest required step in the RCRA permitting process. The pre-application meeting opens the dialogue between the permit applicant and the community, providing an open, flexible, and informal occasion for the applicant and the public to discuss a hazardous waste management facility's operations.

*The pre-application meeting initiates a dialogue between the applicant and the public.*

While a formal meeting style (e.g., a public hearing) may suit some permitting situations, EPA realizes that it will not suit all cases. EPA regulations allow flexibility in the type of meeting the permit applicant holds. For instance, an applicant may decide to hold an availability session or open house in place of a traditional meeting. As long as the approach meets the requirements and the spirit of 40 CFR § 124.31, EPA will not preclude applicants from tailoring meeting styles to fit particular situations.

The permit applicant must provide notice of the pre-application meeting in three ways: through a display advertisement in a newspaper of general circulation in the community; with a visible and accessible sign at or near the facility or proposed facility site; and through a broadcast media announcement played at least

once on at least one local radio or television station. EPA encourages facilities to pick a mix of public notice tools that meet the regulations and allow the affected community to receive equitable, timely, and effective notice of the pre-application meeting. This may include supplementing the required notice tools with other methods, such as posting announcements to relevant websites or social media.

The applicant also must send a copy of the notice to the permitting agency. EPA recommends that the applicant also send it to the facility mailing list, if such a list exists. The facility is required to keep, and to submit upon request, proof of the public notice, perhaps in the form of a receipt for a radio broadcast, a photograph of the sign, and a photocopy of a newspaper advertisement.

The notice must contain several pieces of information: the date, time, and location of the meeting; a brief description of the purpose of the meeting; and a brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location. It must also include a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and the name, address, and telephone number of the applicant contact person.

At the meeting, permit applicants should address these topics:

- The type of facility the company will operate.
- The facility's location.
- The processes involved and the types of wastes the facility will generate and manage.
- The extent to which waste minimization and pollution prevention may supplement or replace waste treatment needs.
- The transportation routes the waste transporters will use.
- Planned procedures and equipment for preventing or responding to accidents or releases.

### Tips for Interested Community Members

Public comments and suggestions are easier for the facility to address earlier rather than later in the process, so public input can have a greater impact at this stage. The interested public is encouraged to attend meetings at this stage to begin their involvement with the RCRA process. Before attending, contact the facility or other stakeholders to learn more about the facility's history and operations.

The applicant must post a sign-up sheet or a similar mechanism to allow participants to volunteer their names and addresses for the facility mailing list. This sign-up sheet should always be voluntary, and the applicant should make clear that people may contact the permitting agency directly to add their names to the facility mailing list at any time. The applicant then must submit this list of attendees, along with a summary of the pre-application meeting, as a component of the Part B permit application. While this summary need not be a word-for-word record of the meeting, it should make a good faith effort to provide an accurate account.

Applicants also should provide fact sheets, information packets or other materials that explain the proposed operations, company policies, waste minimization proposals or other relevant information for community members. Some applicants also may want to consider inviting a moderator to conduct the pre-application meeting or combining it with a state siting meeting. If meetings are combined, the applicant must run the portion of the meeting that is dedicated to the RCRA facility permit. The regulatory agency must give the applicant the floor for a sufficient period of time, and the applicant must make clear that the RCRA portion of the meeting is separate from the general siting discussion when notifying the public of the meeting under 40 CFR § 124.31(d).



### ***The Facility Mailing List***

The permitting agency is responsible for developing a representative mailing list for public notices under 40 CFR § 124.10. While the agency is not required to create the mailing list at a particular time in the permitting process, EPA recommends developing one in the pre-application stage. The mailing list allows the agency to keep key groups and individuals in the community updated on facility activities, which enables the agency and the facility to better gauge community sentiment throughout the permitting process.

***Gear public participation activities to the potential level of community interest.***

The required meeting attendee list required under 40 CFR § 124.31(c) will help the agency generate the mailing list by identifying people or organizations who demonstrate an interest in the facility and the permitting process. Permitting agencies also should include all commenters on permitting documents, attendees at any public meetings, and people using information repositories. Permitting agencies also should contact civic organizations, religious groups, elected officials, and other stakeholder groups to invite their members to join the mailing list. The permitting agency also should create a mechanism that enables community members to add or remove their names from the mailing list. The agency needs to maintain the mailing list for any permit renewals or permit modifications that occur over the life of the permit. There are likely to be more interested parties for permit issuance than for routine modifications.

### ***Additional Public Participation Activities***

The level of public participation activities should correspond to the potential level of community interest in the permitting process. To determine the need for additional activities, state agencies should consider conducting a community assessment. If the level of interest is high, participants will want to do a more thorough needs assessment and prepare a formal public participation plan (see Chapters 2 and 5).

Information on the permitting process and facility activities can be technical and complex, and the public and other stakeholders may find it difficult to understand. The permitting agency and facility owner/operator should consider engaging in additional public participation activities in the pre-application stage to help make that information accessible to the public early in the RCRA process.

EPA encourages applicants to make fact sheets, information packets, or other materials available at the pre-application meeting. The permitting agency should also consider creating fact sheets about the RCRA permitting process. To ensure that notice of the pre-application meeting reaches as much of the community as possible, EPA recommends that permit applicants use notice methods that go beyond the requirements. These methods include public service announcements, publication in existing newsletters and publications, social media and other online platforms, and newspaper inserts and are described in Chapter 5.

The agency and facility also should consider hosting supplemental workshops or availability sessions to explain technical information. Some individuals or community groups may want to consult with other sources, including the permitting agency, local colleges and universities, and environmental and civic organizations for help in interpreting technical information.

Finally, the permitting agency has the right to require the facility owner/operator to establish an information repository at any point in the permitting process or during the life of a facility, and may wish to do so during the pre-application stage. The agency should assess the need for the repository by considering factors such as the level of public interest; the type of facility; the presence of an existing repository; and proximity to the nearest copy of the administrative record. The information repository can serve as a public access point for information on the facility and the RCRA process. In some cases, making notes from non-public meetings available through an information repository may increase public trust in the agency or the process.



## **Step Two: Application Stage**

After the applicant has met with the public and considered recommendations and input from the community, it may choose to continue pursuing a RCRA permit by submitting a RCRA permit application to the permitting agency. During this period, it is important to keep the public informed about the status of a facility's permit application. Upon receiving the permit application, the permitting agency must, under 40 CFR § 124.32, issue a public notice to the facility mailing list and appropriate units of state and local government. The notice will inform recipients that the facility has submitted a permit application for agency review. In addition, the notice will inform the recipients of the location where the application is available for public review.

The agency must notify the applicant in writing once it has reviewed the permit application. If the application is incomplete, the agency may issue a Notice of Deficiency (NOD) to the applicant requesting that the applicant submit the missing information. The agency may issue several NODs before the application is complete. The period during which the agency reviews the application can therefore be lengthy, taking anywhere from one to five years depending on the facility type and level of facility owner/operator cooperation.

During application submittal and review, these public participation activities are required:

- The permitting agency must make the application and supporting materials available to the public.
- The permitting agency must issue a public notice to the facility mailing list and appropriate units of government announcing receipt of the permit application.

### ***Making the Application Available to the Public***

Upon receiving the permit application, the permitting agency must make it and any supporting materials publicly available by placing the materials somewhere near the facility or at the agency office. To save community time and resources, the agency should place the application somewhere that is publicly accessible and has copying facilities (e.g., a public library or community center), as well as in the information repository, if one exists. The permitting agency's headquarters or satellite office may be an appropriate location for the materials. The agency also may want to make a short summary of the permit application available to the affected community or post materials online.

### ***Public Notice Announcing Receipt of Application***

Upon receiving the permit application, the permitting agency must, under 40 CFR § 124.32, issue a public notice to the facility mailing list and appropriate state, local, and tribal government agencies.

The notice must contain this information:

- The name and telephone number of the applicant's contact person.
- The name and telephone number of the permitting agency's contact office and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process.
- An address to which people can write to be added to the facility mailing list.
- The location where the public can view and copy the permit application and any supporting documents.
- A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice.
- The date that the application was submitted.

### ***Additional Public Participation Activities***

EPA encourages agencies and facilities to plan activities to maintain a steady flow of information. Permitting agencies can keep the process open by sharing all NOD information with the public, whether through the administrative record, an information repository, or another activity, such as a workshop or online updates. If the NOD details are too arcane or technical to present directly to the public, the agency can provide a short fact sheet. Holding workshops, conducting informal meetings, and providing periodic fact sheets, press releases, and updates (including via online and social media) about the facility, opportunities for pollution prevention, and the RCRA permit process can help spread information and keep the community involved. Identifying a contact person to accept comments and answer questions will also enhance communication. A toll-free telephone hotline with recorded status reports can reduce the potential for rumors.

EPA encourages permitting agencies to respond (e.g., in writing, by email, by phone, at a meeting) to comments and requests from the public during the application review process. Agencies should make good faith efforts to address all public concerns and issues.

### **Step Three: Preparation of Draft Permit Stage**

Once the permitting agency determines that an application is complete, it will make a decision to either issue or deny the permit. If the agency decides to issue the permit, it issues a draft permit outlining the conditions under which the facility can operate if the permit ultimately is approved. Otherwise, the permitting agency tentatively denies the permit and issues a notice of intent to deny the permit application. The permitting agency must announce this decision to the public, and must provide a public comment period of at least 45 days for public input on the draft permit or notice of intent to deny. More public participation is required during this stage than at any other time during the permitting process.

These public participation activities are required under 40 CFR § 124.6 during the draft permit stage:

- The permitting agency must issue a public notice when issuing a draft permit or a notice of intent to deny the permit application.
- The permitting agency must prepare a fact sheet or a statement of basis to accompany the draft permit.
- A 45-day public comment period begins following issuance of the draft permit decision.
- The permitting agency must host a public hearing if requested by the public. Even if no one requests a hearing, the agency may choose to hold one at its own discretion.

### ***Public Notice of Draft Permit Decision***

Whether the permitting agency decides to issue a draft permit or a notice of intent to deny the permit application, the agency must notify the public of the decision and the start of the 45-day (or longer) public comment period. The agency must print the notice in a local newspaper, broadcast it over a local radio station, and send a copy to the facility mailing list, relevant agencies, and applicable state, local, and tribal government bodies. EPA encourages agencies to attempt to reach all segments of the affected community, within reasonable means, when issuing the notice of the draft permit decision. Additional methods of reaching the public include using websites, social media, blogs, flyers in community centers and multilingual materials. Although the permitting agency is not required to retain documentation of the notice, EPA recommends keeping a simple file with proof of the notices.

### ***Fact Sheet or Statement of Basis***

The permitting agency must prepare a fact sheet or a statement of basis to accompany every draft permit. Regulation requires this fact sheet (40 CFR § 124.8) or statement of basis (40 CFR § 124.7), which differs

from commonly used informational fact sheets. This fact sheet must explain the principal facts and the significant factual, legal, methodological, and policy questions considered when preparing the draft permit (40 CFR § 124.8(a)). The fact sheet must also include, as applicable:

- a brief description of the type of facility or activity that is the subject of the draft permit;
- the type and quantity of wastes that are proposed to be handled at the facility;
- a brief summary of the basis for the draft permit conditions;
- reasons that any requested variances or alternatives to required standards do or do not appear justified;
- description of the procedures for reaching a final decision on the draft permit, including the beginning and ending dates of the comment period and an address to which comments can be sent; procedures for requesting a hearing and the nature of the hearing; and any other public participation procedures before the final permit decision; and
- the name and telephone number of a contact person for additional information. (40 CFR § 124.8(b))

A statement of basis is prepared for every permit for which a fact sheet is not prepared (40 CFR § 124.7). The statement of basis should briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision.

EPA recommends that the permitting agency include the fact sheet or statement of basis with the notice of the draft permit and make it available to all interested parties.

### ***Public Comment Period and Public Hearings***

Once the permitting agency issues the notice and fact sheet or statement of basis on the draft permit decision, the public has 45 days to comment on the decision. During this period, anyone may submit concerns or suggestions to the agency in writing, and the agency must later consider all significant comments in its final permit decision. EPA encourages stakeholders to submit comments during this period.

Any person may request a public hearing during the public comment period. The agency must hold a public hearing if someone submits a written notice of opposition to a draft permit and a request for a hearing, or if the number of requests for a public hearing demonstrates a significant degree of public interest in the draft permit. The agency also may hold public hearings at its discretion. The agency must notify the public about any hearings at least 30 days in advance; it may choose to combine this notice with the draft permit notice. As with all comments submitted during the public comment period, the agency must describe and respond to all significant comments raised during the public hearing.

### ***Additional Public Participation Activities***

Since the draft permit stage of the process is a period with extensive public involvement, EPA strongly recommends that permitting agencies prepare public participation plans to keep track of activities during this stage. Even the least controversial facilities should consider preparing a public participation plan. It also is crucial to ensure that the public stays informed of the schedule for public participation activities, so the permitting agency should consider using communication methods that go beyond the required public notice. The permitting agency may want to prepare a news release when issuing the draft permit or notice of intent to deny. Telephone hotlines, voice-mail recordings, website updates and social media posts also can help inform the community of the dates and locations of public participation events.

Since the draft permit stage provides many opportunities for the public to express concerns about a RCRA facility, it is important to ensure that community members have ample resources to develop an accurate understanding of the facility and the RCRA process. The agency, facility, or a public interest group may want to organize an availability session, facility tours, or some other activity during or prior to the comment period so that the public can learn more about the facility. Permitting agencies may hold public meetings prior to a public hearing to provide a better forum for discussing issues.

### Using E-Resources

If on-site facility tours or observation decks are not feasible, the facility may post an online virtual tour, which guides viewers through graphics and videos of the facility. The facility owner/operator also may help familiarize the public with the facility by posting e-resources like Google Earth KMZ files or similar maps.

In situations where a community wants more information on potential facility operations and the health and environmental risks of those operations, community members or the agency can work with the facility to set up facility tours or observation decks (safety permitting) during the public comment period. These activities may be particularly useful for new facilities; facilities with proposed new or different technologies; or explanations of pollution prevention accomplishments and opportunities. However, these types of on-site activities can be a challenge because facilities typically are not constructed until after the permit is issued.

While regulations require requested or necessary public hearings, interested stakeholders also may provide informal meeting opportunities during this period. The public or other stakeholders may request one-on-one or small-group informal meetings with the permitting agency, the permit applicant, or community groups, or hold an informal forum for themselves. These informal meetings might improve cooperation between stakeholders by providing a less confrontational setting than a public hearing.

### Step Four: Final Permit Design Stage

After the public comment period closes, the Agency reviews and evaluates all written and oral comments and reconsiders its initial decision on the draft permit. After responding to all significant public comments, the Agency makes a final decision to issue or deny the final permit.

These public participation activities are required per 40 CFR §§ 124.15 and 124.17 during the final permit design stage:

- The permitting agency must issue a notice of decision on the permit application.
- The permitting agency must prepare a response to comments document addressing all significant comments raised during the public comment period.

The agency must send a notice of decision (not to be confused with a Notice of Deficiency) to the facility owner/operator and any people who submitted public comments or requested notice of the final permit decision. The agency must also prepare a written response to comments that includes a summary of all significant comments submitted during the public comment period and an explanation of how the agency addressed or rejected the comments in the final permit decision. This response to comments shows the community that the agency considered the community's concerns in the final permit decision. The agency must make the response to comments document available as part of the administrative record.

### *Additional Public Participation Activities*

If the level of public interest during the comment period was high, the agency or facility may want to issue a news release or fact sheet when the final decision is made, to inform a wide audience of the decision. It may post this information online or announce the decision via the agency's or facility's website or

social media account. The permitting agency may choose to update and release the fact sheet required in 40 CFR §124.8.

## Public Participation During the Life of a Permit

The life of a RCRA permit encompasses all stages of facility operation, from construction to closure and post-closure care. Over the life of a permit, updating the permit through permit renewals and permit modifications typically takes more time than permit issuance. Many of these permit renewals and modifications also include required and recommended public participation activities. Facilities that leave waste in place when they close must obtain a post-closure permit; there are specific requirements for public participation associated with closure and post-closure care.

### Permit Modifications

Over time, facilities undergo changes that trigger the need to modify their permits. Just as public participation is a component of the initial permitting process, it is also a part of the permit modification process.

There are many reasons to modify a permit. Public participation responsibilities and activities vary depending on who initiated the modification (i.e., the permitting agency or the facility owner/operator), as well as the degree to which the modification would change substantive permit provisions. Regardless of who initiates the modification or when a modification is proposed, only those permit conditions subject to modification are reopened for public comment.

In some cases, the agency may initiate a permit modification under 40 CFR § 270.41 to make alterations or additions to the permitted facility or activity; incorporate new information the agency has received; incorporate new standards, regulations or judicial decisions affecting the human health or environmental basis of a facility permit; or modify a compliance schedule for corrective action in the permit. Modifications initiated by the regulatory agency are subject to the full public participation requirements outlined in 40 CFR part 124, as described earlier in this chapter. The agency-initiated process is relatively uncommon.

More often, the facility owner/operator requests a permit modification to improve facility operations or make changes in response to new standards. Facility-initiated modifications are categorized under 40 CFR § 270.42 as Class 1, 2, or 3 according to how substantively they change the original permit.<sup>5</sup>

- **Class 1 modifications** do not substantially alter the conditions in the initial permit or reduce the facility's ability to protect human health and the environment. Most Class 1 modifications require

#### Public Participation in Recycling Variances

Recyclers of hazardous materials may operate under one of the *variances* or *non-waste determinations* listed in the CFR, including the new **verified recycler variance** announced in January 2015 as part of the revised Definition of Solid Waste rule. The goal of the verified recycler variance is to provide communities strong protection against the potential for mismanagement of hazardous materials intended for recycling, while encouraging legitimate recycling activities to continue. The process for granting this variance is similar to that for granting a permit, and includes public notification and the opportunity for a public hearing. The same public participation guidance that applies to permitting also should be considered during the solid waste variance and non-waste determination process.

<sup>5</sup> As of 2015, five states (Alabama, Florida, Maine, Minnesota, and Ohio) use the original "major or minor" permit categories in lieu of the three class system introduced in the optional 1988 rule (53 FR 37912).

prior approval by EPA or the authorized state permitting agency. Some types do not require prior approval, as specified in the regulations.

- **Class 2 modifications** address common, facility-initiated changes needed to maintain safety or regulatory compliance at the facility. Class 2 modifications enable facility owners/operators to respond to variations in the types and quantities of waste managed by the facility, technological advancements, and new regulatory requirements. Class 2 modifications do not substantially alter the facility’s design or waste management practices as outlined in the initial permit. Class 2 modifications do not reduce, and in most cases should enhance, the facility’s ability to protect human health and the environment.
- **Class 3 modifications** cover major changes that substantially alter the facility or its operations. For example, changes to waste management practices to accommodate new types of waste, substantial increases in storage capacity, or changes to the facility’s groundwater monitoring program would require a Class 3 modification.

Exhibit 3-2 provides additional examples of the types of changes covered by each modification classification. Exhibit 3-3 illustrates a process flowchart for each modification type.

The process for modifying a permit and the accompanying requirements for public participation differ depending on the classification of the modification. For Class 2 and 3 modifications, the modification process follows a series of steps similar to the initial permit application process. In contrast, the administrative requirements for Class 1 modifications are comparatively minor.

The public participation requirements are described in more detail in Exhibit 3-4. Class 2 and 3 modifications require the facility to involve the public in many steps throughout the process, but Class 1 modifications require only the distribution of a public notice. The facility owner/operator is responsible for conducting much of the public participation for modifications he or she initiates, particularly for Class 2 and 3 permit modifications.

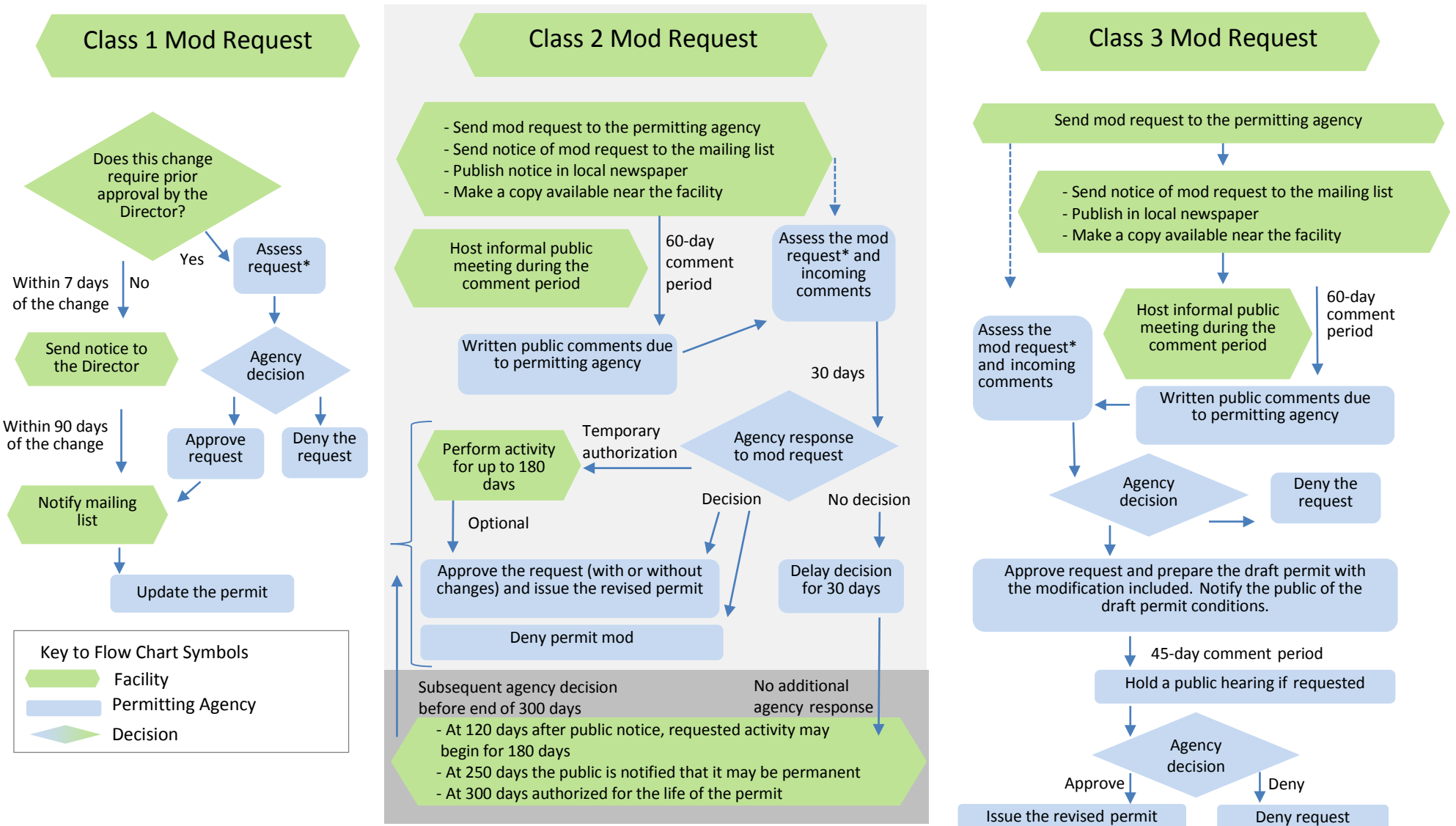
The facility, rather than the agency, bears much of the burden of explaining its actions to the public, although the agency provides additional explanations to the public for Class 3 modifications. Federal regulations require the permitting agency to maintain an updated mailing list, although some state regulations delegate this responsibility to facilities. To ensure that the facility’s public participation efforts are successful, facility and agency staff should discuss how to conduct the required activities, and the agency should provide guidance and assistance where necessary. EPA also encourages facilities to consult with communities to determine which activities will best promote public participation.

**Exhibit 3-2. Examples of Permit Modification Classifications**

CLASS 1	CLASS 2	CLASS 3
Administrative and informational changes	Changes in frequency or content of inspection schedules	Addition of corrective action program
Correction of typographical errors	Changes to corrective action program	Creation of a new landfill as part of closure
Changes in names, addresses, and phone numbers of emergency coordinators	Extensions of post-closure care period	Addition of compliance monitoring to groundwater monitoring program
Changes to waste sampling and analysis methods to comply with new regulations	Changes to facility training plan that affect the type or amount of employee training	Reduction in post-closure care period

CLASS 1	CLASS 2	CLASS 3
Changes to analytical quality assurance and quality control plan to comply with new regulations	Changes in number, location, depth, or design of groundwater monitoring wells	Addition of temporary incinerator for closure activities
Note: Permit modifications are classified in more detail in Appendix I to 40 CFR § 270.42.		

**Exhibit 3-3. Process for Class 1, 2, and 3 Permit Modifications (Mod)**



See 40 CFR 270.42 for the full federal regulations for permittee mod requests. State regulations may vary. Several states have not adopted the regulations for the three class structure, and use the preexisting Major and Minor Mod structure. \* The permitting Agency may need additional information from the facility in order to make a decision and these interactions can be lengthy. The Permitting Agency may also determine that the class should be higher or lower (or deciding if a Class 1 needs prior approval) based on the change being made. The separate temporary authorization process can be used for Class 2 or 3 as appropriate (although not referenced in the Class 3 process above).



**Exhibit 3-4. Public Participation Requirements for Class 1, 2, and 3 Permit Modifications**

MODIFICATION CLASS	TYPES OF CHANGES COVERED	FACILITY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES	AGENCY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES
Class 1 – no prior approval required	Routine and administrative changes	<ul style="list-style-type: none"> <li>• <b>Within 7 days:</b> Inform agency.</li> <li>• <b>Within 90 days of implementing the change:</b> Notify mailing list.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide the maintained mailing list to facility.</li> </ul>
Class 1 - prior approval required	More involved administrative changes (such as change of ownership), changes in procedures, and specific facility modifications	<ul style="list-style-type: none"> <li>• <b>Day 1:</b> Submit modification request to agency.</li> <li>• <b>Within 90 days of agency approval:</b> Notify mailing list.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide the maintained mailing list to facility.</li> </ul>
Class 2	Improvements in technology and management techniques	<ul style="list-style-type: none"> <li>• <b>Day 1:</b> Submit modification request to agency.</li> <li>• <b>Within 7 days:</b> Publish newspaper notice, notify mailing list, and place copy of permit modification request and supporting documents in accessible location in the vicinity of facility. Newspaper notice marks start of 60-day public comment period.</li> <li>• <b>Between days 15-45:</b> Hold public meeting.</li> <li>• If agency does not act <b>within 250 days</b> of the modification request, notify mailing list that automatic authorization will become permanent in 50 days.</li> <li>• <b>Day 300:</b> If agency has not responded, activity is permanently authorized.</li> <li>• <b>If requesting a temporary authorization, within 7 days of request:</b> Notify public.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide the maintained mailing list to facility.</li> <li>• <b>Day 60:</b> Public comments on the modification request due to agency.</li> <li>• <b>Day 90:</b> Response to modification request due, including response to all written and significant comments. Deadline may be extended 30 days.</li> <li>• Issue notice to the mailing list <b>within 10 days</b> of any decision to grant or deny modification request.</li> <li>• Issue notice to the mailing list <b>within 10 days</b> after automatic authorization goes into effect.</li> </ul>

MODIFICATION CLASS	TYPES OF CHANGES COVERED	FACILITY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES	AGENCY REQUIREMENTS AND TIMING FOR PUBLIC PARTICIPATION ACTIVITIES
Class 3	Major changes to a facility and its operations	<ul style="list-style-type: none"> <li>• <b>Day 1:</b> Submit modification request to agency.</li> <li>• <b>Within 7 days:</b> Publish newspaper notice, notify mailing list, and place copy of permit modification request and supporting documents in accessible location in the vicinity of facility. Newspaper notice marks start of 60-day public comment period.</li> <li>• <b>Between days 15-45:</b> Hold public meeting.</li> <li>• <b>If requesting a temporary authorization, within 7 days of request:</b> Notify public.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide the maintained mailing list to facility.</li> <li>• <b>Day 60:</b> Public comments on the modification request due to agency.</li> <li>• <b>After conclusion of 60-day comment period:</b> Grant or deny the modification request according to permit modification procedures of the CFR:</li> <li>• Issue public notice of draft modification or intent to deny modification.</li> <li>• Prepare a fact sheet or statement of basis.</li> <li>• Announce 45-day public comment period on draft permit decision.</li> <li>• Hold public hearing, if requested or at agency's discretion, with 30-day advance notice.</li> <li>• Consider and respond to all significant written comments received during 60-day comment period.</li> <li>• Respond to written and oral comments from 45-day comment period.</li> </ul>

## Closure and Post-Closure at Permitted Facilities

Facilities may discontinue operations at one or more solid waste management units (SWMUs) for a number of reasons. The units may have reached capacity, the facility owner/operator may no longer wish to accept waste, or the facility may have lost interim status (see following section) and be required to close by the permitting agency. During closure, facility owners/operators complete treatment, storage, and disposal operations; apply final covers or caps to landfills; and dispose of or decontaminate equipment, structures, and soil.

*The public may be concerned about the thoroughness of cleanup and post-closure monitoring at facilities.*

Post-closure, which applies only to land disposal facilities that do not “clean close,” or remove all contaminants from the unit, is normally a 30-year period after closure during which owners/operators conduct monitoring and maintenance activities to preserve the integrity of the disposal system. However, the regulatory agency has discretion to extend or shorten the length of the post-closure care period as necessary to ensure protection of human health and the environment. Any potential changes to the length of the post-closure care period should be presented to the public.

EPA regulations (40 CFR §§ 264.112 and 264.118) require facilities seeking operating permits to submit closure and post-closure plans (if appropriate) with their Part B applications in accordance with 40 CFR § 270.14(b) (13). Land disposal facilities that leave waste in place when they close must obtain a post-closure permit, which specifies the requirements for proper post-closure care. The public has the opportunity to comment on a facility’s closure and post-closure plans and any amendments made to the plans as part of the permitting and permit modification processes, as described earlier.

In the RCRA Expanded Public Participation rule, facilities seeking permits for post-closure are exempt from hosting the required pre-application meeting (40 CFR 124.31). However, the facility, permitting agency, or a community group may decide to hold some type of meeting prior to issuance of the post-closure permit.

The permitting agency and other involved organizations should be aware of concerns the public may have around facility closure, including:

- reservations about how clean the facility will be after it closes;
- concern that the facility owner/operator will not have the will or financial resources to uphold his or her obligations to monitor post-closure operations at the facility, particularly if he or she leaves the facility or community; and
- concerns about corrective action, if the facility closes before all necessary corrective actions are completed and is subject to a compliance schedule for corrective action.

Public interest groups, the permitting agency, or the facility should try to address these concerns by providing fact sheets and online resources or by conducting educational workshops and informational meetings about the closure plan and facility conditions. A “full” facility closure requires full public involvement activities. However, for a partial closure that only involves permit modification, the extent of public participation already is included in the process.

## Public Participation at Interim Status Facilities

When writing the RCRA legislation, Congress granted special status to facilities that existed when the statute went into effect and to facilities that would be brought under RCRA by new regulations. EPA refers to these facilities as having interim status. As of 2015, there are fewer than 20 facilities operating under interim status, although many more are in closure or post-closure stages. According to RCRA, interim status facilities do not need a permit to operate; instead, while they are seeking permits, they

follow a category of regulations EPA created specifically for them. When EPA or a state issues a RCRA operating permit to one of these facilities, the facility loses its interim status.

### Interim Status Facility Operation

Because interim status facilities can operate without a permit, many people are concerned that some of these facilities are not as safe as permitted facilities. In addition, because they are not permitted facilities, interim status facilities are not required to follow public participation procedures. Interim status facilities therefore often pose public participation challenges, even though many of them have been operating for years.

*A good facility-community relationship during interim status will make for a more cooperative permitting process.*

Regulatory agencies may need to use innovative techniques to communicate with and provide information to communities about interim status facilities. If the public shows interest in an interim status facility, the permitting agency and facility owner/operator should consider taking these steps to encourage public participation:

- The agency may host a workshop or availability session to explain the special situation of interim status facilities to the public and to provide information on facility operations.
- The facility may set up an on-site information booth, website, or information repository to provide background materials to the public.
- The facility or agency may establish a contact person, and make his or her name and contact information available to the public to improve communication between the facility/agency and community.

If an interim status facility begins to attract public interest, the agency should consider moving the facility toward getting a permit and undergoing the public participation steps the permitting process requires. The permitting process will give community members an opportunity to air concerns and to encourage the facility to make important changes. As an interim status facility begins the permitting process, it can start to involve the community by making a draft Part B application available to the public before submitting it to the permitting agency.

### Closure and Post-Closure at Interim Status Facilities

Facilities may also close under interim status, often under enforcement orders. Facilities that are closing under interim status must submit closure and post-closure plans (if appropriate) under 40 CFR §§ 265.112 and 265.118. Public participation activities for interim status facilities during the closure and post-closure processes are specified in 40 CFR §§ 265.112(d)(4) and 265.118(f).

In some cases, the facility, public or permitting agency may seek to modify these closure or post-closure plans. The public can petition the agency to extend or reduce the post-closure care period at an interim status facility or land disposal unit, and the agency can then initiate modifications to the plans. An interim status facility may amend its closure plan at any time prior to the notification of partial or final closure, and its post-closure plan any time during the active life of the facility or during the post-closure care period. To do so, a facility owner/operator with an approved closure or post-closure plan may submit a written request to the agency to authorize a change. Exhibit 3-5 summarizes requirements for public participation during issuance and revision of closure and post-closure plans.

**Exhibit 3-5. Public Participation Requirements for Issuance and Revision of Closure and Post-Closure Plans at Interim Status Facilities**

TYPE OF ACTION	REGULATORY REQUIREMENTS FOR PUBLIC PARTICIPATION
Creation of Closure or Post-Closure Plan	<ul style="list-style-type: none"> <li>• The agency must issue a public notice in the newspaper announcing that the public and facility can submit written comments and request modifications to the closure and post-closure plans within 30 days.</li> <li>• In response to a request or at its own discretion, the agency may hold a public hearing on the plan(s), if such a hearing might clarify one or more of the issues concerning the plan(s). The agency must provide public notice at least 30 days before the hearing.</li> <li>• The agency must approve, modify, or disapprove the plan(s) within 90 days of their receipt.</li> </ul>
Public Petition on Post-Closure Plan	<ul style="list-style-type: none"> <li>• The public can petition the agency to extend or reduce the post-closure care period applicable to an interim status facility or land disposal unit.</li> <li>• Whenever the agency is considering a petition on a post-closure plan, it must issue a public notice in the newspaper announcing that the public and facility can submit written comments within 30 days.</li> <li>• In response to a request or at its own discretion, the agency may hold a public hearing on the post-closure plan, if such a hearing might clarify one or more of the issues concerning the plan. The agency must provide public notice at least 30 days before the hearing.</li> <li>• If the agency tentatively decides to modify the post-closure plan, it must issue a public notice in the newspaper announcing that the public and facility can submit written comments and request a public hearing within no more than 30 days.</li> <li>• After considering the comments, the agency issues a final decision.</li> </ul>
Facility- or Agency-Initiated Modification to Closure or Post-Closure Plan	<ul style="list-style-type: none"> <li>• If an amendment to the closure plan would be a Class 2 or 3 permit modification according to the criteria specified in <a href="#">40 CFR 270.42</a>, then it is subject to the public participation procedures in <a href="#">40 CFR 265.112(d)(4)</a> (see requirements under Creation of Closure or Post-Closure Plan).</li> <li>• If an amendment to the post-closure plan would be a Class 2 or 3 permit modification according to the criteria specified in <a href="#">40 CFR 270.42</a>, then it is subject to the public participation procedures in <a href="#">40 CFR 265.118(f)</a> (see requirements under Creation of Closure or Post-Closure Plan).</li> </ul>

# CHAPTER 4: PUBLIC PARTICIPATION IN RCRA CORRECTIVE ACTION UNDER PERMITS AND RCRA § 3008(H) ORDERS

## Introduction

This chapter describes EPA's public participation guidelines for the corrective action program. It reflects the current EPA position on these issues as the corrective action program continues to evolve.

EPA may authorize state environmental agencies to implement the corrective action program, provided that the state's corrective action requirements are at least as stringent as the federal requirements. Where states implement the program, EPA plays an oversight role. At the federal level, corrective actions may take place under a RCRA permit or as an enforcement order under § 3008 (h) of RCRA. Where RCRA permits are modified to incorporate corrective actions, these changes must follow permit modification procedures in 40 CFR §270.41 or 270.42. In authorized states, corrective action may take place under a state-issued RCRA permit, a state cleanup order, a state voluntary cleanup program or another state cleanup authority. EPA encourages interested individuals to check with their state agency for information on the available corrective action sites in the area.

*Individuals should check with their state environmental agency for information on public participation opportunities.*

Corrective actions usually involve these key stages:

- Initial Site Assessment (RCRA Facility Assessment, or RFA).
- Site Characterization (RCRA Facility Investigation, or RFI).
- Interim Actions.
- Evaluation of Remedial Alternatives (Corrective Measures Study, or CMS).
- Remedy Selection (Statement of Basis).
- Remedy Implementation (Corrective Measures Implementation, or CMI).
- Completion of the Remedy.

While these elements compose the typical approach to facility cleanup, facilities may use alternative approaches if they achieve remediation. The degree of cleanup necessary to protect human health and the environment varies significantly across RCRA facilities, so few cleanups will follow exactly the same course.

### U.S. Navy's Atlantic Fleet Weapons Training Facility, Vieques Island, Puerto Rico

**RCRA corrective action:** Starting in 2003, community members were involved in activities related to corrective action at this Navy facility, including development of a Community Involvement Plan; participation on a Restoration Advisory Board; involvement in public forums; and creation and distribution of fact sheets, newsletters, and other public materials in both Spanish and English.

## Overview of Public Participation in Corrective Action

There are several key considerations to keep in mind while planning public participation for RCRA corrective action:

- **Public participation during corrective action derives from a combination of regulations and EPA guidance.** Although regulations under Parts 124 and 270 of Title 40 of the Code of Federal Regulations (CFR) outline the required public participation activities for corrective actions beginning with permit issuance or modification, there are no regulatory requirements for public participation in corrective actions under RCRA § 3008(h) orders. EPA guidelines advise additional public participation activities in both cases, suggesting supplementary provisions that the permitting agency may include in the permit for corrective actions. EPA recommends that corrective action processes under RCRA § 3008(h) orders include the same provisions for public participation that accompany corrective action under a permit.
- **Public participation in RCRA corrective actions should be consistent with Superfund procedures.** A significant portion of the RCRA corrective action process is similar to the Superfund process. EPA encourages permitting agencies and facilities to make public participation activities under the RCRA system consistent with the activities required under Superfund, whenever appropriate. Of course, it also is important to recognize the significant differences between the RCRA and Superfund programs, and the difficulty of directly applying Superfund public participation requirements at each stage of the RCRA corrective action process.
- **Stakeholders must share responsibility for public participation activities in corrective actions.** Since certain cleanup steps in a corrective action process may be implemented by different stakeholders - primarily the overseeing agency or the facility owner/operator - these stakeholders should consider how best to share responsibilities for public participation. Public participation activities often will be more useful if the individuals who conducted the most recent cleanup step conduct these activities. If the facility owner/operator performs a facility investigation, it is more appropriate for the facility owner/operator to run the following public meeting, rather than the permitting agency.

### Directives for Public Participation Under RCRA § 3008(H) Orders

EPA recommends that the substantive corrective action requirements and public participation requirements imposed under an order should be the same as those if corrective action were taking place under a permit. There are two directives addressing public participation in RCRA § 3008(h) orders: Directive 9901.3, Guidance for Public Involvement in RCRA Section § 3008(h) Actions (May 5, 1987) and Directive 9902.6, RCRA Corrective Action Decision Documents: The Statement of Basis and Response to Comments (April 29, 1991). These directives that suggest public participation activities in orders, even though such activities are not required by statute. The directives suggest these activities after the selection of a proposed remedy:

- Writing a statement of basis discussing the proposed remedy;
- Providing public notice that a proposed remedy has been selected and the statement of basis is available;
- Providing a public comment period (30-45 days) on the proposed remedy;
- Holding a public hearing if requested; and
- Writing a final decision and response to comments.



## Special Considerations for Public Participation Activities Under RCRA § 3008(h) Orders

Though corrective actions under RCRA § 3008(h) orders should offer roughly the same public participation activities as those under permits, there are several special considerations involved in corrective actions under orders:

- **Consent vs. Unilateral Orders:** RCRA § 3008(h) orders may be issued either on consent or unilaterally. A consent order is issued when the facility and the regulatory agency agree about the corrective action; a unilateral order is issued when the regulatory agency and the facility are unable to agree about the need for, or the scope of, corrective action. Public participation will likely proceed differently depending on whether corrective action is proceeding under a consent or unilateral order. When corrective action takes place under a consent order, the regulatory agency should explain to the community that corrective action orders on consent are a means to expedite initiation of corrective action activities. Under a consent order, the agency should consider negotiating with the facility to prepare a public participation plan—if community interest in the facility is high—or at least conduct some activities as terms of the order. If the agency issues a unilateral order, it may be necessary or appropriate for the agency to assume all or most public participation responsibilities.
- **Limitations on Releasing Information:** When the Agency is negotiating an order with the facility, some information might be confidential. The aim of these negotiations is to encourage frank discussion of all issues and resolve differences, allowing the agency to issue an order on consent rather than unilaterally. Public disclosure of some information may be in violation of state and federal statutes and could jeopardize the success of the negotiations, so agency staff should coordinate any public notices before releasing information. If community interest in the facility is high, the project manager, project staff, and the Public Involvement Coordinator, if there is one, should discuss how to address concerns without breaching confidentiality. At the very least, the public deserves to know why these limitations are necessary, and when and if they will be lifted.

## Public Participation Roles During RCRA Corrective Action

There are several public participation activities currently required under federal regulations, as well as additional activities that EPA recommends. Exhibit 4-1 summarizes the stages of the RCRA corrective active process and corresponding opportunities for public participation.



**Exhibit 4-1. Elements of Corrective Action and Opportunities for Public Participation\***

CORRECTIVE ACTION ELEMENT	OPPORTUNITIES FOR PUBLIC PARTICIPATION
RCRA Facility Assessment (RFA) (Initial Site Assessment)	<ul style="list-style-type: none"> <li>• Permit is available for public comment.</li> <li>• For enforcement orders, administrative record is available for public review.</li> <li>• Additional activities: mailing list, public participation plan, fact sheets, open house, workshop.</li> </ul>
RCRA Facility Investigation (RFI) (Site Characterization)	<ul style="list-style-type: none"> <li>• Permit is available for public comment.</li> <li>• For enforcement orders, planned RFI is available for public comment.</li> <li>• Information repository is established, if required.</li> <li>• Additional activities: mailing list, public participation plan, fact sheets, summary of RFI report, notifications for discovery of contamination, informal meetings, workshops.</li> </ul>
Interim Measures (IM)	<ul style="list-style-type: none"> <li>• Permit is available for public comment.</li> <li>• Additional activities: interim action plan, contact person, fact sheets, informal meetings.</li> <li>• Depending upon whether the IM directive affects off-site areas (e.g., vapor intrusion, community drainage ways), customized activities may include residential property access and cleanup agreements, data results letters, an agency webpage posting technical sampling results and work plans (showing sampling plan and data from off-site areas).</li> </ul>
Corrective Measures Study (CMS) (Evaluation of Remedial Alternatives)	<ul style="list-style-type: none"> <li>• Permit or permit modification is available for public comment.</li> <li>• Additional activities: preferred remedy presentation, informal meetings, availability sessions, workshops, fact sheets, contact person, hotline, web-based forums for public feedback.</li> </ul>
Remedy Selection	<ul style="list-style-type: none"> <li>• Tentatively selected remedy is available for public comment as part of permit modification.</li> <li>• Fact sheet or statement of basis published; public comment period and associated public hearing or public meeting held; response to comments published; final remedy decision and supporting information published.</li> <li>• Additional activities: informal meetings, workshops.</li> </ul>
Corrective Measures Implementation (CMI) (Remedy Implementation)	<ul style="list-style-type: none"> <li>• Permit modification is available for public comment.</li> <li>• Additional activities: CMI plans and specifications, fact sheets or other periodic updates, open houses, availability sessions.</li> </ul>
Completion of the Remedy	<ul style="list-style-type: none"> <li>• Permit modification is available for public comment.</li> <li>• Additional activities: notation of remaining hazardous waste recorded in deed to property.</li> </ul>

\* Depending on the level of public interest (see Exhibit 2-2), the opportunities and demand for public participation will vary.

## **RFA – Initial Site Assessment**

The corrective action process usually begins with an initial site assessment, called a RFA. Either the overseeing agency or the facility conducts the RFA with subsequent agency approval. The purpose of an RFA is to gather data about a site, including data on releases and potential releases of hazardous waste and hazardous constituents, to determine whether a cleanup may be necessary. RFAs usually include a file review of available facility information; a visual site inspection to confirm available information on SWMUs at the facility and to note any visual evidence of releases; and in some cases, a sampling visit to confirm or disprove suspected releases.

An RFA report records the RFA results, describes the facility and the waste management units present at the facility, and notes any releases or potential releases. It will also describe releases and potential releases from other, non-waste-management-associated sources (e.g., a spill from a product storage tank). Interested individuals may request copies of RFA reports from the appropriate EPA regional office or state agency. To obtain these reports, a Freedom of Information Act (FOIA) request is needed. For information on how to submit a FOIA Request to EPA, please visit <https://www.epa.gov/foia>.

If corrective action takes place in the context of a RCRA permit, the permit application will also describe the physical condition of the facility, including its subsurface geology, the waste management units present at the facility, and any releases and potential releases.

The RFA report usually serves as the basis for future corrective actions at a facility. If, after completion of the RFA, it appears likely that a release exists, the overseeing agency will develop facility-specific corrective action requirements in a schedule of compliance, which will be included in the facility's permit or in a RCRA § 3008(h) corrective action order.

### ***Required Activities***

For corrective action implemented through a permit, the public may comment on the schedule of compliance for corrective action during permit issuance and subsequent permit modification.

When corrective action is implemented through a RCRA § 3008(h) order, the public should be given an opportunity to comment on the schedule of compliance when the order is issued; however, it may take many months of discussions between the facility owner/operator and the overseeing agency before an order is issued. On the day the order is issued, the administrative record should be made available to the public. The administrative record contains all information considered by the agency in developing the order. The agency may want to place a copy of the administrative record at a local library near the facility.

#### **E.I. DuPont de Nemours & Company (DuPont), Pompton Lakes, New Jersey**

**Use of social media:** Community engagement was a particularly high priority at this site due to public health concerns raised by ongoing remedial investigations and actions. In addition to the typical communication methods of a Community Advisory Group, public meetings, and website updates, this site also had a Community Involvement Coordinator who maintained a Facebook page dedicated to the site. The page featured photographs, information on public and recent news, and community discussions, providing another forum for information sharing.

### ***Additional Activities***

During the discussions between the facility owner/operator and the overseeing agency before a RCRA § 3008(h) order is issued, which can take months to years, the facility owner/operator may develop a mailing list (which may include e-mail addresses in addition to physical addresses) and a public participation plan.

The overseeing agency or facility owner/operator then should consider creating a fact sheet with details of the order and the corrective action process. If there is a high level of interest in the facility, the agency or facility owner/operator should also consider holding an open house or workshop. Wherever possible, the overseeing agency or facility owner/operator should provide similar information online (e.g., publishing fact sheets on its website, uploading video recordings of workshops, or posting updates to social media).

### **RFI – Site Characterization**

A RFI is necessary when a release or potential release has been identified, but additional information is required to determine the nature and scope of possible corrective actions. The purpose of an RFI is to characterize the nature and extent of contamination at the facility and to support selection and implementation of a remedy or, if necessary, interim measures.

### ***Required Activities***

If corrective action takes place in the context of a RCRA permit, the public has the opportunity to review and comment on the scope of the RFI, and RFI schedules and conditions, during permit issuance. The RFI usually follows an agency-approved RFI plan. If the RFI plan is incorporated into a permit by a permit modification, the public will have an opportunity to comment on the scope and schedule of the RFI during the modification process. The public often has valuable institutional knowledge that can be tapped and can strengthen the RFI (e.g., citizens may have observations of historic stormwater pathways; former workers can share past waste handling practices, such as poor waste disposal or facility giveaways of materials to be used as local fill with constituents).

If corrective action is conducted under a RCRA § 3008(h) order, the public should be given the opportunity to review and comment on the scope of the RFI and RFI conditions when the order is issued or when the RFI work plan is approved.

RFIs can often involve numerous rounds of field investigation and can take months or years to complete. During the RFI process, it may be necessary to change the RFI requirements or modify the RFI schedule to react to new information. When corrective action takes place in the context of a RCRA permit, the public has an opportunity to comment on changes to RFI conditions and schedules during the permit modification process. When corrective action is conducted under an order, the public's opportunities to review changes to RFI conditions and schedules should be consistent with the opportunities available under a permit.

The facility should use and update its mailing list throughout the corrective action process to keep community members informed. Ideally, such a mailing list was compiled during the initial stages of the permitting process or preparation of the corrective action order. The overseeing agency or facility owner/operator also may want to consider providing similar information online through its website or social media.

In some cases, (e.g., where there is a high level of public interest in corrective action activities), the overseeing agency will create an information repository to ensure adequate public involvement. When corrective action takes place under a RCRA permit, the agency can require the facility to establish a repository under 40 CFR § 270.30(m). A repository at the RFI stage will provide access to information from an early stage in the process, though the agency has the discretion to use this provision at any stage in the permitting or corrective action process. If the agency decides to require a repository, it will direct the facility to notify the public of the repository, including the name and phone number of a contact person.

The facility should consider supplementing all required notifications with web-based information, such as social media posts or notifications on its website.

### Romic Environmental Technologies Corporation, East Palo Alto, California

**Use of creative communication methods:** This former hazardous waste management facility was demolished and undergoing RCRA correction action. Creative community outreach methods included sponsoring a display booth at the local Cinco de Mayo festival and creating two videos about the site's cleanup that aired on local news broadcasts.

#### ***Additional Activities***

The start of the RFI usually marks the beginning of highly visible, ongoing corrective action activities at a facility. When RFIs begin, it generally is appropriate to reevaluate community concerns and the level of public participation, and to revise the public participation plan accordingly. Undertaking such efforts early in the process before community concerns and issues become overwhelming will be beneficial in the end.

One way to keep in touch with the community is to develop and distribute fact sheets throughout the RFI process. It is a good idea to issue a fact sheet before the RFI begins to explain the investigation's purpose and scope, and another fact sheet after the RFI is complete to report the investigation results. These fact sheets also may be made available online and through social media.

EPA encourages all facilities to make the results of the RFI readily available to interested stakeholders. They may distribute this information by sending a summary of the RFI report to the facility mailing list or through a fact sheet, project newsletter, social media or website. The full report should be available for review in an information repository, if one exists, or through some other method that is convenient for the public. The facility owner/operator should also provide notice to all adjacent landowners and other people who may have been affected by releases of contamination via air or groundwater from the facility. EPA recommends that the owner/operator follow the provisions in the 1990 RCRA corrective action regulatory proposal (proposed § 264.560(a) and (b)) for notifications for discoveries of contamination (see 55 FR 30882).

Informal meetings or workshops held by the facility, the permitting agency, or public interest groups can also provide valuable forums for discussing community concerns.

#### **Interim Measures**

Interim measures are actions and activities used to control or abate ongoing risks to human health or the environment at a facility in advance of final remedy selection. Interim measures may be required in situations where contamination poses an immediate threat to human health or the environment. They also may be required to prevent further environmental degradation or contaminant migration prior to implementing the final remedy. Interim actions may occur at any point in the corrective action process; however, they are often implemented during the RFI or CMS. Recently, EPA has increasingly emphasized the importance of interim measures and site stabilization in the corrective action program.

#### ***Required Activities***

When corrective action is proceeding under a RCRA permit, the permit may identify specific interim measures or stabilization measures (if they are known at the time of permit issuance), or may have general conditions that govern when interim measures might be required during the corrective action. In either

case, the public can comment on the interim measures strategy in the draft permit as part of the permitting process.

When corrective action is proceeding under a RCRA § 3008(h) order, the public should have the opportunity to comment on specific interim measures or general interim measure conditions when the order is issued, or in a manner that is consistent with the opportunities available when corrective action takes place under a permit.

### ***Additional Activities***

If a facility owner/operator or the permitting agency anticipates that an early interim action will be the only cleanup step taken over a significant period, the facility or agency should inform the public of its plan. It should then receive feedback (e.g., via public meetings, written comments, a website, or social media), unless the immediacy of the situation does not allow for feedback. The facility and the agency should announce a contact person to provide information, and respond to inquiries about the action. Agencies and facilities may find Superfund guidance on removal actions useful in the RCRA context (see [\*Superfund Community Involvement Handbook\*](#), Chapter 4).

It is a good idea to keep the public informed of such actions by issuing fact sheets, holding informal meetings, or posting updates online and on social media. Because interim measures can take place at any stage in the corrective action process, the facility may need to incorporate these activities into all stages of its public involvement program.

### **CMS – Evaluation of Remedial Alternatives**

When the need for corrective measures is verified, the facility may be required to perform a CMS to identify and evaluate potential remedial alternatives. When the agency uses performance standards or a similar approach, or the preferred remedial alternative is obvious (e.g., when EPA has issued a presumptive remedy that is appropriate to site-specific conditions), it may not be necessary to submit a formal CMS.

### ***Required Activities***

When corrective action is proceeding under a permit, the permit schedule of compliance may already include conditions that specify when a CMS is warranted; the public can comment on these draft permit conditions at the time of permit issuance. The RFI and CMS phases may last several years depending on the complexity of the facility. Significant changes to the scope of CMS requirements as specified in the permit may be considered Class 3 permit modifications, requiring significant public involvement. Changes to the CMS schedule or CMS details are typically considered either Class 1 or 2 permit modifications.

Public participation during corrective action under a RCRA § 3008(h) order should be consistent with public participation under a permit. The public should have the opportunity to review and comment on the scope of the CMS and CMS conditions when the order is issued or when the CMS work plan is approved.

### ***Additional Activities***

EPA emphasizes that it expects facility owners/operators to recommend a preferred remedy as part of the CMS. While there is no formal requirement for public participation at this time, EPA strongly encourages the facility to present its preferred remedy to the community before formally submitting it to the agency. The facility should seek community input through an informal meeting, availability session, social media, or another method that encourages dialogue. This early input is likely to improve many preferred remedies and make them more agreeable to communities. It also will make the facility and the overseeing agency aware of community concerns and ways to address them.

Holding workshops and informal public meetings about the CMS process, remedies being considered, and facility activities will keep the community involved and informed. Fact sheets distributed at significant milestones during the CMS can keep the community abreast of progress. These fact sheets also may be made available online or through social media.

The agency and facility should provide the name and telephone number of a contact person. The agency or facility may consider establishing a dedicated hotline, website or social media account to answer frequently asked questions. The mailing list, local newspapers, and social media are good ways to advertise availability of the new hotline or web-based forum.

## Remedy Selection

Following receipt of a recommendation for a preferred remedy from the facility owner/operator, the overseeing agency reviews the preferred remedy and other remedial alternatives and decides to tentatively approve the preferred remedy, tentatively select a different remedy, or require additional analysis of remedial alternatives. The tentatively selected remedy will then undergo public review and comment, usually in the form of a proposed modification to the facility's permit or corrective action order. Following public review, the agency responds to public comments and then modifies the facility permit or corrective action order to incorporate the remedy.

### Delfasco Forge Facility, Grand Prairie, Texas

**Principles such as honesty, inclusion, and trust:** Trichloroethylene (TCE) from this facility contaminated the groundwater and vapors migrated through the soil and into numerous homes. Much of the community engagement involved door-to-door visits with translators on weekends and during evenings to reach community members working multiple jobs. Through frequent contact, EPA formed a strong relationship with the community, and community members even occasionally asked staff members to stay for dinner at their homes.

## Required Activities

When corrective action is proceeding under a permit, public review and comment on the tentatively selected remedy generally use the procedures of 40 CFR § 270.41 for agency-initiated permit modifications. For such a modification, 40 CFR § 270.41 requires the same level of public participation as a draft permit. The permitting agency must release the proposed modification for public review and issue a public notice announcing that release. The agency must publish this notice in a major local newspaper, broadcast it over local radio stations, and send it to all people on the mailing list.

Agency staff also must prepare a fact sheet or statement of basis to explain the proposed modification and the significant factual and legal reasons for proposing the remedy. The statement of basis describes the proposed remedy, but does not select the final remedy for a facility. This approach allows for consideration of additional information during the public comment period.

Following the comment period, public comment or additional data may result in changes to the remedy or in another choice of remedy. After the agency has considered all significant comments from the public, the final decision—selecting the remedy or determining the need to develop another option—is documented in the response to comments.

A 45-day public comment period on the draft permit modification follows publication of the public notice. The comment period provides the public with an opportunity to comment in writing on conditions contained in the draft permit modification. If information submitted during the initial comment period appears to raise substantial new questions concerning the draft permit modification, the agency must re-open or extend the comment period.



The public may request a public hearing on the draft permit modification. If a hearing is requested, the agency must give a 30-day advance notice to the community, stating the time and place of the hearing. The agency director has the discretion to schedule a public meeting or hearing even if the community does not request one. In some cases, scheduling a public hearing before the public requests one may save valuable time in the modification process and demonstrate a willingness to meet with the community to hear its questions and concerns.

After the public comment period closes, the agency must review and evaluate all written and oral comments and issue a final decision on the permit modification. The agency must then send a notice of decision to the facility owner/operator and any people who submitted public comments or requested notice of the final decision. The permitting agency must also prepare a written response to comments that includes a summary of all significant comments received during the public comment period, and an explanation of how the final permit modification addressed them or why they were rejected. The response to comments must be available through the administrative record and the information repository, if one was established, and must be sent to the facility and all people who submitted comments or requested a copy of the response.

When corrective action is proceeding under a RCRA § 3008(h) order, the public's opportunity to review and comment on tentatively selected remedies should be consistent with the opportunity that would be available if the corrective action were conducted under a permit. At a minimum, this opportunity should include publishing a notice and a brief analysis of the tentatively selected remedy (a statement of basis) and making supporting information available. It also should include providing a reasonable opportunity for submission of written comments; holding a public hearing or public meeting, if requested by the public or determined to be necessary by the overseeing agency; preparing and publishing responses to comments; and publishing the final remedy decision and making supporting information available. Additional guidance is available in [OSWER Directives 9901.3, \*Guidance for Public Involvement in RCRA Section 3008\(h\) Actions\* \(May 5, 1987\)](#).

### ***Additional Activities***

The agency, public interest groups, or facility should consider holding workshops or informal meetings about the proposed remedy during the public comment period. These discussion sessions can be especially useful when information about corrective measures in a draft permit modification is complex or technical, or when the level of community concern is high.

### **(CMI) – Remedy Implementation**

Once the overseeing agency modifies the permit or corrective action order to include the selected remedy, the facility must begin to implement the remedy. Remedy implementation typically involves detailed remedy design, remedy construction, and remedy operation and maintenance, called a Corrective Measures Implementation, or CMI. CMI is conducted in accordance with a CMI plan that has been approved by the overseeing agency.

### ***Required Activities***

When corrective action is proceeding under a permit, the public will have an opportunity to comment on CMI conditions and schedules during the permit modification for remedy selection, or when the permit is modified to incorporate the CMI plan. Significant changes to the scope of CMI may be considered Class 3 permit modifications. Changes to the CMI schedule typically are considered either Class 1 or Class 2 permit modifications.

When corrective action is proceeding under a RCRA § 3008(h) order, the public's opportunity to comment on CMI conditions and schedules should be consistent with the opportunities if corrective action were taking place under a permit.

### ***Additional Activities***

Remedy implementation will often involve highly visible activities, such as the construction of new on-site treatment and containment systems, or the staging and transportation of large volumes of materials. These activities may result in increased levels of public interest, which already may be high due to the public's participation in remedy selection.

EPA recommends that the facility notify all individuals on the mailing list when the construction plans and specifications are available for public review. If the facility established an information repository, the plans should go in the repository; otherwise, the facility should place the plans in a convenient location with public access, and consider posting these plans online.

Because the corrective action process can take years to complete, additional public participation activities may be appropriate during CMI to inform the community of the progress of the remedial action, especially if the public shows concern over the pace or scope of the cleanup operations. It may be useful to release periodic fact sheets to the community about progress of the cleanup operations. The facility may want to establish a website, blog or social media account where it can post these updates. It also may hold an availability session or open house near or at the facility to demonstrate or explain remedy activities. To supplement these activities, or when onsite sessions are not feasible, the facility may also post photos or videos online to demonstrate progress.

#### **Pharmacia and Upjohn Company (now owned by Pfizer) New Haven, Connecticut**

**Involving community members in redevelopment plans:** Pfizer worked closely with the community and implemented a stakeholder-driven reuse planning process that resulted in agreement to create an ecological preserve for the future site. Close collaboration with the Quinnipiac River Watershed Association, North Haven Land Trust, Yale University and others resulted in numerous public meetings and two open houses at the site.

### **Completion of the Remedy**

Once corrective measures are complete, the overseeing agency will either terminate the corrective action order or modify the permit to remove the corrective action schedule of compliance. Decisions regarding completion of corrective measures can be made for an entire facility, for a portion of a facility, or for a specified unit or release. EPA policy is for the public to have an opportunity to review and comment on all proposals to complete corrective action.

### ***Required Activities***

When corrective action is proceeding under a permit, proposals to complete corrective measures should follow the procedures for Class 3 permit modifications.

When corrective action is proceeding under a RCRA § 3008(h) order and a proposal to complete corrective measures is issued, the public should have notice and comment opportunities that are consistent with the opportunities under the Class 3 permit modification procedures.

### ***Additional Activities***

In some cases, hazardous wastes or hazardous constituents will remain in or on the land after completion of corrective measures. When this occurs, the overseeing agency may require the facility to record a notation in the deed to the facility property regarding the types, concentrations and locations of such waste or constituents.



# CHAPTER 5: RCRA PUBLIC PARTICIPATION ACTIVITIES

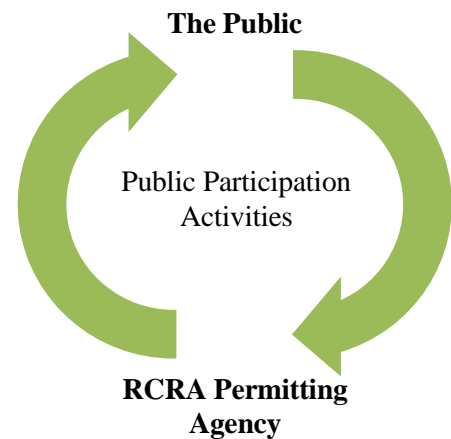
---

## Introduction

This chapter provides detailed descriptions of dozens of public participation techniques—required and optional, formal and informal. It explains the public participation methods mentioned in the previous chapters and provides information on additional methods. It covers a variety of activities to provide public participation options to fit any community and RCRA process.

While the permitting agency may conduct many of these activities, all stakeholders can learn more about the different kinds of activities in this chapter. This list is not exhaustive. Stakeholders should consider which of these, or any other public participation activities, best suit a particular situation.

The chapter presents a series of tables that outline required and optional activities to facilitate public participation. For each activity, the exhibit describes the activity, notes the RCRA processes when the activity is most likely to be used, summarizes its required and/or recommended use, provides legal citations where applicable, and identifies additional resources.



## Public Participation Plans

As described in Chapter 2, EPA strongly recommends the creation of public participation plans for RCRA facilities, although such plans are not required. Public participation plans, which the permitting agency typically creates, serve as the agency's schedule and strategy for public participation during the initial permitting process, significant corrective actions, and other permitting activities at facilities receiving high levels of public interest. Development of a public participation plan begins by assessing the level of community interest and the types and prevalence of community concerns regarding a RCRA facility. This assessment should be based on a variety of sources, possibly including community exchanges (e.g., interviews, canvassing and public meetings), file searches, reviews of past media coverage, and community assessments completed by third parties. The plan then proposes activities to involve the community in the RCRA process.

For permitting activities and corrective actions that do not raise a high level of public interest in the community, the public participation plan may be a simple document outlining the regulatory requirements. Major permitting activities and other high-interest activities will require a more detailed plan with participation opportunities that exceed the requirements.

## Assessing the Community

Before designing a public participation plan, the permitting agency should perform an extensive community assessment. Each community is different and has its own way of spreading information to interested people. Key institutions and groups also vary from place to place, as do socioeconomic status, culture and traditions, political and religious activity, and values.

Understanding these community characteristics is essential to facilitating successful public participation. Community assessments should help agencies, facility owners/operators and public interest groups identify public participation activities that are useful and meaningful for particular communities.

*Public participation activities should fit the diversity, character, and culture of the affected community.*

While community assessments are particularly important when creating public participation plans, they can also be useful at other points in the RCRA permitting and corrective action processes. Assessments are essential tools for facility owners/operators who are applying for RCRA permits (including interim status facilities), seeking major permit modifications, or undertaking significant corrective actions. Assessments also may be appropriate at any stage during the life of a facility, especially in situations where the level of public interest seems to be changing. In some cases, permitting agencies and facility owners/operators have cooperated to conduct joint outreach activities. While the agency presence may make community members more comfortable than working with representatives of the facility alone, EPA does not recommend such cooperation as a rule because other stakeholders may perceive that the agency is taking sides. Permitting agencies should use their discretion and maintain the agency's proper role during any such activities.

The permitting agency or facility should use community assessments to determine the level of public interest in a facility and the composition and scope of the community segments most affected by the facility.

- **Determining the level of public interest:** While some RCRA processes do not generate much interest or concern among community members, others evoke strong interest and require a much greater public participation effort. This level of interest typically depends on factors such as the type of RCRA action and its implications for public health and welfare; the current relationships between the community, facility, regulatory agency, and other stakeholders; and the larger economic and social context in which the RCRA action takes place. By helping characterize the level of public interest in a RCRA action, the community assessment can help determine the appropriate level of public participation for the process. Exhibit 2-2 in Chapter 2 provides a guide for determining whether public interest in a facility is likely to be low, medium or high.
- **Identifying the affected community:** Public participation activities should focus first on people with a direct interest in a RCRA facility. It is often impossible to identify everyone who is directly affected by a RCRA action. However, these populations typically live in the general vicinity of the facility; have the potential to be affected by releases to groundwater, air, surface water or the local environment (e.g., through game, livestock or agriculture, or damage to natural areas); or live on or near roads that will have increased traffic from vehicles carrying hazardous waste.

### Methods of Community Assessment

EPA recommends the following steps for gathering information about the community:

- Review newspaper articles and community publications (including web-based publications) related to the RCRA action.
- Speak with colleagues or anyone who has worked with the community in the past.
- Contact local companies, universities, government agencies, civic groups, and public interest organizations.
- Understand the community's visions and values for the future.
- Determine existing and potential community concerns.
- Talk to the community to understand its concerns and record its oral history of the community's health.
- Identify populations with health sensitivities and minority and/or linguistically isolated stakeholders.
- Identify and address quality of life concerns.
- If there seems to be a high level of interest in the facility, conduct a broad range of community interviews, including interviews with the facility's immediate neighbors, members of community organizations, and any individuals who have expressed interest.

### Planning for Participation

After identifying the major community concerns and relevant community characteristics during the community assessment, the agency should draft a public participation plan that fulfills these elements of a public participation framework:

- Communicating with community members through mailing lists, interviews, online media and other information sources.
- Communicating with the media.
- Communicating with elected officials.
- Planning and conducting public participation events.
- Coordinating public participation with other stakeholder groups and community events.
- Preparing and distributing additional resources such as fact sheets, public notices, news releases, meeting handouts, presentations and online or social media updates.

After identifying activities for each of these duties, the agency should construct a strategy and schedule for implementing them. Creating a detailed schedule of planned public participation activities will both help staff ensure that they stay on track with public participation and let the public know what type of activities to expect throughout the RCRA process. The timeline for these activities should correspond to the completion of major steps in the RCRA process (e.g., application submittal, draft permit issuance, completion of the RFI). These are the times community members are most likely to have new questions or concerns.

Although the permitting agency should take the lead writing and revising the public participation plan, it should include input from

***Start early and plan ahead: public interest in a facility can grow rapidly and unexpectedly.***

other stakeholders. It may be useful for the agency to work with other stakeholders during plan development to find opportunities for future cooperation in public engagement activities. Such cooperation can be an effective way to implement public participation events on a limited budget.

Whether or not the public is involved in creating the initial drafts of a public participation plan, the permitting agency should make the final plan available to the public for comment. Encouraging this input will help get the public involved early in the RCRA process. The public's input may be a useful source for practical tips on how to tailor public participation events and communication methods to the community.

## **Other Required and Optional Public Participation Activities**

The following exhibits describe a range of required and optional activities to facilitate public participation in RCRA processes.

Exhibit 5-1 focuses on public notices, which are official announcements of proposed agency decisions or facility activities and are required at many points in the RCRA process. These notices should provide the public with an opportunity to comment on a proposed action and should represent a good faith effort to reach all segments of the affected community. Examples of public notices include newspaper advertisements, newspaper inserts, notices in free publications or existing newsletters, public service announcements, broadcast announcements and advertisements, signs and bulletin boards, phone trees, and social media.

Exhibit 5-2 describes other required public participation activities, and Exhibit 5-3 describes optional activities. For each activity, the exhibit describes the activity, outlines its required or recommended use, provides a legal citation if applicable and identifies additional resources.

Although the agency and facility should always seek to provide many opportunities for public participation, the public will sometimes offer unsolicited but helpful information via phone calls, letters, email, social media posts or office visits. Being attentive and receptive to unsolicited information can help improve the facility's outreach program and in turn increase credibility.

### **How to Construct a Public Participation Plan**

EPA recommends that the public participation plan contain the following sections:

- Executive summary.
- Introduction/overview.
- Facility history.
- Description of the RCRA action.
- Summary of community interviews and concerns, which also may include the presence of other regulated facilities, Superfund sites, brownfields, or sources of pollution in the area
- Description of any early consultation (e.g., interviews with group leaders) that informed the plan.
- A list of the major issues likely to emerge during the RCRA process.
- An estimation of the level of public interest that the RCRA process is likely to generate.
- Public participation activities and schedule.
- A list of the agencies, groups, and key individuals most likely to be interested in the process.
- A list of key contacts.
- Information on meeting and repository locations, if applicable.

**Exhibit 5-1. Requirements and Recommendations for Public Notices**

STAKEHOLDER	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
Permit Applicant	Permit application Permit modification Corrective action Closure and post-closure of interim status facilities Permitted and interim status combustion facilities	The permitting agency must give official public notice: <ul style="list-style-type: none"> <li>• When issuing a draft permit, receiving a permit application, holding a public hearing, or granting an appeal, as a notice to all relevant units of federal and local government, the applicant, and facility mailing list, as local radio broadcast, and as a publication in a local newspaper (40 CFR §§ 124.10, 124.12, 124.19).</li> <li>• If a modification request is granted or denied.                             <ul style="list-style-type: none"> <li>- Class 1: as a notification to facility mailing list.</li> <li>- Class 2 or 3 (including automatic Class 2): as a notification to facility mailing list and notice to all relevant units of state and local government.</li> </ul> </li> <li>• During the trial burn stage at permitted and interim status combustion facilities (40 CFR §§ 270.62(b) and (d), 270.66(d)(3) and (g)).</li> <li>• When an interim status facility undergoes closure or post-closure (40 CFR §§ 265.112(d)(4), 265.118(f)).</li> </ul>	<ul style="list-style-type: none"> <li>• EPA recommends seeking community input to determine which information pathways will be most effective for giving public notice.</li> <li>• The permitting agency may also want to use public notices when it is establishing mailing lists or at other points throughout RCRA processes, as well as to determine what languages other than English may help the message reach as many people as possible.</li> <li>• In addition to required public notices, the agency or facility owner/operator may want to issue notices online (e.g., via email, websites, or social media).</li> </ul>	<a href="#">Public notice description from Superfund toolkit</a>  <a href="#">Sample public notice of permit issuance</a>  <a href="#">Sample public comment notice</a>  <a href="#">Sample RCRA public notices from EPA Region 3</a>  <a href="#">Sample RCRA public notices from EPA Region 4</a>
Prospective permit applicant and/or Facility owner/operator	Permit issuance Permit modification Corrective action	A prospective permit applicant or the owner/operator of a facility must issue a public notice (40 CFR 124.31): <ul style="list-style-type: none"> <li>• To announce the pre-application meeting, as a display advertisement in a general circulation newspaper, a sign near the facility, and as a broadcast media announcement.</li> </ul> The owner/operator of a facility must issue a public notice: <ul style="list-style-type: none"> <li>• For permit modifications (40 CFR § 270.42):                             <ul style="list-style-type: none"> <li>- Class 1: as a notification to facility mailing list.</li> <li>- Class 2: as a notification to facility mailing list and a newspaper notice.</li> <li>- Class 3: as a notification to facility mailing list and a newspaper notice.</li> </ul> </li> <li>• As specified by the permitting agency if the facility is required to create an information repository (40 CFR § 124.33).</li> </ul>		

**Exhibit 5-2. Required Public Participation Activities**

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
<p>Mailing Lists</p> <p><i>Mailing lists can be important databases and tools for communication with the public.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p>	<ul style="list-style-type: none"> <li>• The permitting agency must establish and maintain the facility mailing list (40 CFR § 124.10(c)(1)(ix)).</li> <li>• The agency must develop the list by:                             <ol style="list-style-type: none"> <li>a) Including people who request in writing to be on the list.</li> <li>b) Soliciting people for area lists from participants in past permit proceedings in that area.</li> <li>c) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in regional- and state-funded newsletters, environmental bulletins, state law journals, or other publications.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• The permitting agency should develop the mailing list as soon as possible during the pre-application stage.</li> <li>• The mailing list should be updated at the beginning of corrective action and permit modification procedures.</li> <li>• The mailing list should include concerned community members; elected officials; appropriate federal, state, and local government contacts; local media; environmental groups; civic, religious, and community organizations; facility employees; and local businesses.</li> <li>• When information is distributed to the mailing list, it also may be useful to post the information online or distribute via social media.</li> </ul>	<p><a href="#">Mailing list description from Superfund toolkit</a></p>
<p>Contact Persons/ Offices</p> <p><i>The contact person or office is responsible for responding to inquiries from the public and the media.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p> <p>Permitted and interim status combustion facilities</p>	<ul style="list-style-type: none"> <li>• The permitting agency must designate a contact office for the agency and a facility contact in most public notices, including:                             <ul style="list-style-type: none"> <li>- For draft permits (40 CFR § 124.10(d)).</li> <li>- For notices of intent to deny a permit (40 CFR § 124.10(d)).</li> <li>- For modifications initiated by the permitting agency (40 CFR § 270.41).</li> <li>- For notices of application submittal (40 CFR § 124.32(b)).</li> <li>- During the trial burn stage at permitted and interim status combustion facilities (40 CFR §§ 270.62(b) and (d); 270.66(d)(3) and (g)).</li> </ul> </li> <li>• A permit applicant must provide a contact person for the facility in the public notice for the pre-application meeting (40 CFR § 124.31).                             <ul style="list-style-type: none"> <li>- The facility must provide public notice that includes a contact at both the agency and facility when requesting a Class 2 or 3 permit modification (40 CFR §§ 270.42(b) and (c)).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The permitting agency is required only to designate a contact office, but specifying a contact person and maintaining that person as the contact throughout the entire process may increase public trust.</li> <li>• Organizations should consider distributing lists of contact persons who are responsible for answering questions on certain topics.</li> <li>• The contact person also should consider creating forums to receive inquiries online or via social media (e.g., e-mail address, website, social media account).</li> </ul>	<p><a href="#">Guidance on the use of a spokesperson/contact person from Superfund toolkit</a></p>

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
<p>Fact Sheets / Statements of Basis</p> <p><i>Fact sheets summarize the status of a permit application or corrective action, explaining the relevant factual, legal, methodological, and policy concern (40 CFR § 124.8).</i></p> <p><i>Statements of basis are typically shorter than fact sheets and summarize the basis for a decision by the agency, particularly in the corrective action program (40 CFR § 124.7).</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p>	<ul style="list-style-type: none"> <li>• The permitting agency is required to develop a fact sheet (40 CFR § 124.8) or a statement of basis (40 CFR § 124.7):               <ul style="list-style-type: none"> <li>- To accompany a draft permit.</li> <li>- For draft decisions on Class 3 modifications and agency-initiated permit modifications.</li> <li>- For any major hazardous waste management facility, or facility that raises significant public interest.</li> </ul> </li> <li>• RCRA permit fact sheets must contain (40 CFR § 124.8):               <ul style="list-style-type: none"> <li>a) A description of the type of facility or activity that is the subject of the draft permit.</li> <li>b) The subject and quantity of wastes covered by the permit.</li> <li>c) A summary of the basis for the draft permit conditions and reasons that alternatives to the proposed standards are or are not justified.</li> <li>d) A description of the procedures for reaching a final decision, including start and end dates for the public comment period, an address to which comments can be sent, and procedures for requesting a public hearing.</li> <li>e) Contact information for additional information.</li> </ul> </li> <li>• The permitting agency must create a statement of basis for every draft permit for which a fact sheet is not prepared (40 CFR § 124.7).</li> </ul>	<ul style="list-style-type: none"> <li>• While not required, fact sheets and statements of basis can be helpful:               <ul style="list-style-type: none"> <li>a) During technical review of the permit application.</li> <li>b) At the beginning of the RFI.</li> <li>c) When RFI findings are available.</li> <li>d) When corrective action is completed.</li> <li>e) When the notice of decision is released.</li> </ul> </li> <li>• It is useful to distribute fact sheets prior to a public meeting or public hearing.</li> <li>• The permitting agency may also develop informal fact sheets that explain complicated aspects of the permitting process or provide technical information in simple language.</li> <li>• Statements of basis for corrective actions should:               <ul style="list-style-type: none"> <li>a) Reference the RFI and CMS reports.</li> <li>b) Summarize the environmental conditions at the facility as determined during the RFI.</li> <li>c) Identify the proposed corrective action.</li> <li>d) Describe the evaluated remedial alternatives and give a brief analysis that supports the proposed remedy.</li> </ul> </li> </ul>	<p><a href="#">Guidance on fact sheets from Superfund toolkit</a></p> <p><a href="#">RCRA Corrective Action: Statement of Basis and Response to Comments Decision Documents from U.S. Department of Energy Office of Environmental Policy and Guidance</a></p> <p><a href="#">Sample permit modification fact sheet</a></p> <p><a href="#">Sample fact sheets from EPA Region 3</a></p> <p><a href="#">Sample statements of basis from EPA region 3</a></p>



ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
<p>Public Meetings</p> <p><i>Public meetings are opportunities for informal, two-way communication between the public and the permitting agency or facility. Unlike public hearings, public meetings are open to anyone, have no formal time limits on statements, and usually allow the permitting agency and/or facility to answer questions.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p>	<ul style="list-style-type: none"> <li>Permit applicants are required to conduct a pre-application meeting, which can be a public meeting (40 CFR § 124.31). See Chapter 3 for more information on alternative formats for a meeting.</li> <li>Permit holders must hold public meetings when requesting a Class 2 or 3 permit modification (40 CFR §§ 270.42(b) and (c)).</li> </ul>	<ul style="list-style-type: none"> <li>Public meetings can sometimes complement public hearings, particularly by allowing informal discussion before a public hearing.</li> <li>While the permitting agency or facility typically calls the public meeting, civic, environmental, and community organizations can do the same.</li> </ul>	<p><a href="#">Guidance on public meetings from Superfund toolkit</a></p>



ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
<p>Public Hearings</p> <p><i>Public hearings are opportunities for the public to provide formal comments and oral testimony on proposed agency actions. They occasionally begin with introductory information from the permitting agency. All testimony becomes part of the public record.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p> <p>Closure and post-closure of interim status facilities</p>	<ul style="list-style-type: none"> <li>• Public hearings are required if requested by the public or if they might clarify relevant issues during:               <ul style="list-style-type: none"> <li>- The draft permit stage (40 CFR §§ 124.11, 124.12).</li> <li>- An agency-initiated modification (40 CFR § 270.41).</li> <li>- A Class 3 permit modification (40 CFR § 270.42(c)(6)).</li> <li>- Closure or post-closure of interim status facilities (40 CFR §§ 265.112(d)(4) and 265.118(f)).</li> </ul> </li> <li>• Hearings must have at least 30-day advance notice.</li> </ul>	<ul style="list-style-type: none"> <li>• Public hearings also may be appropriate and useful at other times, particularly if there is a high level of community concern.</li> <li>• Consider informing the community of the hearing by posting a notice online or on social media.</li> </ul>	
<p>Public Comment Periods</p> <p><i>Public comment periods are designated periods during which individuals can formally review and comment on the agency's or facility's proposed action or decision.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p> <p>Closure and post-closure of interim status facilities</p>	<ul style="list-style-type: none"> <li>• Public comment periods are required:               <ol style="list-style-type: none"> <li>a) Whenever the permitting agency issues a draft permit or an intent to deny a permit, with a duration of at least 45 days (40 CFR § 124.10).</li> <li>b) For requests for Class 2 and 3 permit modifications, with a duration of at least 60 days (40 CFR § 270.42).</li> <li>c) For agency-initiated permit modifications, with a duration of at least 45 days (40 CFR §§ 270.41, 124.10).</li> <li>d) During closure and post-closure for interim status facilities, with a duration of 30 days (40 CFR §§ 265.112(d)(4), 265.118(f)).</li> </ol> </li> <li>• Comment periods cannot begin until public notice is given. These notices should include the comment period's start and end dates and information on where interested parties should send comments and requests for a public hearing (40 CFR § 124.10).</li> </ul>	<ul style="list-style-type: none"> <li>• EPA recommends that the permitting agency announce the public comment period in a local newspaper of general circulation and on local radio stations; websites, blogs, social media and other online resources may be useful as supplemental means of notification.</li> </ul>	<p><a href="#">Guidance on public comment periods from Superfund toolkit</a></p>

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
<p>Response to Comments</p> <p><i>A response to comments document briefly describes and responds to all significant comments on the draft permit that were received during the public comment period; it also identifies all provisions of the draft permit or modification that were changed and the reasons for those changes (40 CFR § 124.17).</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p>	<ul style="list-style-type: none"> <li>• The permitting agency must prepare a response to comments:                             <ul style="list-style-type: none"> <li>- When it issues a final permit decision (40 CFR § 124.17).</li> <li>- When making final decisions on requested Class 2 and 3 permit modifications and agency-initiated permit modifications (40 CFR §§ 270.41, 270.42).</li> </ul> </li> <li>• Response to comments documents must be sent to the facility owner/operator and each person who submitted written comments or requested notice of the final permit decision (40 CFR § 124.17).</li> <li>• All documents cited and new points raised in the response to comments must be included in the administrative record for the final permit decision (40 CFR § 124.17).</li> </ul>	<ul style="list-style-type: none"> <li>• The response to comments should also include a summary of public participation in the project and the extent to which community members' views informed decisions and project design.</li> </ul>	<p><a href="#">RCRA Corrective Action: Statement of Basis and Response to Comments Decision Documents from U.S. Department of Energy Office of Environmental Policy and Guidance</a></p>
<p>Notices of Decision</p> <p><i>A notice of decision presents the permitting agency's decision regarding permit issuance, denial, or modification to include corrective action.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p>	<ul style="list-style-type: none"> <li>• The permitting agency must issue a notice of decision to accompany a final permit decision for a facility, a Class 3 modification decision, and a corrective action final remedy selection (40 CFR § 124.15).</li> <li>• The agency should send this notice to:                             <ol style="list-style-type: none"> <li>a) The facility owner/operator (permit applicant).</li> <li>b) Any person who submitted written comments or requested notice of the final permit decision.</li> </ol> </li> <li>• The notice must include a summary of the procedures for appealing the decision.</li> </ul>	<ul style="list-style-type: none"> <li>• Consider announcing the availability of the notice online or through social media, if appropriate.</li> </ul>	

ACTIVITY	RELEVANT RCRA PROCESSES	REGULATORY REQUIREMENTS	OTHER RECOMMENDATIONS FOR USE	ADDITIONAL RESOURCES
<p>Information Repositories</p> <p><i>An information repository is a collection of documents related to a permitting activity or corrective action that is accessible to the public.</i></p>	<p>Permit issuance</p> <p>Permit modification</p> <p>Corrective action</p>	<ul style="list-style-type: none"> <li>While information repositories are not universally required of facilities, EPA regulations authorize the permitting agency to require a facility to create a repository during the permitting process (40 CFR § 124.33) or during the active life of the facility (40 CFR § 270.30).</li> </ul>	<ul style="list-style-type: none"> <li>The permitting agency should assess the need for a repository based on the level of public interest, the type of facility, and the presence of an existing repository.</li> <li>The permit applicant or permittee may select the location for the repository, as long as it is accessible to the public. The permitting agency will determine which documents the facility should include in the repository.</li> <li>The applicant may find it useful to post the information in the repository online.</li> </ul>	<p><a href="#">Guidance on information repositories from Superfund toolkit</a></p>

**Exhibit 5-3. Optional Public Participation Activities for Use at Various Stages of the RCRA Process**

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
<p>Community Interviews</p> <p><i>Community interviews are informal, face-to-face or telephone interviews held with community members, elected officials, community groups and other individuals to acquire information on their concerns and attitudes about a facility.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of community interviews as part of the community assessment, which usually takes place at the beginning of the permitting process, before major modifications, and before significant corrective actions.</li> <li>• Interviews allow agencies, facility owners/operators, and public interest groups to tailor regulatory requirements and additional activities to fit the needs of particular communities.</li> <li>• It is particularly important to use community interviews if a facility or action is controversial or has the potential to receive high levels of public interest.</li> <li>• Interviewees may include state and local agency staff and elected officials, representatives of community groups, area community members, local business representatives, local civic groups, neighborhood associations, educational and religious organizations, or nearby landowners and businesses.</li> <li>• Consider notifying interviewees when the public participation plan is available online.</li> </ul>	<p><a href="#">Guidance on community interviews from Superfund toolkit</a></p>
<p>Community Advisory Groups (CAG)</p> <p><i>A CAG is a board of stakeholders that meets routinely to discuss issues involving a particular facility. CAGs typically advise the facility owner/operator or the permitting agency on RCRA activities.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of CAGs to promote direct communication among the community, the permitting agency, and the facility, and in particular, to provide a voice for affected community members and groups.</li> <li>• A CAG can be formed at any point in the permitting or corrective action process, but may be most effective in the early stages.</li> <li>• CAGs may or may not be appropriate in every situation, depending on these factors:             <ol style="list-style-type: none"> <li>a) The level of community interest and concern about the facility.</li> <li>b) Community interest in forming a CAG.</li> <li>c) The existence of groups with competing agendas in the community.</li> <li>d) EJ issues or concerns.</li> <li>e) The history of community involvement with the facility, or with environmental issues in general.</li> <li>f) The working relationship between the facility, the community, and the permitting agency.</li> </ol> </li> <li>• While RCRA regulations do not require the use of advisory groups, 40 CFR § 25.7 outlines standards for advisory groups if they are used.</li> </ul>	<p><a href="#">Guidance on Community Advisory Groups from Superfund toolkit</a></p>

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
<p>Telephone Calls with Specified Stakeholders</p> <p><i>Telephone calls can gather information about the community and update state and local officials and other interested parties on the status of permitting or corrective action activities.</i></p>	<ul style="list-style-type: none"> <li>• Telephone calls may be useful:                             <ol style="list-style-type: none"> <li>a) In the early stages of the RCRA actions to identify key officials, community members, and other stakeholders who have a high interest in the facility.</li> <li>b) To gather information when face-to-face community interviews are not possible.</li> <li>c) When new and time-sensitive material becomes available.</li> <li>d) When there is a high level of community interest in the facility and it is important to keep key players informed.</li> </ol> </li> </ul>	
<p>Informal Meetings with Other Stakeholders</p> <p><i>Informal meetings are meetings with individual stakeholder groups that have particular interest in a permitting activity. They are held in an informal setting, such as a community member's home or a local meeting place.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends informal meetings with stakeholders as a way to discuss community issues and concerns first-hand and to give community members the opportunity to ask questions in a comfortable setting.</li> <li>• Informal meetings are particularly useful:                             <ol style="list-style-type: none"> <li>a) When the level of knowledge about particular issues varies widely among community members.</li> <li>b) When the level of tension is high, and large meetings may not be appropriate.</li> <li>c) When the community needs more personal contact to establish trust in the organization or the process.</li> <li>d) When groups want to discuss specific issues in which the community as a whole is not interested.</li> </ol> </li> </ul>	<p><a href="#">Guidance on informal activities from Superfund toolkit</a></p>
<p>Focus Groups</p> <p><i>Focus groups are small discussion groups selected to be random or to approximate the demographics of the community. A trained moderator typically leads the groups and draws out people's reactions.</i></p>	<ul style="list-style-type: none"> <li>• Facility owners/operators may want to use focus groups as a complement to interviews during the community assessment or at the time of other important activities during the life of the facility.</li> <li>• The permitting agency should consider using focus groups to gauge public opinion before permitting activities or corrective action.</li> </ul>	<p><a href="#">Guidance on focus groups from Superfund toolkit</a></p>
<p>Facility Tours</p> <p><i>Facility tours are scheduled trips to the facility for media representatives, local officials, and community members during which technical and public outreach staff can answer questions.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of facility tours to help familiarize the media, local officials, and community members with the issues and operations at a facility and the RCRA-regulated process underway.</li> <li>• Facility tours should be hosted only when it is practical and safe to have people on facility grounds. Tours must comply with facility safety regulations. When such a tour is not practical, virtual tours or videos showing activity and operations at the facility may be posted online.</li> </ul>	<p><a href="#">Guidance on on-site activities from Superfund toolkit</a></p>

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
<p><b>Observation Decks</b></p> <p><i>An observation deck is an elevated deck on the facility property that allows viewers to observe facility activities or corrective actions directly.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the construction of observation decks when:               <ol style="list-style-type: none"> <li>a) The level of community interest or concern in the facility is high.</li> <li>b) The community’s understanding of facility operations will be enhanced by direct observation.</li> <li>c) It is physically possible to construct a deck in a safe and suitable location.</li> <li>d) Staff is available to supervise public use of the deck and answer questions.</li> </ol> </li> <li>• If it is not feasible to construct an observation deck, consider posting photos or videos of the facility to a publicly accessible website.</li> </ul>	<p><a href="#">Guidance on on-site activities from Superfund toolkit</a></p>
<p><b>On-Scene Information Offices</b></p> <p><i>An on-scene information office is a trailer, small building, or office on or near the facility. Someone capable of responding to inquiries and preparing information releases should always staff this office.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of an on-scene information office:               <ol style="list-style-type: none"> <li>a) When there is moderate or high community interest in the site.</li> <li>b) During corrective actions.</li> <li>c) When cleanup involves complex technologies.</li> <li>d) When the community perceives a high level of health risk.</li> <li>e) When activities may disrupt the area surrounding the facility (e.g., traffic patterns).</li> <li>f) When the area around the facility is densely populated.</li> </ol> </li> <li>• The on-scene staff person should support the telephone hotline or web-based forum and serve as the primary liaison between the public and the RCRA process.</li> </ul>	
<p><b>Briefings</b></p> <p><i>Briefings are in-person informational sessions with key stakeholders, such as elected officials and members of public interest or environmental groups that have been involved in the process.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of briefings:               <ol style="list-style-type: none"> <li>a) To inform key stakeholders about the status of a permit application or corrective action.</li> <li>b) To provide stakeholders with materials like technical studies, results of technical and community assessments, and engineering designs.</li> </ol> </li> <li>• Briefing key stakeholders is particularly important if an upcoming action might be controversial.</li> </ul>	
<p><b>Translations</b></p> <p><i>Translations provide written or oral information in a language other than English to a community with a significant number of community members who are not proficient in English.</i></p>	<ul style="list-style-type: none"> <li>• EPA strongly recommends using multilingual fact sheets, notices, and other information as appropriate to provide equal access to information throughout the RCRA process.</li> <li>• Translations also should be used for information posted to websites and social media.</li> </ul>	<p><a href="#">Guidance on translation services from Superfund toolkit (pg. 78)</a></p> <p><a href="#">Guidance on cross-cultural communication from Superfund toolkit</a></p>
<p><b>Project Newsletters and Reports</b></p> <p><i>Project newsletters and reports can keep interested people informed about corrective action and permitting activities at a level of detail that is not available from the news media.</i></p>	<ul style="list-style-type: none"> <li>• Newsletters should provide regular updates on the RCRA process and actions taking place at the facility in a reader-friendly, news-based format.</li> <li>• Project reports may include official technical reports or other environmental studies.</li> <li>• These documents should be sent directly to an updated mailing list of interested stakeholders, as well as posted online or on social media.</li> </ul>	<p><a href="#">Sample project newsletter</a></p>

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
<p><b>Presentations</b></p> <p><i>Presentations are speeches, panel discussions, videos or slide shows held for local clubs, civic or religious organizations, school classes, or concerned community groups.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of presentations at any time during the RCRA process. EPA particularly recommends this when a major milestone in the process is reached.</li> <li>• Presenters should use visual aids and provide sufficient time for questions and answers following the presentation.</li> <li>• Presentations may be posted on relevant websites or social media accounts to promote the public’s knowledge of the project.</li> </ul>	<p><a href="#">Guidance on presentations from Superfund toolkit</a></p> <p><a href="#">Guidance on videos from Superfund toolkit</a></p>
<p><b>Exhibits</b></p> <p><i>Exhibits are visual displays such as maps, charts, diagrams, photographs, or computer displays that explain topics such as RCRA processes, hazardous waste health risks, or proposed corrective actions, among others.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of exhibits to present information in an accessible and understandable way. Exhibits can be particularly useful when the information can be conveyed visually, when a display can enhance other forms of information being presented, or when staff time is limited and the audience is large.</li> <li>• Because of their visual nature, exhibits are also well suited for posting online or distributing through social media.</li> </ul>	<p><a href="#">Guidance on exhibits from Superfund toolkit</a></p>
<p><b>Information Tables</b></p> <p><i>An information table is a table or booth set up at a meeting, hearing, or other event that is staffed by at least one person who is prepared to answer questions.</i></p>	<ul style="list-style-type: none"> <li>• Information tables should provide pamphlets, fact sheets, brochures, or other materials, along with a sign-up sheet for interested people to add their names to the facility mailing list. Exhibits are also helpful additions to information tables.</li> <li>• Information tables are most useful at local events that attract a significant portion of the community.</li> </ul>	
<p><b>Workshops</b></p> <p><i>Workshops are seminars or gatherings of small groups of people (usually between 10 and 30), led by a small number of specialists. In workshops, community members have an opportunity to comment on and ask questions about RCRA processes and hazardous waste issues.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of workshops to improve public understanding of permit conditions or hazardous waste problems and to identify primary community member concerns.</li> <li>• Workshops are particularly useful when the RCRA process involves technically challenging material.</li> <li>• Workshops may be useful before formal public hearings or during public comment periods.</li> <li>• Information from the workshop (e.g., videos of presentations, fact sheets) should be posted online or on social media.</li> </ul>	<p><a href="#">Guidance on workshops from Superfund toolkit</a></p>

ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
<p>Availability Sessions/Open Houses</p> <p><i>Availability sessions and open houses are informal events held in a public location where people can talk to involved officials one-on-one.</i></p>	<ul style="list-style-type: none"> <li>• In some cases, availability sessions and open houses can fulfill the pre-application requirements in 40 CFR § 124.31.</li> <li>• EPA recommends the use of availability sessions and open houses:               <ol style="list-style-type: none"> <li>a) When community members' schedules make it difficult to schedule meetings.</li> <li>b) When community members have widely varying interests or levels of knowledge.</li> <li>c) When an informal setting would enhance credibility with the community.</li> <li>d) When large crowds will make it difficult for some community members to raise questions.</li> </ol> </li> <li>• The availability session or open house can involve representatives from all interested organizations (e.g., agency officials, facility staff, and leaders of civic organizations) and should display exhibits and other explanatory materials.</li> </ul>	<p><a href="#">Guidance on public availability/poster sessions from Superfund toolkit</a></p>
<p>Question and Answer Sessions</p> <p><i>Question and answer sessions give stakeholders an opportunity to discuss RCRA actions with knowledgeable staff.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends the use of question and answer sessions to accompany presentations, briefings, or meetings.</li> <li>• Be sure to follow up by phone, e-mail, or letter for any questions that staff was not able to answer during the session.</li> </ul>	
<p>Telephone Hotlines and Web-Based Forums</p> <p><i>A telephone hotline is a toll-free or local number that people can call to ask questions and obtain information on RCRA activities. Web-based forums may include websites or social media accounts that are similarly dedicated to receiving and answering questions from the public.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends establishing a dedicated telephone hotline, website, or social media account when there is moderate or high community interest in the RCRA process, when literacy rates are low and written information must be supplemented, or when the community is isolated and has little opportunity for face-to-face contact with project staff.</li> <li>• The resource can be semi-permanent (i.e., available throughout the permit review or corrective action process) or temporary, for a single period of major community feedback.</li> <li>• Announce the resource in news releases to local newspapers, radio stations, and television stations, and in fact sheets, public notices, websites and social media posts.</li> </ul>	<p><a href="#">Guidance on telephone use from Superfund toolkit</a></p>
<p>Door-to-Door Canvassing</p> <p><i>Door-to-door canvassing is a way to collect and distribute information by calling on community members individually.</i></p>	<ul style="list-style-type: none"> <li>• EPA recommends going door to door when there is a high level of concern about the site, when scheduling group events is difficult, when the community has a low literacy rate or primarily speaks a language other than English, or when there is an emergency.</li> <li>• While going door to door, canvassers should provide fact sheets or other materials.</li> <li>• Be sure to canvass at a time when community members are likely to be at home, and bring a translator if a significant proportion of the population does not speak English.</li> </ul>	<p><a href="#">Guidance on going door-to-door from Superfund toolkit</a></p>



ACTIVITY	RECOMMENDED USE	ADDITIONAL RESOURCES
<p>Surveys and Polls</p> <p><i>Surveys and polls solicit types of feedback from a targeted audience. Surveys can be either oral or written, and they can be distributed to specific segments of the community or to a representative sample.</i></p>	<ul style="list-style-type: none"> <li>• Facility owners/operators and the permitting agency may want to use surveys and polls to:               <ol style="list-style-type: none"> <li>a) Gauge public sentiment about constructing or expanding a facility, particularly at facilities that may be controversial.</li> <li>b) As a complement to direct community interviews.</li> <li>c) To determine if community members are receiving enough information about the RCRA activity.</li> </ol> </li> <li>• Federal agencies are limited in their use of surveys by the Paperwork Reduction Act. Similar constraints may exist at the state level.</li> <li>• Social media and other websites also can be used to conduct the survey or poll.</li> </ul>	
<p>Attending Other Stakeholder Meetings and Functions</p> <p><i>Permitting agencies, facilities, local governments, environmental organizations, and religious and civic groups may hold meetings during RCRA processes. Involved stakeholders can make an effort to attend the meetings of other groups.</i></p>	<ul style="list-style-type: none"> <li>• EPA encourages stakeholders in RCRA processes to attend meetings held by other stakeholders, which can help provide useful insight into others' opinions and concerns.</li> <li>• Confirm that meetings are open to visitors and inform the host organization of expected attendance. Consider bringing fact sheets or other information to provide upon request.</li> </ul>	<p><a href="#">Guidance on partnering from Superfund toolkit</a></p> <p><a href="#">Guidance on local resources from Superfund toolkit</a></p>