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REVISED RCRA INSPECTION MANUAL

(November 1998 Revision)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Office of Waste Programs Enforcement
RCRA Enforcement Division

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Revision

This document was originally written in 1993 and has recently been converted to an electronic format. At the time of conversion, Appendix III, Table III-7 and Appendix IV, Land Disposal Restriction Checklist were updated as of November, 1998. Although other portions of the document have not been updated in this revision, they may have been superceded by more current information. EPA strongly encourages readers to verify the validity of information by contained in this document by consulting the most recent *Code of Federal Regulations* and guidance documents.

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Foreword

The RCRA Inspection Manual was originally developed and issued by the RCRA Enforcement Division of U.S. EPA's Office of Waste Programs Enforcement in 1988. The Manual was intended for the exclusive use of inspection personnel in conducting field inspections of RCRA-regulated facilities under U.S. EPA or State program authorities. Since 1988, significant regulatory developments have occurred and the need to provide a more useful tool for inspectors has grown.

The overall goal of this Manual, then, is to provide useful procedural and technical information to determine facility compliance with RCRA standards. Specific objectives are as follows:

- To provide a detailed overview of the elements of RCRA Compliance Evaluation Inspections (CEIs)
- To describe the scope of inspector authorities and responsibilities
- To provide detailed standard procedures for performing RCRA inspections
- To provide general inspection information that is comprehensive in scope and complements more detailed guidance on inspecting particular types of hazardous waste facilities
- To provide a basis for general training of new inspection personnel in RCRA inspection procedures
- To make essential regulatory information readily accessible to inspectors.

1.0 Introduction

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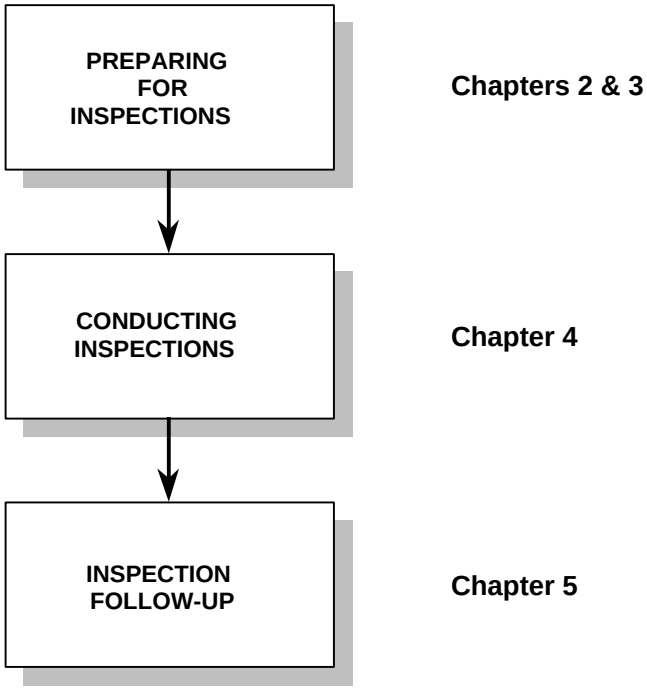
1.1 Background

Introduction

This chapter will:

- Provide an overview of the RCRA program, summarizing the purpose of the statute, applicable federal regulatory standards, and authorization of state RCRA programs
- Provide an overview of the RCRA enforcement program, including a description of the types of RCRA inspections, their role in the enforcement program, and available guidance
- Briefly explain the basis for the RCRA program's enforcement priorities and their potential impact on inspectors
- Summarize an inspector's authority and responsibilities under RCRA §3007
- Offer insight into health and safety concerns about which inspectors should be aware
- Discuss the work ethics expected of an inspector.

The remainder of this Manual will provide inspectors with detailed procedures and guidelines for inspection preparation, conducting inspections, and inspection follow-up.



The **primary purpose** of this Manual is to provide procedural and technical guidance for performing inspections of facilities regulated by the Resource Conservation and Recovery Act of 1976 (RCRA). The main text consists of five sections and discusses pre-inspection, inspection, and post-inspection procedures. The remainder of the Manual contains appendices that provide technical information of potential use to inspectors.

The procedures covered in the main text relate to performance of Compliance Evaluation Inspections (CEIs) of hazardous waste generators; transporters; and treatment, storage, and disposal facilities (TSDFs). However, these procedures may also be applicable to other types of RCRA inspections (which are discussed in Section 1.2); they are general and are not intended to be prescriptive, in deference to Regional and state differences in approaches and procedures. Inspectors using this Manual should be aware of and follow additional Regional or state guidance supplementing the information provided herein.

The RCRA Program

RCRA is the primary statute governing the regulation of solid and hazardous waste. It completely replaced the Solid Waste Disposal Act of 1965 and supplemented the Resource Recovery Act of 1970; RCRA itself was substantially amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA).

The *principal objectives of RCRA*, as amended, are to:

- **Promote the protection of human health and the environment from potential adverse effects of improper solid and hazardous waste management**
- **Conserve material and energy resources through waste recycling and recovery**
- **Reduce or eliminate the generation of hazardous waste as expeditiously as possible.**

To achieve these objectives, RCRA authorizes EPA to regulate the generation, treatment, storage, transportation, and disposal of hazardous wastes.[1] The structure of the national hazardous waste regulatory program envisioned by Congress is laid out in Subtitle C of RCRA (Sections 3001 through 3019), which authorizes EPA to:

- Promulgate standards governing hazardous waste generation and management
- Promulgate standards for permitting hazardous waste treatment, storage, and disposal facilities
- Inspect hazardous waste management facilities

[1] RCRA also provides EPA with authority to regulate solid waste and underground storage tanks. Programs established under these authorities are not within the scope of this Manual.

- Enforce RCRA standards
- Authorize states to manage the RCRA Subtitle C program, in whole or in part, within their respective borders, subject to EPA oversight.

Federal RCRA Standards

Federal RCRA hazardous waste regulations are set forth in 40 CFR Parts 260 through 272. The core of the RCRA regulations establishes the "cradle to grave" hazardous waste regulatory program through seven major sets of regulations:

- Identification and listing of regulated hazardous wastes (Part 261)
- Standards for generators of hazardous waste (Part 262)
- Standards for transporters of hazardous waste (Part 263)
- Standards for owners/operators of hazardous waste treatment, storage, and disposal facilities (Parts 264, 265, and 267)
- Standards for the management of specific hazardous wastes and specific types of hazardous waste management facilities (Part 266)
- Land disposal restriction standards (Part 268)
- Requirements for the issuance of permits to hazardous waste facilities (Part 270)
- Standards and procedures for authorizing state hazardous waste programs to be operated in lieu of the federal program (Part 271).

Appendix I discusses how inspectors can keep up with changes in the RCRA standards, and identifies sources of regulatory information.

State Authorization in the RCRA Program

EPA, under Section 3006 of RCRA, may authorize a state to administer and enforce a state hazardous waste program in lieu of the federal Subtitle C program. To receive authorization a state program must:

- Be equivalent to the federal Subtitle C program
- Be consistent with, and no less stringent than, the federal program and other authorized state programs
- Provide adequate enforcement of compliance with Subtitle C requirements.

In practical terms, these requirements mean that, to be authorized, state hazardous waste regulations must be at least as stringent as federal Subtitle C standards; state regulations and programs must follow the same general approach as federal regulations and programs, and other state regulations and programs; state enforcement penalties must be at least equivalent to penalties provided for in RCRA; and state enforcement activities must be equivalent to those performed by EPA.

States have generally received authorization incrementally, consistent with the gradual implementation of the federal RCRA program (i.e., the ongoing development of regulations governing new waste management units and practices), due largely to the unavoidable lag between federal promulgation of Subtitle C standards and development and adoption of equivalent standards by the states. Thus, states may be authorized to administer and enforce the program covering certain types of waste management units and practices within the state and may not be authorized for other types of units. For example, a state may be authorized to manage the program for hazardous waste generators and storage and treatment facilities, but may not be authorized for a newer regulation based on HSWA. As a result, some facilities in a state may be subject to state enforcement, and others subject to federal enforcement through EPA Regional offices. Facilities with several types of units may be subject to joint federal/state enforcement.

In general, where a facility is subject to joint federal/state authority, inspections may be conducted by both federal EPA and state inspectors. These inspections may be conducted jointly or separately. When acting jointly, federal and state inspectors should focus their efforts on the units subject to their respective jurisdictions. When working separately, federal or state inspectors may inspect units which are not under their jurisdiction and identify non-complying conditions. These conditions should then be reported to the agency with jurisdiction over the unit(s) for further action.

Currently, all states are authorized to administer or enforce their own programs, except for the following:

Iowa

Wyoming

Hawaii

Alaska

Following are two maps, Exhibits 1-1 and 1-2, detailing the states that are authorized for specific aspects of the RCRA program, corrective action and mixed waste. Inspectors should also be aware of the authorization status of states with respect to other aspects of the RCRA program.

Exhibit 1-1
RCRA Mixed Waste Authorization as of October 1, 1993

[Note: This map is no longer accurate. Please contact your state implementing agency or EPA Regional Office for up-to-date information.]

Exhibit 1-2
RCRA Corrective Action Authorization as of October 1, 1993

[Note: This map is no longer accurate. Please contact your state implementing agency or EPA Regional Office for up-to-date information.]

1.2 Enforcement Overview

The **goal of the RCRA enforcement program** is to assure that hazardous waste handlers are properly complying with RCRA regulations. This requires close monitoring of such handlers and expeditious legal action when non-compliance is detected. Facility inspections by EPA/state officials are the primary tool for monitoring compliance. EPA/states may also determine compliance through examination of required reports submitted by waste handlers. When non-compliance is detected, an enforcement action may follow.

Types of Inspections

There are many types of inspections; however, the CEI is the primary mechanism for detecting and verifying RCRA violations by hazardous waste generators, transporters, and TSDFs.

Types of inspections differ based upon the purpose, facility status, and the probable use of inspection results. The Office of Waste Programs Enforcement has developed, and is continuing to develop, specific guidance on performing the different types of inspections. Exhibit 1-3 below describes the various types of inspections, and lists the available and planned guidance for each type.

Enforcement Actions

When a violation is detected, an enforcement action may be initiated to compel the violator to return to compliance and/or possibly make compensation. EPA/states may use the evidence collected through inspections to determine which of the following enforcement options, if any, to pursue:

- Administrative action (warning letter, administrative order, administrative penalty, permit action)
- Civil court action
- Criminal court action.

A decision to pursue one or more of these options should be based on the nature and severity of the violation and the strength of available evidence.

For further information regarding the options described above, inspectors should review the 1990 RCRA Civil Penalty Policy and/or contact the RCRA Docket (703-603-9230).

Exhibit 1-3
Inspection Types and Relevant Guidance

Type of Inspection	Description	Guidance
Compliance Evaluation Inspection (CEI)	CEIs are routine inspections of hazardous waste generators, transporters, and TSDFs to evaluate compliance with the requirements of RCRA. CEIs encompass a file review prior to the site visit; an on-site examination of generation, treatment, storage or disposal areas; and a review of records. Inspections of facilities with delisted waste may be conducted as part of a CEI. Also, corrective action inspections are specifically intended to evaluate facilities' compliance with consent and permit orders.	• The RCRA Inspection Manual • The LDR Inspection Manual • Hazardous Waste Tank Systems Inspection Manual OSWER Dir. 9938.1A, 1988 • Hazardous Waste Incinerator Inspection Manual OSWER Dir. 9938.6, 1989 • Guidance for Inspection of Facilities with Delisted Waste , OSWER Dir. 9938.2B (to be issued) • Conducting RCRA Inspections at Mixed Waste Facilities, OSWER Dir. 9938.9, 1991
Case Development Inspection (CDI)	CDIs are conducted when RCRA violations are suspected or revealed during a CEI for the specific purpose of gathering data in support of an enforcement action.	• Technical Case Development Guidance Document OSWER Dir. 9938.3, 1988
Comprehensive Ground-Water Monitoring Evaluation (CME)	CMEs are conducted to ensure that ground-water monitoring systems are designed and function properly at RCRA land disposal facilities. In addition to the CEI activities, CMEs include sampling and analysis of the facility's ground-water monitoring system and hydrogeological conditions.	• RCRA Ground-Water Monitoring Technical Enforcement Guidance Document, OSWER Dir. No. 9950.1, September 1986 • Comprehensive Ground-Water Monitoring Evaluation Guidance Document, OSWER Dir. No. 9950.2, December 1986
Compliance Sampling Inspection (CSI)	CSIs are inspections in which samples are collected for laboratory analysis. A sampling inspection may be conducted in conjunction with a CEI or any other type of inspection, except a CDI.	
Operation and Maintenance Inspection (O&M)	O&M inspections of land disposal facilities are conducted to determine the adequacy of the operation and maintenance of ground-water monitoring systems at RCRA facilities after a land disposal facility has closed. O&M inspections are usually conducted at facilities that have already received a thorough evaluation of the ground-water monitoring system under a CME inspection.	• Operation and Maintenance Inspections for Ground-Water Monitoring (RCRA Ground-Water Monitoring Systems) , OSWER Dir. No. 9950.3, March 1988
Laboratory Audit	Laboratory audits are inspections of laboratories performing sample analyses. Audits ensure that these laboratories are using proper sample handling and analysis protocols.	• RCRA Laboratory Audit Inspection Guidance Document OSWER Dir. 9950.4, 1988
State Oversight Inspection	State oversight inspections are conducted by U.S. EPA personnel to determine the effectiveness of State hazardous waste management programs and to determine facility compliance.	• RCRA State Oversight Inspection Guide, OSWER Dir. No. 9946.1, December 1987

1.3 Enforcement Priorities

RCRA enforcement managers at EPA Headquarters, Regional offices, and state agencies establish priorities for inspecting RCRA regulated facilities to optimize the use of limited resources to achieve enforcement objectives. Generally, priorities are established annually in the "RCRA Implementation Plan" (RIP) and are based on Congressional mandates and the facility's "Environmental Priority." A facility's Environmental Priority is based on its environmental significance, the potential environmental benefits from enforcement, and other considerations. The priorities change from year to year to reflect new information and program changes including:

- Promulgation of new standards governing specific types of facilities or activities (e.g., land disposal regulations (LDR))
- Expansion of the regulatory program to cover new types of facilities
- Progression of the RCRA enforcement program to new stages of implementation (e.g., from CMEs to O&M)
- Specific national or regional enforcement initiatives focused on particular rules, types of facilities, or geographic areas.

Inspectors should be knowledgeable about the current enforcement priorities and develop the skills necessary to perform the inspections required to meet those priorities. Inspectors must also be aware of changes in the priorities to identify new training needs and other ways (i.e., inspection preparation) they may need to reassess their approach to inspections.

Frequently, inspectors, through training, research, and experience, develop specialized skills in inspecting a particular type of facility or evaluating a waste management practice. Although this can be valuable, inspectors also must develop and maintain a solid general knowledge of the overall RCRA program so that they can flexibly respond to new enforcement priorities or changes in assignments which require them to inspect types of facilities and practices previously unfamiliar to them.

Inspectors should:

- **Review major new regulations (including preambles) as they are promulgated**
- **Be familiar with new and existing guidance on inspecting other types of facilities and practices**
- **Be aware of new and existing technical guidance that could provide quick background information on other types of facilities and practices.**

New regulations can be found in the Code of Federal Regulations. Inspection and technical guidance can be identified by contacting the RCRA Docket (703-603-9230).

Inspectors should also be ready to provide input to enforcement program managers planning initiatives that are within the inspectors' areas of expertise. In such instances, inspectors may be able to expedite information collection or identify technical difficulties or issues which should be considered in the planning stage.

1.4 Authority and Limitations of Inspectors

RCRA Section 3007 provides inspectors with the authority to conduct inspections and specifies certain guidelines that should govern the conduct of an inspection. It is essential that all inspectors be familiar with Section 3007, presented in Exhibit 1-4 below, or comparable, applicable state authority.

RCRA provides the authority to conduct inspections of facilities for the purpose of developing regulations, preparing permits, or ensuring compliance with the provisions or regulations promulgated under RCRA. Access to such facilities is granted to "duly designated" officers, employees, or representatives of EPA (or an authorized state).

Specifically, inspectors are authorized to:

- **Enter any establishment or location where hazardous wastes are, or have been, generated, transported, stored, treated, or disposed**
- **Obtain samples for the inspection of any such wastes as well as samples of any containers or labeling for such wastes**
- **Access and copy all records relating to such wastes.**

Inspections must be conducted in a prescribed manner, which includes the following:

- Presenting EPA or state identification
- Entering an establishment at a reasonable time and completing the inspection as promptly as possible
- Issuing a receipt for any samples obtained
- Providing a duplicate sample (split sample), if requested
- Furnishing a copy of any sample analysis, if conducted, to the owner/operator, or agent in charge.

Exhibit 1-4
RCRA Section 3007
(As Amended by the Solid Waste Disposal Act of 1980 and the Hazardous and Solid Waste Amendments of 1984)

INSPECTIONS

Sec. 3007. (a) **ACCESS ENTRY**.—For purposes of developing or assisting in the development of any regulation or enforcing the provisions of this title, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee or representative of a State having an authorized hazardous waste program, furnish information relating to such wastes and permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this title, such officers, employees or representatives are authorized —

(1) to enter at reasonable times any establishment or other place where hazardous wastes are or have been generated, stored, treated, disposed of, or transported from;

(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

Each such inspection shall be commenced and completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) **AVAILABILITY TO PUBLIC**.—1) Any records, reports, or information (including records, reports, or information obtained by representatives of the Environmental Protection Agency) obtained from any person under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof, to which the Administrator (or the State, as the case may be) or any officer, employee or representative thereof has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both.

Exhibit 1-4 (Continued)
RCRA Section 3007

(3) In submitting data under this Act, a person required to provide such data may —

(A) designate the data which such person believes is entitled to protection under this subsection, and

(B) submit such designated data separately from other data submitted under this Act.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

(c) **FEDERAL FACILITY INSPECTIONS**.—Beginning twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, or in the case of a State with an authorized hazardous waste program the State may, undertake on an annual basis a thorough inspection of each facility for the treatment, storage, or disposal of hazardous waste which is owned or operated by a Federal agency to enforce its compliance with this subtitle and the regulations promulgated thereunder. The records of such inspections shall be available to the public as provided in subsection (b).

(d) **STATE-OPERATED FACILITIES**.—The Administrator shall annually undertake a thorough inspection of every facility for the treatment, storage, or disposal of hazardous waste which is operated by a State or local government for which a permit is required under section 3005 of this title. The records of such inspection shall be available to the public as provided in subsection (b).

(e) **MANDATORY INSPECTIONS**.—(1) The Administrator (or the State in the case of a State having an authorized hazardous waste program under this subtitle) shall commence a program to thoroughly inspect every facility for the treatment, storage, or disposal of hazardous waste for which a permit is required under section 3005 no less often than every two years as to its compliance with this subtitle (and the regulations promulgated under this subtitle). Such inspections shall commence not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. The Administrator shall, after notice and opportunity for public comment, promulgate regulations governing the minimum frequency and manner of such inspections, including the manner in which records of such inspections shall be maintained and the manner in which reports of such inspections shall be filed. The Administrator may distinguish between classes and categories of facilities commensurate with the risks posed by each class or category.

(2) Not later than six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit to the Congress a report on the potential for inspections of hazardous waste treatment, storage, or disposal facilities by nongovernmental inspectors as a supplement to inspections conducted by officers, employees, or representatives of the Environmental Protection Agency or States having authorized hazardous waste programs or operating under a cooperative agreement with the Administrator. Such report shall be prepared in cooperation with the States, insurance companies offering environmental impairment insurance, independent companies providing inspection services, and other such groups as appropriate. Such report shall contain recommendations on provisions and requirements for a program of private inspections to supplement governmental inspections.

[42 U.S.C. 6927]

Although compliance inspections may result in enforcement actions, they generally will not involve the need to inform individuals of their rights under the Fifth Amendment of the United States Constitution (e.g., to provide them with a "Miranda" warning). The Fifth Amendment provides that "No person shall be compelled in any criminal case to be a witness against himself." Because inspections under RCRA are generally not conducted by law enforcement officers and do not involve custodial situations (when a person is taken into custody), Fifth Amendment rights normally are not implicated.

Confidential Business Information

Inspectors who conduct RCRA inspections will probably encounter confidential business information (CBI) during the course of their work. Inasmuch as this information may only be viewed by individuals who have been cleared for access, all inspectors should have CBI access authorization. This authorization is granted by either the EPA's Deputy Administrator for General Enforcement or the duly designated state-level representative in the case of a state-run hazardous waste program.

When inspectors return from an inspection with information that a facility owner/operator has declared to be confidential, they should immediately give such information to the local Document Control Officer (DCO) or Document Control Assistant (DCA), who will assign a document control number to the confidential material. In addition, inspectors should inform the DCO or DCA of any physical samples that have been claimed as confidential. These samples will be assigned a document control number, which is given to laboratory personnel for use in completing chain-of-custody and laboratory analysis forms.

1.5 Health and Safety Considerations

The health and safety of inspection personnel is an important aspect of the overall inspection process that must be seriously considered prior to entry into a facility. The Occupational Safety and Health Administration (OSHA) standards for hazardous materials (Subpart H of 29 CFR Part 1910) were amended in December 1986 by the addition of a new §1910.120, which contains protection requirements for workers involved in hazardous waste operations. This interim final rule, mandated by the Superfund Amendments and Reauthorization Act (SARA) of 1986, regulates employee safety and health at hazardous waste operations and during emergency response actions. Inspectors must be thoroughly familiar with the OSHA health and safety regulations to ensure compliance with those requirements that are applicable to the inspection process.

Another source of information regarding health and safety requirements with which inspectors should be familiar is **U.S. EPA Order No. 1440.2**, titled "Health and Safety Requirements for Employees Engaged in Field Activities." This Order establishes policy, responsibilities, and mandatory requirements for occupational health and safety training and for occupational medical monitoring of EPA employees engaged in field activities; therefore, RCRA inspectors must be familiar with its contents.

All hazardous waste management facilities pose some degree of hazard to personnel present on site, and this hazard increases in direct proportion to the decrease in the amount and quality of information available to these personnel on facility operations and practices.

Therefore, it is extremely important that inspectors understand a facility's processes and hazardous waste management practices prior to entering a facility so that they are aware of all the potential health and safety issues and follow the appropriate procedures during an inspection.

In addition to reviewing federal, state, and/or local files and interviewing regulatory personnel who are familiar with a facility, inspectors should also consult the Regional Safety Officer or equivalent state official regarding potential hazards before undertaking an inspection. Even though thoroughly familiar with available information regarding a facility, inspectors still may not have all the information needed to make sound health and safety judgments; therefore, common sense and experience must enter into determinations and decisions. Inspectors should not assume that an owner/operator knows all of the safety concerns that may apply to a facility, and should not take statements made by the owner/operator concerning the safety of an activity or location at the facility at face value.

The RCRA inspector should have a working knowledge of the following health- and safety-related areas and issues:

- Potential exposure routes
- Hazard assessment
- Long-term risk
- Levels of protection
- Safety equipment (use and maintenance)
- Personal protective equipment (use and maintenance)
- Decontamination and disposal of protective clothing
- Emergency treatment.

Exhibit 1-5 presents a partial listing of guidance documents that are available on health and safety issues related to hazardous waste management. Inspectors are referred to these documents for detailed information on the areas and issues identified above.

Exhibit 1-5
Health and Safety Guidance Documents

"Appendix M, Site Safety Plan Guidance: Draft." OSWER 9375.1-2A-C. U.S. Environmental Protection Agency. December 30, 1986. Provides information on health and safety to supplement Regional Office safety procedures.

"Chemical Engineering Preparedness Program, Interim Guidance," U.S. Environmental Protection Agency. Program Directive No. 9223.0-01A. OERR, Catalog of Program Directives. December 1986. Establishes criteria for identifying acutely toxic chemicals.

Chemical Manufacturers Association, 1825 Connecticut Avenue, N.W., Washington, D.C. 20009. The CMA has many publications that give complete information on health and fire hazards, handling, storage, labeling, packaging, and transportation. A list of publications is available.

"Dangerous Properties of Industrial Materials," Sax, Newton Irving, Reinhold Publishing Corporation, New York, 1989 Seventh Edition. Contains information covering more than 12,000 hazardous materials. Areas of hazard covered include radiation hazards, industrial fire protection, storage and handling of hazardous materials, respiratory protection, and personal hygiene.

"Environmental Monitoring Series: Hazardous Materials Spill Monitoring Safety Handbook and Chemical Hazard Guide Part A." EPAx8602-0151. U.S. Environmental Protection Agency. 1979. Presents information on hazards from spills of chemical compounds, exposure, prevention, protection, and first-aid measures to be followed by response personnel.

"Fire Protection Guide To Hazardous Materials," National Fire Protection Association, 60 Batterymarch Street, Boston, Massachusetts 02110. This publication is a complete volume on the fire, explosion, and health characteristics of many chemicals and materials. It contains complete texts of the following NFPA documents: 325M, 49, 491M, and 704.

"Guidance on Remedial Investigations Under CERCLA," U.S. Environmental Protection Agency, HWERL, OERR, OWPE. May 1985. Provides guidance on conducting remedial investigations at uncontrolled hazardous waste sites; includes detailed discussion of health and safety issues and procedures.

"Hazardous Waste Site Investigation Training." EPA-8512-0003. U.S. Environmental Protection Agency. 1981. Covers a 5-day training course and includes appendices on toxicology and safety and health policy.

Exhibit 1-5 (Continued)
Health and Safety Guidance Documents

"Hazardous Material Handling Training Manual," NUS Corporation, Waste Management Services Group. February 1987. Guidance manual used for health and safety training of RCRA and CERCLA field personnel.

"Hazardous Waste Sites and Hazardous Substance Emergencies: Worker Bulletin," EPAx8610-0023. U.S. Department of Health and Human Services. 1982. Provides preliminary guidance to protect health of hazardous waste workers; joint project of EPA, NIOSH, OSHA, and U.S. Coast Guard.

Health effects assessment documents (available for a large number of chemical compounds). U.S. Environmental Protection Agency, Office of Research and Development, Environmental Criteria and Assessment Office. 1984.

"NEIC Safety Manual," U.S. Environmental Protection Agency, Office of Enforcement, National Enforcement Investigation Center, EPA-330/9-74-002-B, Denver, Colorado. February 1977. Provides general guidelines on safety for NEIC personnel; consistent with OSHA requirements.

"Occupational Safety and Health for the Federal Employee," U.S. Department of Labor, Occupational Safety and Health Administration. January 1, 1979. A booklet outlining Federal government policy concerning occupational safety and health protection provided for government employees.

"Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities," EPAx8603-0213. NIOSH, OSHA, U.S. Coast Guard, EPA. 1985. Provides guidance on hazards, training, medical programs, protective equipment, decontamination, air monitoring, container handling, and site emergencies.

"Occupational Safety and Health Technical Assistance and Enforcement Guidelines for Superfund," U.S. Environmental Protection Agency. Program Directive No. 9285.3-01. OERR. Catalog of Program Directives. December 1986. Provides direction for OSHA and other field staff who may be called upon to provide technical assistance or conduct enforcement activities at hazardous waste sites.

"Protecting Health and Safety at Hazardous Waste Sites: An Overview," EPAx8603-0208. U.S. Environmental Protection Agency. 1985. Summaries for health protection; details training, medical monitoring, handling waste containers, and wearing personal protective equipment.

"Quality Assurance/Field Operations Methods Manual," U.S. Environmental Protection Agency. Program Directive No. 9355.0-14. OERR. Catalog of Program Directives. December 1986. Provides Remedial Project Managers (RPMs), quality assurance officers, and states with a reference for field procedures.

"OSWER Integrated Health and Safety Policy for Field Activities," U.S. Environmental Protection Agency. Program Directive No. 9285.1-01B. OERR. Catalog of Program Directives. 1988. Provides guidance on health and safety to complement professional judgment and experience and to supplement existing Regional safety criteria.

1.6 Work Ethics

Inspectors are skilled field professionals who represent regulatory agencies when dealing with industry and the public. As a result, inspection personnel are expected to perform their duties in a professional and responsible manner.

Personnel shall:

- **Develop and report the facts of an investigation completely, accurately, and objectively**
- **Conduct themselves at all times in accordance with the regulations in the EPA handbook, Responsibilities and Conduct for EPA Employees**
- **Avoid, in the course of an investigation, any act or failure to act which could be considered motivated by reason of personal or private gain**
- **Improve continually their professional knowledge and technical skill in conducting hazardous waste inspections.**

Discussed below are several specific topics pertinent to RCRA inspectors.

Conflicts of Interest

A **conflict of interest** may exist whenever an inspector has a personal or private interest in a matter which is related to his or her official duties and responsibilities. It is important to avoid even the appearance of a conflict of interest because such an appearance damages, in the eyes of the public, the integrity of the EPA or state agency and their employees. All employees must, therefore, be constantly aware of situations which are, or give the appearance of being, conflicts of interest when dealing with others inside or outside of the government. For a detailed discussion of situations and/or activities which may result in a conflict of interest, personnel are directed to Responsibilities and Conduct for EPA Employees, which can also be found in the Federal Register (38 FR No. 73), April 17, 1973.

Public Relations

It is important that cooperation be obtained from, and good working relations established with, the public and regulated community. This can best be accomplished by using diplomacy, tact, and persuasion. Even a hostile person should be treated with courtesy and respect. Personnel should not offer opinions concerning any person, regulatory agency, manufacturer or industrial product. All information acquired in the course of duty is for official use only.

Gifts, Gratuities, Favors, Luncheons, Etc.

An EPA employee is **forbidden** to solicit or accept any gift, gratuity, entertainment (including meals), favor, loan, or any other thing of monetary value from any person, corporation, or group that:

- Has a contractual or financial relationship with EPA
- Has an interest that may be substantially affected by such employee's official actions
- Conducts operations regulated by EPA.

Attempted Bribery

Money in varying amounts may be offered by persons whose activities are being investigated. Offers are usually made by people unfamiliar with EPA rules or regulations. Other bribes may be blatant attempts to whitewash a serious violation or condition or to cause the withholding of damaging information or observations. Inspectors should:

- Ask "What is this for?" if offered something of value
- Explain politely, if the offer is repeated, that both parties to such transactions may be guilty of violating federal statutes
- Decline money or goods of any kind
- Report immediately any such incident, in detail, to his or her supervisor.

1.7 Summary

In performing their job, RCRA inspectors must keep in mind a number of considerations:

- **The purpose of the RCRA program**
- **The types of inspections that should be performed**
- **The types of enforcement actions that can be brought against violators**
- **Current EPA enforcement priorities**
- **The scope of and limit on permissible action**
- **Ways in which to protect themselves**
- **The need to comply with ethical and legal requirements.**

Although specific skills and knowledge are needed to perform effectively at specific inspection-related tasks, inspectors must internalize the above mentioned considerations to assure a solid foundation for all inspection/enforcement activity.

2.0 Preparing for an Inspection

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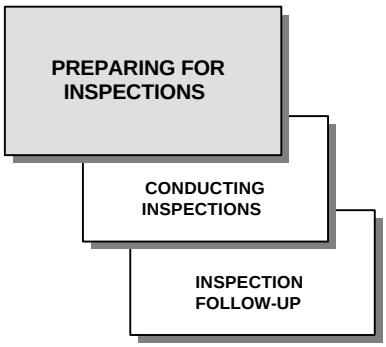


2.1 Introduction—Purpose and Objectives of Inspection Preparation

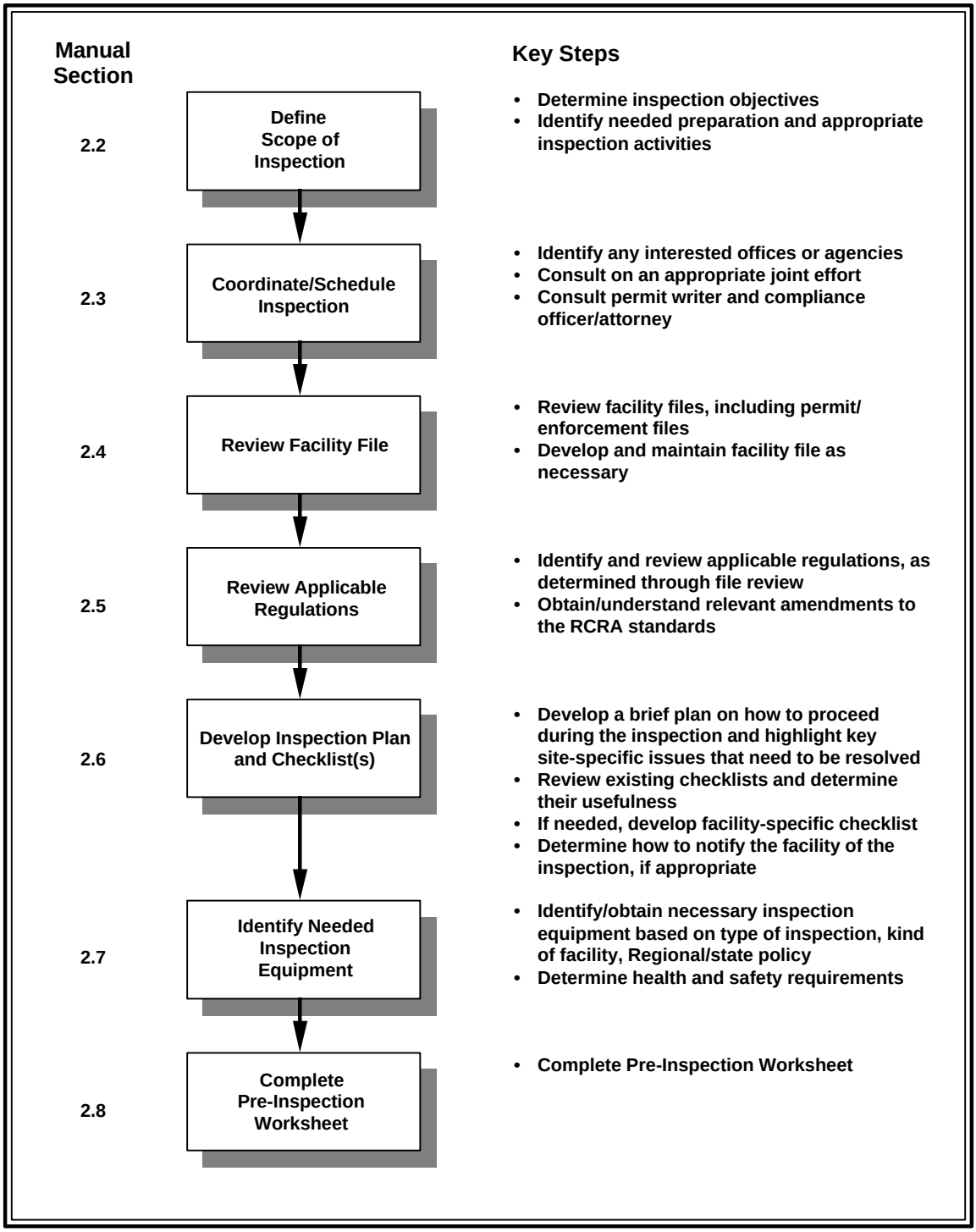
Adequate preparation is critical to the effective performance of RCRA inspections. Generally, inspectors have only a relatively brief period of time on-site in which to perform an inspection; therefore, it is essential that an inspection be properly scoped and planned to allow for efficient use of time and to insure that all aspects of the facility which should be evaluated are inspected. Of course, there will be instances in which insufficient time will be available to an inspector for the complete preparation described here. Even on those occasions, the inspector should make every effort to engage in as many preparatory activities as possible.

The inspector's objectives in preparing for an inspection should include the following activities, all of which are described in greater detail in this chapter:

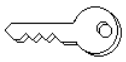
- **Determining the scope and objectives of an inspection**
- **Coordinating inspection activities with other regulatory or enforcement personnel as necessary**
- **Developing a thorough understanding of the technical, regulatory, and enforcement aspects of a facility**
- **Developing a plan or strategy for conducting an inspection consistent with inspection objectives**
- **Determining health and safety requirements and equipment needs.**

Exhibit 2-1 below identifies and summarizes the key steps in inspection preparation.

Exhibit 2-1
Inspection Preparation Summary



2.2 Defining the Scope of an Inspection



When planning an inspection, it is critical that the inspector first define its scope. Generally, the purpose and objectives of an inspection determine its scope. For example, the scope of a routine CEI will differ from the scope of an inspection performed to assess facility compliance with permit deadlines.

Inspectors can most easily determine the purpose and objectives of an inspection through discussions with supervisory or other enforcement personnel, such as an enforcement compliance specialist.

Typically, the purpose of an inspection will be one of the following:

- A routine periodic assessment of RCRA compliance
- A review of facility activities or status with respect to an enforcement action
- A review of facility compliance with deadlines set forth in its RCRA permit
- A response to information received concerning alleged violations at the facility
- Identification of vehicles for cross-program compliance.

Routine compliance inspections are generally broad in scope. However, inspections performed for other purposes (e.g., compliance with an enforcement order) are composed of activities not typically performed during a routine CEI, such as:

- Comprehensive records review
- Data evaluation/verification
- Waste or media sampling.

If inspectors do not need to generate the kinds and amount of information normally collected during a comprehensive investigation, they should conduct a more narrowly-focused inspection that will be a more efficient use of resources. However, even if inspectors anticipate conducting such a narrowly-focused inspection, they should be prepared to conduct a more comprehensive inspection if, once on-site, they determine that conditions so require.

To properly prepare for an inspection, inspectors should determine:

- The offices or agencies with which the inspection should be coordinated
- The facility information which should be focused upon

- The regulations and enforcement documents that should be obtained and reviewed
- Whether sampling will be required during the inspection.[2]
- Whether it is appropriate to notify the facility in advance of the inspection.

An inspector must have as clear an understanding of the scope of an inspection as possible, derived in part from communications with his or her supervisor or other enforcement personnel, as appropriate to the Region or state.

[2] Preparing for sampling during the inspection is not within the scope of this Manual; inspectors should refer to the RCRA Technical Case Development Guidance Document, OSWER Dir. 9938.3, 1988.

2.3 Coordinating an Inspection

Inspectors should identify the other offices within their agency and in sister federal, state, or local agencies that may be interested in the results of, or participating in, an inspection. They can accomplish this by consulting with their supervisor and considering the scope and nature of a proposed inspection. After making a determination, an inspector should contact the appropriate offices or agencies to inform them of his or her proposed effort and/or to coordinate the inspection.

Coordination can be highly beneficial to inspectors and those offices or agencies with which coordination is attempted. Other offices or agencies may be interested in an inspection for several reasons:

COORDINATION	
Reasons for Coordination	**Possible Coordination Activities**
• Other office may be pursuing a planned action that might be interfered with by the inspection or enhanced through coordination • Offices may be able to share resources and information or conduct concurrent multi-media inspections • The inspection may provide incidental information or identify cross-program compliance issues that would be useful to another office in their regulatory or enforcement activities (e.g., an inspection at a facility with a NPDES-permitted wastewater treatment facility may be of special interest to the office responsible for water enforcement) • The inspection is being performed, in part or exclusively, at another office's request (e.g., an inspection performed to verify permit application information or to support an enforcement action) • Another office shares jurisdiction for RCRA enforcement at the facility, making the scheduling of a joint inspection desirable (e.g., where a state agency has partial authorization for some units at a facility, and the remaining units are subject to EPA enforcement).	• Scheduling joint inspections with other offices or agencies • Scheduling an inspection to avoid interference with planned activities of other agencies or offices • Conferring with other offices or agencies to insure that the inspection satisfies their information needs • Obtaining relevant information on the facility's administrative or enforcement status, such as pending enforcement actions under RCRA or other environmental programs • Clarifying for a requesting office the scope of an inspection and areas of particular interest to that office • Clarifying with a permit writer permit conditions or the status of a facility's permit application • Obtaining technical information on a facility from a permit writer • Obtaining facility information from other agencies • Working to further the goals of a Memorandum of Understanding that may exist between Regions and states, explaining coordination protocols.

Federal inspectors may find state and local agencies to be good sources of information about a facility. For example, some states maintain waste manifest records or histories that are useful in preparing for an inspection. Similarly, state inspectors may find the Regional EPA office has useful information about a facility obtained prior to state authorization or for other purposes (e.g., the NPDES program).

Inspectors, or their supervisors, should confirm that all appropriate people have been contacted to prevent interference with planned, ongoing activities and to insure efficient use of inspection resources.

Permitted Facilities

Inspectors should contact the responsible permit writer before inspecting facilities that have applied for or received a permit. If the facility's permit application is undergoing review, the permit writer and the application will usually provide valuable information about the facility and, alternatively, the permit writer may have information needs that inspectors can fulfill during an inspection (e.g., verifying completion of facility modifications reported by the permit applicant). If a facility has received its permit, the permit imposes site-specific requirements that are subject to enforcement and should be evaluated during the inspection. In addition, the permit writer may be able to identify suspected problem areas at a facility. Preparing for an inspection at permitted facilities is discussed in greater detail in Chapter 3 of the Manual.

Enforcement Actions

If an inspector is conducting an inspection to support an enforcement action (e.g., to determine if a facility has come into compliance with the terms of an enforcement order), he or she must coordinate the inspection with the appropriate compliance officer or attorney assigned to the action. Those individuals will be able to explain the specifics of the action and identify important areas for review at the facility. Inspectors should advise the attorney or compliance officer of the time and date of an inspection, and obtain their phone numbers so that they can be contacted from the field if an inspector needs to confer on specific aspects of the inspection.

NOTE: Inspectors must make any calls from the field to an attorney or compliance officer confidentially, preferably from an off-site phone, and should give no indication to the owner/operator that a conference has occurred.

Inspectors should also determine, with guidance from the compliance officer or attorney, how to submit inspection results. Normally, inspection results are submitted in an inspector's report (discussed in Chapter 5 of this Manual); however, results can be "fast tracked" to the requesting office to expedite response actions.

2.4 Reviewing a Facility File

Regional and state RCRA program offices generally have one or more existing files for each facility within their jurisdiction and/or may make information on a facility available through an automated data processing (ADP) system, such as the RCRA Information System (RCRIS). Inspectors should make full use of all such available information in preparing for an inspection.

Inspectors should review facility file information to:

- Develop a thorough technical understanding of a facility, including the wastes managed, the waste management units used, and the processes which generate and treat wastes
- Develop an understanding of the compliance history of a facility, including past violations, facility efforts to correct compliance problems, and potential violations that may not have been remedied
- Identify, based on citizen complaints or inconsistencies in file materials, potential violations to be evaluated during an inspection
- Determine applicable regulations for review (see Section 2.5 below)
- Support development of the inspection plan for a facility (see Section 2.6 below).

NOTE: In many Regions and states, one program office is responsible for all RCRA activities (e.g., permitting, inspections, and enforcement) and will have a central program file for each facility within its jurisdiction. However, responsibility for permitting, inspections, and enforcement may be split among several offices and separate files may be maintained by these offices. The information in each of these files may vary as they are developed for different purposes. Inspectors will, ideally, review all potentially relevant files. Coordination between the Region and state is important to ensure that all applicable files are reviewed. Coordination is particularly important in states authorized for part, but not all of the federal RCRA program.

Updating/Developing a Facility File

In general, the office responsible for RCRA inspections should have a central inspection file on each RCRA facility. Inspectors should maintain the central inspection files on each RCRA facility within their respective areas of responsibility, updating the files as new information becomes available (e.g., the results of recent inspections). If inspection files are not part of a central program file, maintaining a file may require periodically reviewing and obtaining new data from files held by the offices responsible for permitting, enforcement, or other activities in the EPA Regional office and/or state agency. Before an inspection, inspectors should review the inspection file to determine the adequacy and timeliness of information in the file, and obtain additional or updated information from other offices as appropriate. This activity can be performed when coordinating the inspection, as discussed in Section 2.3 above.

Exhibit 2-2 below describes the minimum contents of an inspection file.

NOTE: A facility's Part A application, Part B application, and/or permit will provide some of the information listed in Exhibit 2-2, including a plot plan or map and, possibly, a flow chart or illustration showing processes and design features. Part B permit applications and final permits may be lengthy documents which may not be convenient to duplicate for the inspection file if they are already maintained in the files of another office. It may be more efficient and convenient to note in the central inspection file where these documents are maintained and how they may be obtained for review by inspectors (e.g., the point-of-contact for obtaining the document, such as the permit writer). Inspection planning for permitted facilities is discussed in greater detail in Chapter 3 of this Manual.

When inspecting a manufacturing plant, inspectors may want to obtain additional information on the types of processes used at the plant to better understand plant activities once on-site. Several EPA documents and other standard references on industrial processes are available for this purpose and are listed in Appendix V of the Manual.

Reviewing Facility Enforcement Documents

Where the purpose of an inspection is to support an enforcement action (e.g., to evaluate facility progress in meeting compliance deadlines set forth in an enforcement order), inspectors should obtain all applicable documents from the enforcement office, compliance specialist, legal counsel, or other appropriate office or official. Generally, inspectors should obtain these documents while attempting to coordinate an inspection, as discussed in Section 2.3 above.

Inspectors should review enforcement documents to determine:

- Specific activities or units of interest at a facility
- Specific non-complying conditions or violations
- Specific activities a facility is required to have performed or be performing to come into compliance
- The compliance schedule and intermediate milestones towards completion of required activities.

Knowing these items is important in determining the applicable regulations that must be reviewed (Section 2.5 below), and the appropriate strategy for inspecting a facility and developing an inspection plan (Section 2.6 below).

Exhibit 2-2
Contents of an Inspection File

- A summary of names, titles, locations, and phone numbers of the responsible persons (operators, plant officials, municipal officials, etc.) involved in the facility's hazardous waste program (in many cases, this information may be incorporated into the Regional or state ADP system to facilitate contacting the facility)
- A flow chart or other illustration showing processes used and design features of present and planned units and processes at the facility
- For treatment, storage, and disposal facilities (TSDFs), a list of the wastes that are treated, stored, or disposed of by type of management
- For generators, a list of the wastes generated, including their origin
- Inspection reports, including photographs, from previous state or Regional inspections
- A compliance history of the site, including a listing of any past compliance or enforcement actions, the current status of any such actions, and copies of correspondence relating to the actions
- Biennial, annual, and other reports submitted by the facility to the state or Region, including the most recent monitoring reports, where applicable
- Previous EPA studies, consultant's reports, and laboratory reports
- Citizens' complaints filed against the facility
- A detailed map or plot plan showing the facility layout and location of waste management units, and any available sketches or drawings of the waste management units
- Records of any phone conversations with facility representatives
- The letter of notification of inspection sent to the facility and any response (if the facility has been notified)
- The facility's RCRA Notification Form
- The facility's RCRA Part A Permit application (for TSDFs)
- The facility's RCRA Part B Permit application (for certain TSDFs)
- The facility's final RCRA permit (for certain TSDFs).

2.5 Reviewing Applicable Regulations

Inspectors should obtain and review all federal and state regulations governing operations of a facility that is to be inspected. In most cases, inspectors will be able to determine which regulations apply to a facility, based on information in the facility file. In some cases, they will need to contact an attorney or other enforcement personnel for assistance.

It is important that inspectors use the most current versions of regulations when reviewing applicable standards. Federal RCRA standards are published in their entirety annually in Title 40 of the Code of Federal Regulations. Amendments to the federal standards promulgated periodically during the year are published in the Federal Register, which is published daily. Inspectors can obtain copies of new or recently promulgated regulations from their enforcement office or from the Regional or state legal counsel. Information on recently published amendments, and answers to questions regarding the RCRA standards, can be obtained from the RCRA-Superfund Industry Assistance Hotline at the following number:

RCRA /SUPERFUND INDUSTRY ASSISTANCE HOTLINE
1-800-424-9346

Approaches for keeping up with the changes in RCRA regulations and obtaining recent amendments to federal standards are discussed in detail in Appendix I of this Manual.

Inspectors should be aware that changes in regulations, which may have occurred following a previous inspection of a facility, may change the compliance status of that facility. Activities which may previously have been consistent with applicable standards may not meet current standards. Thus, the results of previous inspections, usually recorded on checklists, should be critically reviewed in light of any known regulatory changes.

Inspectors should understand, to the extent possible, the intent underlying and interpretation of applicable standards, so as to evaluate situations that may require refined knowledge of the standards and to answer as fully as possible facility representatives' questions regarding the regulations. If inspectors have questions concerning regulatory intent or interpretation, they can obtain answers through:

- Discussion of the regulation with other inspection personnel, a supervisor, or compliance personnel
- Discussion of the regulation with Office of Regional Counsel or Headquarters personnel

- Review of the preamble material that accompanies regulations published in the Federal Register

- Review of policy or technical guidance—RCRA/Superfund Industry Assistance Hotline can identify specific applicable guidance available from EPA.

In general, the first of these alternatives is the most efficient, as it allows inspectors to answer questions without obtaining and reviewing a large volume of material.

Some state and Regional offices have developed a process for institutionalizing the development of specialized regulatory expertise among inspection staff to allow for expedient in-house response to questions. This approach divides responsibility for maintaining current knowledge of RCRA standards among the inspection staff by subject area (e.g., landfills, incinerators). For their respective subject areas, the inspection personnel are required to understand the interpretation and intent of existing regulations, and to track and understand changes to the regulations as they are made. **Even where such a system is in place, inspectors with specialized regulatory expertise should be aware of all regulatory changes and review the applicable material before conducting an inspection.**

2.6 Developing Facility-Specific Inspection Plans and Checklists

Once inspectors have determined the scope of an inspection, discussed the inspection with relevant personnel, and reviewed all background information and standards relevant to the facility, they should prepare a brief plan for inspecting the facility.

Generally, an inspection plan does not need to be elaborate or formal, or conform to any particular format (unless the Region or state has specific inspection plan requirements); rather, the plan should be prepared in accordance with the preferences of the individual inspector in a way that will make it most useful to her or him. The inspection plan is usually used only by the inspector to help organize his or her thoughts on the inspection and prepare an inspection strategy.

As a general rule, in preparing inspection plans, inspectors should:

- Outline the steps they will take once on-site
- Highlight any particular questions the inspection should address.

Inspectors should consider the following issues in preparing an inspection plan:

- **Should they notify the facility prior to the inspection or will inspection objectives best be met by performing a "surprise" inspection?**
- **How should they proceed upon entry to the facility? Should they conduct an opening conference to discuss the purpose of the inspection with facility representatives immediately upon entry, or first proceed with a visual inspection of certain operations or units at the facility (before the owner/operator may have time to stop or conceal possible violations)?**
- **When should they conduct an opening conference, if at all? What topics should they discuss with facility representatives during an opening conference?**
- **What facility records should they focus on, as suggested by their facility file review and any enforcement actions being undertaken?**
- **What route through the facility, or order of inspection, should they follow? To what should they pay particular attention during the inspection of individual units (e.g., compliance with requirements of an enforcement action)?**
- **What hazardous wastes may they encounter? With what safety equipment, safety guidance and practices (e.g., OSHA), and facility-specific safety regulations (if the facility is being notified of the inspection) should they become familiar?**

Approaches to conducting an inspection are discussed in Chapter 4 below, which provides details on performing the activities listed above.

As part of the planning process, inspectors should determine which checklists to use, if any, for assessing facility compliance with RCRA standards. Sample checklists are provided in Appendix IV of this Manual; inspectors may use these checklists, or checklists which have been developed for their use by their Regional office or state agency, to the extent they prove helpful. Inspectors should review checklists while planning for an inspection to familiarize themselves with the information required, and update the checklists to reflect requirements of enforcement orders, amendments to regulations, or state-specific standards. When inspecting permitted facilities, inspectors should develop facility-specific checklists that address permit requirements. Preparing for the inspection of permitted facilities is discussed in Chapter 3 of the Manual.

Notifying a Facility

Notifying a facility prior to an inspection may or may not be appropriate, depending upon the following factors:

- The purpose of the inspection and inspection strategy
- Regional or state policy concerning notification
- Whether an inspector suspects that a facility is engaged in illegal dumping or other illegal (particularly criminal) activities
- The length of time the inspection is expected to require. Long inspections of complex facilities may require a substantial amount of facility workers' time. It may be desirable to schedule long inspections with the facility to insure that facility staff are available, unless the purpose of the inspection requires surprise.

For example, depending on Regional or state policy, it may be appropriate for inspectors to notify a facility of routine periodic compliance inspections when the facility is not expected to have significant violations (e.g., based on past inspections) and an inspector needs to speak with specific facility personnel. Generally, it will not be appropriate to notify facilities in advance of inspections if violations are known or suspected to exist, where the purpose of the inspection is to support a specific enforcement action, or where a "cover-up" is anticipated. Inspectors should consult with their supervisors and responsible compliance officers or attorneys if they have questions concerning whether to notify a facility of an inspection.

Possible Methods of Facility Notification

- An annual notification letter which establishes the authority for inspections without specifying an inspection date
- A specific inspection letter sent out a month prior to an inspection as to inform the facility that an inspection will be conducted within a month
- An advance phone call to a facility to notify its staff of the inspection date, making appointments to see particular personnel.

These methods may be used alone, or in combination, as required. Inspectors should always, when notifying a facility, identify themselves and the organization or agency they represent.

2.7 Identifying Inspection Equipment

Inspectors will select equipment to take into the field depending on the kind of inspection they plan to perform and the type of facility that will be inspected. Inspectors should use their knowledge of the facility, understanding of inspection objectives, training, and experience to decide which equipment is necessary for a particular inspection. Inspectors may wish to consult with other inspection personnel or their supervisor to determine equipment requirements. They should also consider Regional or state policies and conditions when selecting equipment during inspection planning.

Exhibit 2-3 below is a list of equipment that is commonly used in performing inspections. Inspectors may not need all of the equipment listed for every inspection; on the other hand, they may need equipment not specified on the list for some inspections. The list is divided into four categories of equipment: general equipment, safety equipment, sampling equipment, and paperwork.

Determining Health and Safety Requirements

Although routine inspections generally do not involve activities in which inspectors must physically contact hazardous wastes (except inspections involving sampling, during which incidental contact with wastes may occur), **there is always the potential for inspectors to be exposed to hazardous wastes or substances during the course of an inspection**. Therefore, in planning an inspection, inspectors should:

- Determine the nature of the chemical hazards that may be encountered during the inspection (based on the types of materials handled on-site)
- Identify and obtain proper safety equipment
- Become familiar with the proper use of safety equipment, check equipment to ensure proper functioning, and perform necessary maintenance on the equipment (if appropriate and within the technical abilities of the inspector)
- Obtain and become familiar with all applicable safety guidance and practices—information on EPA directives on safety and health, and on Occupational Safety and Health Administration (OSHA) standards for hazardous waste facilities, is provided in Section 1.5 above
- Determine any facility-specific safety requirements by contacting the facility (only in cases where the facility is being notified of the inspection) or by reviewing previous inspection notebooks.

As noted above, the inspection equipment list in Exhibit 2-3 cites health and safety equipment that may typically be required in performing routine compliance inspections. In many cases, facilities may require that an inspector have standard safety equipment listed on the checklist. Inspectors should use Exhibit 2-3, in conjunction with information about the chemical hazards at the facility and applicable EPA guidance and OSHA requirements, to select appropriate health and safety equipment for performing an inspection.

Exhibit 2-3
List of Inspection Equipment

GENERAL EQUIPMENT

- Camera, film, and flash equipment
- Pocket calculator
- Tape measure
- Clipboard
- Waterproof pens, pencils, and markers
- Locking briefcase
- "Confidential Business Information" stamp (if needed)
- Stamp pad
- Envelopes pre-addressed to Document Control Officer (for CBI)
- Plain envelopes
- Polyethylene bags
- Disposable towels or rags
- Flashlight and batteries
- Pocket knife
- Pocket tape recorder
- Level
- Range finder/optical tape measure
- Compass
- Stopwatch
- Wind meter or Admiral Beaufort wind scale
- Square
- Ruler (for use as scale in photos)

SAFETY EQUIPMENT

- Safety glasses or goggles
- Face shield
- Ear plugs
- Coveralls, long-sleeved
- Hard hat
- Plastic shoe covers (disposable)
- Rubber-soled, metal-toed, non-skid shoes
- Liquid-proof gloves (disposable if possible)
- Long rubber apron
- Respirators and cartridges
- Self-contained breathing apparatus

PAPERWORK

- Proper identification
- Copy of facility's inspection file, permit, and monitoring schedule, including:
  - Maps
  - Photographs
  - History of enforcement actions
- Notebook
- Notice of inspection (if applicable)
- Chain of custody record
- Relevant checklists
- Code of Federal Regulations or applicable state code
- EPA Regional or state forms for:
  - Inspection confidentiality notice
  - Enforcement actions notice
  - Declaration of confidential business information
  - Receipts for documents and samples
- Field data sheets

SAMPLING EQUIPMENT

- Bucket auger
- Bucket
- Containers
  - Jars
  - Plastic (for metals)
  - Organic sample containers
- Bailers
- Pumps
- Conductivity meter
- Thermometer
- Dissolved oxygen meter
- Steel tape measure
- Sampling safety equipment (in addition to equip. on the Safety Equip. list above)
  - Tyvek suit
  - Booties
  - Gloves

Exhibit 2-3 (Continued)
List of Inspection Equipment

SAMPLING EQUIPMENT (continued)

- Rope
- Glass tubes
- Ice
- Scoops
- Trowels
- Bacon Bomb
- Tape
  - Labelling
  - Duct
  - Electrical

Safety Equipment (Cont'd)

- Harnesses
- Chemical resistant suit
- Organic Vapor Analyzer (OVA)

- Decontamination equipment
  - Buckets
  - Alconex
  - Brushes
  - Grate
  - Deionized water
  - Solvents for equipment cleaning
  - Steam cleaning machine
  - Plastic bags

In some cases, inspectors will have limited information about a facility, or may be inspecting an uncontrolled site. Inspectors should be prepared to encounter the worst conditions in such cases.

Inspectors should never proceed with inspections involving site conditions for which they are not prepared and do not have the proper safety equipment.

2.8 Completing a Pre-Inspection Worksheet

A pre-inspection worksheet, set forth in Exhibit 2-4, can serve as:

- An internal check on performance of all necessary pre-inspection activities
- A planning tool to enable the inspector to perform pre-inspection activities more effectively.

Exhibit 2-4 is designed to insure that, at a minimum, inspectors have identified, assembled, and reviewed all relevant materials prior to departure for an inspection. Proper preparation for an inspection, as documented by completion of the worksheet, helps to insure that the inspection will be performed efficiently and will meet all objectives. Since Regional and state inspection needs, objectives, and procedures may vary, this worksheet is intended only as a guide and should be modified to reflect and incorporate the specific needs of each inspector. **It is strongly recommended that all inspectors use the following pre-inspection worksheet or a modified version.**

Exhibit 2-4
Pre-Inspection Worksheet

TASK COMPLETED	DESCRIPTION OF ACTIVITY
	Contact/Coordinate with other offices and agencies -- -- --
	Complete/verify the general information section of the inspection report
	Identify and Obtain All Relevant Information:
	Manifest history
	Notification form
	Part A permit application
	Previous inspection reports
	Correspondence
	Part B permit application (if available)
	Annual reports
	Final Part B permit (if available)
	Enforcement documents
	Other
	Assemble Inspection Package:
	Notification form
	Part A permit application
	Previous inspection reports
	Waste generation and characterization information
	Information from air and water pollution control agencies or offices
	Inspection checklists
	Copies of state statutes and regulations or Federal laws and regulations
	General inspection equipment (e.g., camera and film)
	Safety equipment
	Paperwork
	Agency identification card
	Sampling equipment (if necessary)
	Other
	Scheduling the Investigation:
	Letters of intent to visit/inspect
	Establish date(s) of the inspection
	Follow-up telephone call to confirm date(s) of the inspection and to request that additional information be made available at time of inspection
	Complete inspection plan
	Notify interested agencies of EPA staff schedule
	Other

2.9 Summary

Adequate preparation for an inspection is an essential ingredient for fulfilling inspection objectives, regardless of the type of inspection being performed.

In this chapter, inspectors have been presented with information and approaches that should assist them in their preparations. These are only suggestions but inspectors are strongly advised to at least consider the material here and adopt portions of it for their own use.

Key Steps in Preparation

- Define the inspection's scope
- Coordinate the inspection with all interested offices
- Review existing files on the facility to be inspected
- Develop an up-to-date inspection file
- Review all applicable regulations, enforcement documents, and permits
- Prepare a facility-specific inspection plan
- Identify and obtain all necessary inspection equipment
- Complete a pre-inspection worksheet.

Once inspectors have completed the above steps, they will be ready to conduct an effective inspection.

3.0 Developing Permit-Specific TSDF Inspection Plans

SECTION **PAGE**

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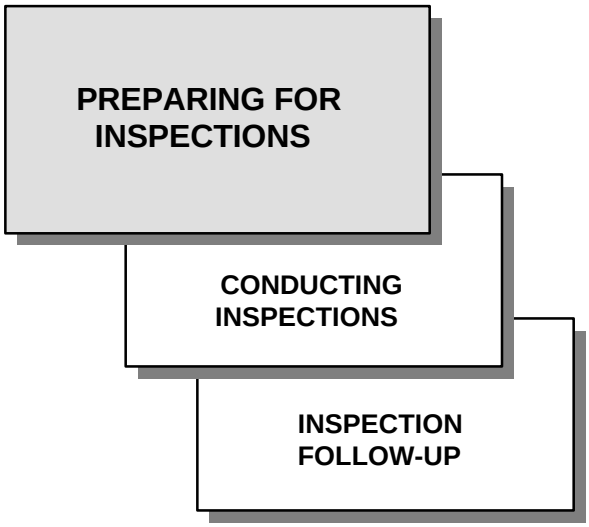

3.1 Introduction

This chapter describes methods for **developing site-specific inspection plans and checklists for permitted facilities. Generic checklists will generally not provide much assistance.** Such checklists, which cover the various 40 CFR Part 265 requirements, are useful for conducting interim status inspections. Generic checklists are also "efficient" in that they are equally applicable to all facilities, but facility-specific conditions (e.g., those imposed through orders and consent decrees) will often require that a generic checklist be supplemented in some manner.

A site-specific checklist can guide less experienced inspectors through a facility and serve as a reminder to more experienced inspectors. While creating site-specific inspection plans may seem to be inefficient, especially given the length of a permit and its associated attachments, developing such inspection plans offers several advantages to the compliance and enforcement program. Among these advantages are the opportunity for inspectors to immerse themselves in a facility's operations and understand the relationship of those operations to subsequent permit conditions. The fact that permit conditions are site-specific forces inspectors to understand facilities in greater detail than might otherwise be necessary. This, in turn, should result in more thorough inspections.

The cost of inspection planning for permitted facilities will be greater than that associated with the inspection of interim status facilities. The mere size of RCRA permits attests to the potential magnitude of the permitted facility inspection effort. An experienced inspection staff will help reduce this cost. The graduation of facilities from interim to permitted status also puts a premium on retaining experienced staff.

Alternative Approaches to Permit-Specific Inspection Plans

This chapter does not endorse any single approach to developing facility-specific inspection plans. Two "models" for developing facility-specific plans are presented below; inspectors and their supervisors may choose either model or combine them in some manner:

- ***Checklist:*** **This approach involves developing a checklist similar to that used for interim status inspections but based on permit information rather than 40 CFR Part 265. Inspectors need to review permit files, identify those conditions that can be inspected readily, and use this information as a basis for developing a checklist. A checklist can be inclusive of all conditions, or focus on specific conditions. An all-inclusive checklist may be designed to be used for all subsequent inspections, whereas a focused checklist may only be useful for a single case development inspection. Alternatively, the all-inclusive checklist can comprise several sections (e.g., the waste analysis plan action) that may be selected for use when a focused inspection is necessary.**

- ***Permit Information Summary Sheets:*** **The information summary sheets model differs from the checklist model in that it provides inspectors with only the most basic facility information and a list of key points or concerns that need to be covered during the inspection (e.g., concerns about possible releases from one of the facility's units, or past compliance problems). The summary sheets may describe the number of facility units, both regulated and non-regulated, their status (operational, closing, closed) and waste generation and handling. Since the summary sheets provide only limited information, inspectors will need to become familiar with a site through some means such as review of records. One disadvantage of using an information summary sheet is that the facility inspection probably will not allow for verification of a facility's compliance with every aspect of its permit. Use of a summary sheet requires the exercise of greater judgment on the part of inspectors, and may be inappropriate for less experienced ones. Despite these shortcomings, the summary sheets still represent an attractive alternative, as inspectors can concentrate their efforts on: 1) assembling a detailed and exact list of concerns upon which an inspection will be based, and 2) applying their knowledge and experience in investigating each of the identified concerns.**

In choosing either approach, inspectors and their supervisors should consider several factors:

- The purpose of the inspection
- The complexity of the facility
- The experience of an inspector.

In any case, the selected technique should be geared towards making the goals of the inspection more attainable.

Assembling Pertinent Materials

As discussed in Chapter 2 above, inspectors must identify and make use of all information sources in developing a protocol. Perhaps the best sources of information are other agency/state officials familiar with a particular facility. They may assist in determining the major areas of interest at the facility, such as potential release points and past compliance problems. In addition, these officials should be able to assist inspectors in determining whether documents in addition to those contained in a permit may be useful in developing a complete picture of a facility.

Other information sources include:

(1) **A Facility's RCRA Permit and Permit Application** — The permit contains most of the site-specific conditions and requirements that a facility must meet to be in compliance. If conditions of the facility permit are found to be inconsistent with the regulations, the permit may serve as a shield for the facility. The content of a facility permit takes precedence over any language contained in a facility's Part A or Part B permit application.

The RCRA permit is generally composed of a series of modules containing each of the following:

- A general facility description
- Standard conditions
- General facility conditions
- Unit-specific conditions and requirements
- Detection monitoring requirements
- Compliance monitoring requirements
- Corrective action for regulated units
- HSWA corrective action for solid waste management units
- Post-closure requirements.

In general, these modules closely track the regulations, but a variety of styles may be encountered. For example, some permits may have all inspection requirements, or all reporting requirements, cited in one place. A different format may also result when state requirements extend beyond the federal RCRA requirements. Inspectors are encouraged to discuss the contents of a permit with the permit writer prior to file review.

In reviewing the body of a permit, inspectors will find that numerous references are made to the permittee's RCRA Part B permit application, and that specific portions of the application are incorporated by reference. **Inspectors should be aware that the descriptions, procedures, and protocols that are referenced in this manner are enforceable permit conditions**. This means that an inspector cannot rely solely on the main body of the permit, but must also consult the referenced attachments. Inspectors should note that the public hearing process, prior to permit issuance, may result in changes being made to the submitted information. These changes are documented as part of the permit's administrative record.

In some cases, inspectors will find that **facilities have been issued more than one RCRA permit.** These permits may have been written at different times and may regulate different units at the facility. It is also possible that one permit was issued by a state authority and another by EPA. These situations arise if states lack the authority to impose certain requirements, such as HSWA corrective action requirements. In such cases, the EPA-issued permit will cover only the HSWA requirements. Nonetheless, the facility will have to meet both state and federal requirements. Federal inspectors may coordinate with state inspectors in conducting a complete review of the facility. Alternatively, federal inspectors can focus their attention on the federal requirements, leaving state inspectors to assess facility compliance with state requirements.

(2) **Orders and Consent Decrees** — Any orders or consent decrees issued to a facility will be important to inspectors since they contain specific provisions with which the facility must comply. **Where inconsistencies arise between a permit and an order/consent decree, the order/consent decree will take precedence.**

(3) **RCRA Regulations** — Although, in some instances, permits will not reflect new regulations promulgated since the permit's original issuance, the facility still needs to comply with these requirements. Indeed, EPA has determined that many regulations are self-implementing and do not require specific permit language to be enforceable. Specific examples include the land disposal bans, double liner requirements for surface impoundments, and the prohibition of liquids in landfills. In addition, as new wastes are listed as hazardous, or new

characteristics are promulgated, additional wastes at a facility may be deemed hazardous. By knowing a facility's production processes, inspectors may be able to identify additional requirements with which the facility will need to comply.

3.2 Developing An Inspection Protocol

This section presents guidelines for developing an **inspection protocol**. In addition, it provides a series of examples of how an inspector may consider permit conditions in developing a protocol. This section is divided into four separate subsections addressing: 1) general guidelines, 2) overall site orientation, 3) releases, and 4) "other" permit conditions.

General Guidelines

Inspectors must follow a **consistent and logical strategy** for developing inspection procedures to be followed at a particular facility. The strategy should focus on the specific purpose of the inspection at hand, and be sensitive to the fact that inspectors have a limited amount of time to prepare for and actually conduct inspections. Depending on time constraints, inspectors may not be able to verify a facility's compliance with every applicable regulatory provision (e.g., measurement of aisle space). As a result, inspection priorities may need to be set. In other instances, inspectors may have time to conduct a detailed review of all applicable requirements.

A checklist is one tool for conducting an inspection; complete reliance on a checklist as a means of preparing/conducting inspections is not recommended. Inspectors have to make individual judgments about the value of checklists.

Information protocols should be developed in accordance with the following basic principles:

- Where possible, questions should be phrased to allow for a "yes" or "no" answer, with affirmative answers being indicative of good/compliant conditions. This allows reviewers to easily focus on problem areas.

- Questions should be as specific as possible. Ambiguity in checklist language may cause problems in making final compliance determinations. Questions with multiple components should be avoided so that "no" answers refer to a single specific provision or requirement.

While developing an inspection protocol, inspectors should review the final RCRA permit and any pertinent attachments to that permit. A draft permit may exclude pertinent changes to the permit conditions.

Overall Site Orientation

This subsection discusses the development of a general site orientation based on information contained in a permit. **Inspectors should not visit a site without first understanding the general site settings.** Inspectors must understand a facility's layout and general operation to:

- Establish credibility in the opening conference
- Conduct an organized walk-through of the facility

- Ensure that appropriate safety precautions are taken
- Sharpen the focus of the compliance review.

Inspectors should review all relevant documents to develop a fact sheet on general operational characteristics of a facility. The fact sheet should contain the following:

Suggested Fact Sheet Contents

- **A description of the facility's physical boundaries**
- **The types and locations of waste management units that are covered by the permit**
- **The status of each permitted unit (e.g., under construction, under corrective action, operational, being closed, closed)**
- **Ground-water monitoring well locations**
- **A description of the processes that generate wastes**
- **A description of the types and characteristics of wastes being stored, treated, or disposed in the waste management units.**

Obtaining a **facility map** may be the most important action inspectors can take prior to a site visit. A correctly-prepared map should detail a site, inclusive of labels identifying regulated units, non-regulated units, and ground-water monitoring well locations. Exhibit 3-1 contains an example of a correctly-prepared map. The information that inspectors can obtain from a map when developing a checklist or information sheet include:

- The facility's physical boundaries
- Location and number of each type of waste management unit
- Location of ground-water monitoring wells.

Often, a permit may reflect waste management units that are proposed or still under construction, as illustrated in Exhibit 3-1. Using a map as a guide, inspectors can determine unit operational status during site visits.

Exhibit 3-1
Map of ABC Manufacturing Facility

[This map is not available electronically.]

The map of a facility may not distinguish permitted units from unpermitted ones. Inspectors should be able to make this distinction by using information found in the initial pages of a permit.

EXAMPLE

The container section of ABC Manufacturing's permit reads as follows:

Conditions Related Solely to Storage in Containers

1. The permittee is authorized to store the following maximum quantities of hazardous waste at the specified locations:

   - B-10 Storage Area — 11,000 gallons
   - T-559 Storage Building — 5,280 gallons
   - B-96 Road Storage Area — 6,380 gallons.

If a map of the ABC Manufacturing facility, with corresponding location codes (e.g., B-10 Storage Area), is available, inspectors should be able to develop questions directed at verifying certain permit conditions that focus on the general site orientation. For example:

> Are any wastes being stored in containers in locations other than the three specified in the permit? ____ Yes ____ No

For purposes of developing a general site orientation, inspectors need not produce a detailed protocol that lists all of the requirements of a permit. The following are examples of the requirements that can be disregarded for these purposes:

- Cracks larger than one-inch deep and one quarter-inch wide must be repaired within 24 hours of discovery

- Four feet of aisle space is required between rows of containers.

If experienced inspectors performing an inspection would detect such a crack, measure the crack's length and depth and, after the inspection, consult the facility's permit to learn if the condition requires maintenance.

In developing a general site orientation, inspectors should review a facility's permit(s) to gain insight into process operations and wastes generated at the facility.

EXAMPLE

ABC Manufacturing's permit contains the following information:

GENERAL DESCRIPTION OF HAZARDOUS WASTE

Wastewater Treatment Sludge

This waste is a sludge which results from the treatment of process rinse waters (including some electroplating wastewater) and spent process solutions. This waste is stored in surface impoundments. ABC Manufacturing has submitted a delisting petition to the Bureau of Pollution Control for this waste. This petition was submitted April 7, 1986.

DESCRIPTION OF HAZARDOUS WASTE

WastewaterTreatment Sludge

EPA Waste Number: F006 (Wastewater Treatment Sludges from Electroplating Operations)

General Description: This material is a black sludge as collected in the surface impoundments. It dries to a light to medium brown color.

Composition of the material:

Chromium	0.1-1.0%
Chromium (VI)	ND
Nickel	0.2-1.7%
Zinc	1-2%
Iron	509%
Aluminum	1-1.5%

The remainder of the sludge consists of excess lime, neutralization byproducts such as gypsum, dirt, grit, and other insolubles from the manufacturing process.

This permit information should trigger questions such as:

- Does the waste match the general description?
- Is the electroplating sludge the only waste being discharged to the surface impoundment? ____ Yes ____ No

In this instance, an inspector using an information sheet may only need to note the type of waste stored in the surface impoundment and the visual characteristics. He or she can then call the Bureau of Pollution Control to determine the status of the waste and maybe verify additional ABC Manufacturing facility information not covered in the RCRA permit. During the site visit, the inspector can identify the process generating the waste, other wastes that may be entering the impoundment, waste transportation handling procedures, and other visual signs that signify a problem.

For some industries, inspectors must carefully examine the process flow diagrams due to the unit-specific nature of the waste listing.

EXAMPLE

In reviewing the information from a petroleum refinery, inspectors may notice that the facility does not report generating any K051 waste, although most refineries do generate K051. Examination of the process flow diagrams may reveal that this facility is using a coalescing plate separator instead of the more widely used American Petroleum Institute (API) separator. Although the sludges from both types of separators are similar in composition, only the API separator sludge is considered a listed waste.

In sum, preparation of the site orientation portion of an inspection plan allows inspectors to learn the basics about a facility so that when they perform the inspection, any obvious or serious violations can be noted. Inspectors should be alert for unpermitted units and transporter and generation activities at a mostly-permitted facility.

Releases

The inspection of potential release points must be considered when developing an inspection protocol. If an inspection does not have a specific enforcement focus, and only limited time is available for the inspection, detection of actual or potential releases is an obvious priority. In addition, discovery of releases or potential releases may lead to the inspection of additional requirements, via either permit modifications or orders, that may be imposed on the facility. RCRA Facility Assessments (RFAs) are an ideal reference tool for reviewing actual and potential release points.

Many RCRA permits contain specific provisions for identifying and mitigating releases to the environment. Many of these permit provisions reference potential releases associated with deterioration of management units.

EXAMPLE

The following language is found in ABC Manufacturing's permit:

> ***Condition of Containers.*** If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from such container to a container that is in good condition. Any leakage shall be cleaned up immediately upon detection. The Permittee shall visually inspect the containers for degradation at least weekly and shall record the results of such inspections in the operating record.

Inspectors cannot easily inspect the first permit condition. They cannot tell whether ABC Manufacturing has had problems with containers in the past. However, the second permit condition, the weekly inspections, may aid in this determination.

Among questions that an inspector should ask related to ABC Manufacturing's permit and that are appropriate for inclusion on a checklist are the following:

Is ABC Manufacturing's container storage area presently free of spills? cracks?
____ Yes ____ No

Do records indicate containers are inspected at least weekly?
____ Yes ____ No

According to records, has ABC Manufacturing's facility been free of spills? cracks?
____ Yes ____ No

Note: Questions have been purposely worded so that any problems would be indicated with a negative response.

Warning signals of a release or potential release from various units include:

- Rusty or deformed containers
- Poorly stacked drums
- Puddles around units
- Leaking valves on tank
- Strong odors from encapsulated units
- Dead vegetation

- Erosion
- Dusty conditions around piles
- Any other indication that the unit is not containing the waste or is poorly managed.

Often, a determination of compliance with permit conditions cannot be made through a simple visual inspection. The following example relating to the ABC Manufacturing facility permit illustrates how inspectors may develop questions from permit conditions that are designed to address the above mentioned problem.

EXAMPLE

PERMIT CONDITIONS	INSPECTION QUESTIONS
"Pump all liquids out of the leachate collection and removal systems immediately after the Permittee determines liquids are present. "All liquids" means pumping out liquid so that only one inch remains in the collection sytem. Any leachate collection and removal system which generates more than 20 gallons of liquid in any calendar day shall immediately cease accepting wastes into the regulated unit. The Permittee must notify the Director in writing any time this criteria is exceeded. The Permittee is required to cease discharge of hazardous wastes into any surface impoundment and immediately implement emergency procedures whenever the level of liquids in the surface impoundment suddenly drops, and the drop is not known to be caused by changes in the flow into or out of the surface impoundment from normal operation."	Does the facility maintain daily records of daily leachate quantities collected? ____ Yes ____ No Do records indicate the facility has not exceeded releases of 20 gallons per day, every day? ____ Yes ____ No If not, did the Director receive notification of this event? ____ Yes ____ No Does the facility keep records of the liquid level in the surface impoundment? ____ Yes ____ No Does the facility maintain records of "normal" flows in and out of the unit? ____ Yes ____ No Do records indicate a sudden drop in liquid level? ____ Yes ____ No

In certain circumstances, inspectors cannot evaluate whether a release has occurred unless some type of background levels or other criteria are provided.

EXAMPLE

ABC Manufacturing's permit provides as follows:

Corrective Action Requirements

As required in 40 CFR 264.100(a) and 264.101, the Permittee shall conduct corrective action whenever the concentrations of the following hazardous constituents in ground-water are in excess of the concentration limits listed below along the points of compliance (the [downgradient] boundary of each solid waste management unit).

Constituent	***Concentration Limit***	***Constituent***
Creosote	**Presence or absence**	**Background**
Cresols (total of o,m, & p-cresol)	**1750 µg/l**	**ACL**
Naphthalene	**MDL**	**Background**
Pentachlorophenol	**0.20 mg/l**	**ACL**
Phenol	**3.5 mg/l**	**ACL**
Fluoranthene	**0.21 mg/l**	**ACL**
Chrysene	**MDL**	**Background**
2,4-Dimethylphenol	**MDL**	**Background**
2,3,4,6-Tetrachlorophenol	**350 µg/l**	**AC1**

The ground-water concentration limits can be perfect inspection criteria, provided ABC Manufacturing is regularly analyzing the ground-water, as required. Inspectors should bring a summary of these concentration limits or similar permit conditions to inspections so that they can readily determine whether the facility is operating within ground-water limitations. Inspectors can use the summary in conjunction with questions they have derived from the permit conditions, such as:

Do analytical procedures conform to permit conditions?
____ Yes ____ No

Is the sample being collected at the location specified in the permit?
____ Yes ____ No

Inspectors should be careful to note the units of measure (e.g., mg/l) in permit conditions and verify that a permittee is using comparable units in its analysis/reporting.

EXAMPLE

The results of the ground-water analysis mentioned in the previous example have been reported by ABC Manufacturing as follows:

Constituent	***Concentration Limit***
Creosote	**Not Detected**
Cresols (total of o,m, & fp-cresol)	**3.5 mg/l**
Naphthalene	**Not Detected**
Pentachlorophenol	**0.02 mg/l**
Phenol	**2.1 mg/l**
Fluoranthene	**Not Detected**
Chrysene	**Not Detected**
2,4-Dimethylphenol	**Not Detected**
2,3,4,6-Tetrachlorophenol	**29 mg/l**

At first glance, it could appear to an inspector that ABC Manufacturing's facility is in compliance with permit requirements, but a careful examination of the units of measure may reveal that 2,3,4,6-tetrachlorophenol is significantly above the permitted limit. This could happen because units specified in the permit are different from the units specified in the analytical results. The inspector may discover a lack of specified units for ground-water pollutant limitations. **Inspectors must pay close attention to this level of detail.**

Other Permit Conditions

As discussed previously, an inspection checklist can cover any or all permit conditions. This subsection provides examples of how to construct checklist questions that inspectors may find valuable through reference to permit conditions, and explains how each question may be useful to a compliance determination. While the intention of an inspection is to assist in a noncompliance determination, it is not expected that the inspection will necessarily result in such a determination without further investigation.

Three examples are provided, covering permit conditions in the following areas: waste analysis plan, unit-specific conditions for storage tanks, surface impoundments, and corrective action.

EXAMPLE

Waste Analysis Plan

All TSD facilities are required to submit a waste analysis plan as part of a Part B permit application that, when approved, becomes part of a facility's permit conditions. The plan characterizes hazardous wastes generated or handled by the facility, and outlines sampling procedures, analytical methods, constituents of concern, and reporting requirements.

Inspectors may learn from discussions with a permit writer/enforcement official that sampling and analysis problems consistently arose during ABC Manufacturing facility's interim status. The permit writer/enforcement official also found that the personnel conducting the tests, as well as the equipment used to conduct the tests, created persistent problems. As a result, the permit writer inserted permit conditions into ABC Manufacturing's waste analysis plan. These are noted below in Exhibit 3-2, along with sample checklist questions that could be derived from the permit conditions.

With reference to Exhibit 3-2, if Bill Jones and Julia Smith remain as ABC Manufacturing's chemists, their degrees have been previously verified and the correct response to questions 1 and 2 is "yes". Otherwise, inspectors should review the degrees of current personnel.

While affirmative responses suggest compliance with this condition, the fact that employees hold chemistry degrees does not necessarily indicate that they follow good sampling/analytical practices. As suggested in Exhibit 3-2, inspectors can fashion additional questions from the permit conditions to check on these issues.

However, the "as necessary" clause regarding AAS and the Graphite furnace cannot be verified easily. Similarly, whereas the laboratory's annual participation in the NPDES Quality Assurance Program may be verified, the fact that ABC Manufacturing uses QA/QC procedures "very similar" to those which appear in SW-846 does not allow for easy inspection.

The answers to the indicated questions may serve as rough indications of the adequacy of the facility's waste analysis plan. However, despite compliance with all of these conditions, that plan may still be inadequate. For example, the balances may have needed servicing earlier than the routine 6-month period.

Exhibit 3-2
Waste Analysis Plan
Permit Conditions and Inspection Questions

PERMIT CONDITIONS	INSPECTION QUESTIONS
SAMPLING PERSONNEL The samples are taken under the direction of the Plant Environmental Chemist, who will keep a log of the sample and field notes (if any) in a bound notebook. Samples are labeled and numbered, then submitted to the laboratory with a sample request form. (The Environmental Chemist will have a Bachelor of Science Degree in Chemistry. Present Environmental Chemist is Bill Jones, III, who has a B.S. degree in chemistry from the State University, plus 7 years experience.)	1. Does the Plant Environmental Chemist have a BS or advanced degree in chemistry? ____ Yes ____ No
LABORATORY PERSONNEL All samples are submitted to ABC Manufacturing's Smalltown Plant Analytical Laboratory. All analyses are performed under the direction of the Plant Chemist whose requirements include a Bachelor of Science Degree in Chemistry. (This position is currently held by Julia Smith, who has a Bachelor of Science degree in Chemistry from State College, plus 7 years experience.)	2. Does the Plant Chemist have a BS degree in Chemistry? ____ Yes ____ No
ANALYTICAL EQUIPMENT The equipment used for the analyses performed for the Waste Analysis Plan is as follows: Atomic Absorption Spectrophotometer - Perkin Elmer Zeeman 303 Model with HGA600 Perkin Elmer Graphite Furnace. Printer - Perkin Elmer PR-100. pH Meter - Fisher Accumet Model 325 or equivalent. Balances - Various to cover weights from 0.0001 g up.	3. Does the facility have all the equipment required to run the analyses performed for the waste analysis plan: • Perkin Elmer Zeeman 3030 Model Atomic Absorption Spectrophotometer with HGA600 Perkin Elmer Graphite Furnace? ____ Yes ____ No • Perkin Elmer PR-100 printer? ____ Yes ____ No • Fisher Accumet pH meter Model 325 or equivalent? ____ Yes ____ No • Balances to cover weights from 0.0001 g and up? ____ Yes ____ No
SERVICE AND QUALITY ASSURANCE (1) Rite Weight, Inc. - To service balances every 6 months. Includes test of scale deflection, precision, and accuracy of weight set. (2) Perkin Elmer - To service AAS and Graphite furnace as necessary. Note: Should ABC Manufacturing's laboratory, for any reason, not be able to analyze the samples, they will be preserved and sent to a contract laboratory (currently Jones Laboratory, Inc.). ABC Manufacturing's laboratory, or any laboratory at which samples are to be analyzed, will conform to a Quality Assurance Program as follows. For every analytical procedure, blanks, mid-point standards, calibration curves, and duplicate analyses are included. Quarterly reference standards are analyzed for all parameters in the Waste Analysis Plan and Ground-water Monitoring Plan. The Laboratory follows quality control and quality assurance procedures very similar to those given in SW 846, July, 1982, 2nd Edition, Section 10.4. In addition, the Laboratory must participate in EPA's annual Quality Assurance Program under the National Pollutant Discharge Elimination System (NPDES).	4. Are balances serviced every 6 months? ____ Yes ____ No

EXAMPLE

TSDF Unit-Specific Conditions

Unit-specific permit conditions were established for each regulated unit at the ABC Manufacturing facility. In developing these conditions, the permit writer considered: the minimum requirements in 40 CFR 264, site specific environmental factors, the wastes handled in the unit, and any potential problems identified at the ABC Manufacturing facility. This example shows how a checklist can be developed to evaluate: 1) unit design, operation, and maintenance and 2) compliance with procedures and recordkeeping conditions. Examples of unit-specific conditions (relating to storage tanks and surface impoundments) and possible checklist questions derived from those conditions are set forth in Exhibit 3-3 below.

Visual inspection of the ABC Manufacturing storage tank should enable inspectors to answer Question 2. However, it is more subjective to determine whether the Permittee has maintained the system by replacing the filtration system "…when analytical results indicate that the system has become saturated or otherwise ineffective." In this case, inspectors will want to examine records regarding routine maintenance of the system, as well as analytical data.

ABC Manufacturing's permit mandates that surface impoundments P-12 and P-16 cannot accept wastes after November 8, 1992. If an inspection is conducted after that date, inspectors may include Question 4 in the protocol. Visual inspections may serve to determine whether waste continues to be placed in the impoundments. However, inspectors will need to review records to determine whether wastes were placed in the unit in the interim period between the inspection and November 8, 1992. In addition, inspectors should fashion questions from Section II.J and Attachment 8 of the permit to determine whether closure is proceeding on schedule.

Inspectors may also want to review whether the ABC Manufacturing facility is recording data on a daily basis; including Question 5 in the protocol will ensure that this issue is addressed. In addition, inspectors should review the data for trends and fluctuations to evaluate the need for further investigation and to assist with preparations for future inspections. Inspectors may question appropriate plan personnel about any inexplicable data points and note responses.

By examining the daily records for leachate generation, inspectors can determine weekly average leakage rates. In addition, while conducting inspection planning activities in the office, inspectors should note whether the Director had been informed of any occurrences of excess leakage and, if so, when. If inspectors discover that such an event occurred, they should include Question 7 to determine compliance.

Exhibit 3-3
Unit-Specific Permit Conditions and Inspection Questions

PERMIT CONDITIONS	INSPECTION QUESTIONS
STORAGE TANKS	
The permittee shall install an activated carbon filtration system on the vents of the 3010 tanks. A manifold system may be used to connect the vents from each of the tanks to treat vapors from all of the tanks with a single filter. The activated carbon filtration system shall be either a Calgon VentSorb or Calgon High Flow VentSorb Canister system. The Permittee shall replace the activuated carbon filtration system in accordance withh manufacturer's recommendations or when analytical results indicate that the system has become saturated or otherwise ineffective.	1. Has the facility installed either a Calgon Vensorb High Flow Ventsorb Canister System on the vents of the 3010 tanks?
The Permittee shall maintain at least 6 inches of freeboard (headspace) in the Laboratory Holding Tank at all times. This distance (6 inches) shall be measured downward from the bottom of the overflow drain pipe, which is indicated as Item 2 in Attachment __. The Permittee shall set the liquid level switch alarm system to be activated so that the specific freeboard (headspace) limit is not exceeded.	2. Does the Permittee maintain at least 6 inches of freeboard in the laboatory holding tank at all times? _____ Yes _____ No 3. Is the switch and alarm system set and activated to ensure that this limit is not exceeded? _____ Yes _____ No
SURFACE IMPOUNDMENTS	
This permit condition defines the five evaporation impoundment units at the facility and specifies that units P-12 and P-16 will be removed from service by November 8, 1992. The liner systems of units P-12 and P-16 do not meet the requirements of the minimum technology standards (Section 3004(o) of HSWA). The Permittee did not apply for a waiver of the requirement to retrofit these impoundments to meet the minmum technology standards. Consequently, these units cannot receive waste after November 8, 1992 and closure of these units must proceed on the scheduled specified in Section II.J. and Attachment 8 of this permit.	4. Are units P-12 and P-16 continuing to receive wastes? _____ Yes _____No
"The Permittee shall monitor for and record on a daily basis the presence and volume of liquids in the leachate detection, collection, and removal system sumps during the active life of the units (including the closure period), and at least weekly during the post-closure period."	5. Has the Permittee monitored and recorded on a daily basis the presence and volume of liquids in the leachate detection, collection, and removal system sumps? _____ Yes _____ No
"The Permittee shall, within 45 calendar days of detecting an increase of treater than 50 percent aboce the preceding weekly average leakage rate, submit to the Director and the Administrator a report on the leakage."	6. Has the average leakage rate for any week ever exceeded the previous week's average by more than 50 percent? _____ Yes _____ No 7. Did the Permittee submit the required report of this event to the Director within 45 calendar days? _____ Yes _____ No

EXAMPLE

Corrective Action Conditions

Corrective action conditions may be verified on the basis of results and/or reports, such as progress reports. Certain corrective action conditions for the ABC Manufacturing facility's land disposal unit are listed in Exhibit 3-4. The permit condition identifies those constituents and associated maximum concentration limits for which the permittee must monitor to determine whether corrective action is required. Prior to an inspection, inspectors should review all available reports regarding corrective action progress and related permit modifications (or applications) to determine the current status of operations. Inspectors should inquire as to whether all constituents are measured at the listed concentration limits. Inspectors may also design questions directed at whether the appropriate statistical test was used. For example:

Does ABC Manufacturing make use of the Behrens-Fisher Student's t-test?
____ Yes ____ No

If not, did the Regional Administrator approve the use of an equivalent test?
____ Yes ____ No

In addition, inspectors may want to independently determine whether the ground-water protection standards were exceeded by applying the approved statistical technique. If this inspection is the first one after commencement of the action, the checklist questions may focus on the proper establishment and placement of pumping wells. For example:

Was a pumping well established at grid coordinates (X15, Y12)?
____ Yes ____ No

Other questions may involve compliance with reporting requirements. A more comprehensive inspection would involve sampling and analysis to independently verify the accuracy of ABC Manufacturing's reports.

By examining the daily records for leachate generation, inspectors can determine weekly average leakage rates. In addition, while conducting inspection planning activities in the office, inspectors should note whether the Director had been informed of any occurrences of excess leakage and, if so, when. If inspectors discover that such an event occurred, they should include Question 7 to determine compliance.

Exhibit 3-4
ABC Manufacturing Facility's Corrective Action Conditions

Ground-water shall be removed [at all locations] where hazardous wastes, hazardous constituents, or breakdown products have entered the ground-water from a solid waste management unit, as required under 40 CFR §264.101.

Constituent	Concentration Limit	Basis
Creosote	Presence or absence*	Background
Cresols (total of o, m & p-cresol)	1750 µg/l	ACL
Naphthalene	MDL	Background
Pentachlorophenol	0.20 mg/l	ACL
Phenol	3.5 mg/l	ACL
Fluoranthene	0.21 mg/l	ACL
Chrysene	MDL	Background
2,4-Dimethylphenol	MDL	Background
2,3,4,6-Tetrachlorophenol	350 µg/l	ACL
P-chloro-m-cresol	MDL	Background
2,4-Dichlorophenol	105 µg/l	ACL
2,4,6-Trichlorophenol	MDL	Background
Benzo (k) fluoranthene	MDL	Background
Benzo (b) fluoranthene	MDL	Background
2,4-Dinitrophenol	70 µg/l	ACL

The Permittee must use the Behrens-Fisher Student's t-test or an equivalent statistical test approved by the Regional Administrator to determine if concentrations exceed ground-water protection standards of this permit.

The analytical method and the minimum detection limit (MDL) for each constituent must be designated in all reports of analyses.

If the Permittee identifies additional Appendix VIII constituents, he shall:

a) Re-sample the affected well(s) within thirty (30) days;
b) Notify the Regional Administrator in writing within seven (7) days if the presence of additional constituents is confirmed;
c) Within sixty (60) days submit to the Regional Administrator, a determination whether there is a statistically significant increase above the background. The Behrens-Fisher Student's t-test or an equivalent statistical test approved by the Regional Administrator shall be used to determine a statistically significant increase; and
d) If a significant statistical increase is determined, the Permittee must submit to the Regional Administrator an application for a permit modification to make any appropriate changes to the program.

Corrective Action Pumping

The well at grid coordinates (X15, Y12) shown on Figure 1 shall be installed initially to extract the plume of contamination migration from the sludge pits, as required under 40 CFR §264.100(b) and §264.101. Additional extraction wells shall be installed within 180 days of determination by the Permittee or EPA that the initial extrication well system is not extracting the entire plume. The Permittee shall comply with all other state and federal laws regarding treatment and discharge of the extracted water. The well shall be pumped at a maximum well yield until Condition II.C.1 is met.

Time Period for Implementation

Under 40 CFR §264.100(c) and §264.101, the Permittee shall commence corrective action no later than twenty-four (24) months after the effective date of the permit.

The Permittee shall submit a compliance schedule progress report to the Regional Administrator describing progress on implementation of corrective action no later than fourteen (14) days from the first anniversary of the effective date of the permit.

Corrective Action Monitoring

The Permittee shall monitor the effectiveness of corrective action on ground-water quality and ground-water flow across the entire extent of the contamination plume emanating from the sludge pits, as required under 40 CFR §264.100(d) and §264.101.

The corrective action monitoring shall commence on the effective date of the permit with quarterly monitoring in wells WC-7 and WC-14 for the hazardous constituents listed in II.C.1.

3.3 Summary

- Although generic checklists may be appropriate and efficient for conducting inspections at interim status facilities, permitted facilities are subject to site-specific conditions that must be identified and inspected.

- Two models are recommended for developing permit-specific inspection plans:

  - Checklists
  - Permit summary sheets.

  Inspectors and their supervisors may choose either, or a combination of the two.

- Inspectors must assemble the materials needed for a thorough inspection of a permitted facility:

  - RCRA permit and permit application
  - Orders and consent decrees
  - RCRA regulations.

- In reviewing permits, inspectors must review all pertinent information, including other documents or the permit application when referenced in the final permit.

- Reference should be made to the procedures outlined for developing an inspection protocol. Using the permit, an inspector can focus on:

  - Overall site orientation
  - Releases
  - Other relevant conditions.

Having developed an effective protocol, inspectors will be ready to conduct an inspection.

4.0 Conducting An Inspection

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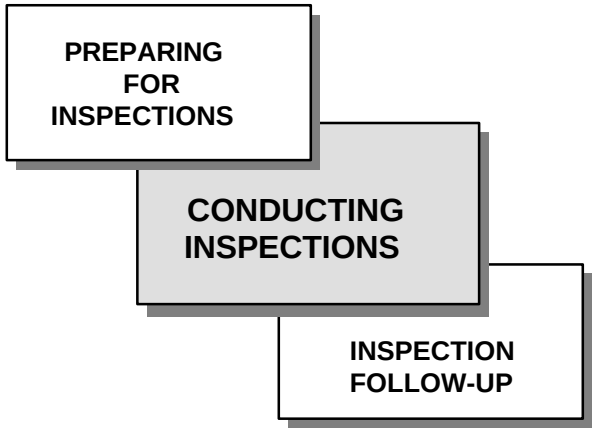


4.1 Introduction

The **authority to conduct inspections** is set forth in Section 3007(a) of RCRA and is reproduced verbatim in Exhibit 1-4 of this Manual. Section 3007(a) grants authority to inspectors to enter the premises of anyone who "generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes" and to access all records pertaining to such wastes.

The responsibilities of inspectors in conducting inspections are outlined in the statutory authority. Inspectors must:

- **Enter premises at reasonable times and complete inspections as promptly as possible**
- **Issue receipts for samples collected**
- **Provide duplicate samples**
- **Furnish owners, operators, or agents copies of any sample analyses conducted.**

In this chapter, inspectors will be provided with detailed information that will assist them in performing the following steps:

- Facility entry
- Conducting an opening discussion
- Reviewing and understanding facility operations, waste handling procedures, and records
- Visual inspections
- Documentation of observations
- Conducting a closing discussion.

4.2 Facility Entry

The **first stage of an inspection** requires advance consideration and will set the tone for the remainder of the site visit. Therefore, inspectors must make certain decisions about how they will act once on-site and how to respond to obstacles encountered.

Arrival

Inspections can be announced or unannounced, as discussed in Section 2.6 above. Regardless, inspectors should determine an appropriate time of entry. Inspections must be conducted at a reasonable time or during normal working hours. Inspections that cannot be completed before the normal close of business will continue on the next business day, unless management does not object to completing the inspection after closing time (if the time needed to complete the inspection is short). If a facility is open continuously, or if management leaves before operations stop, inspectors may continue an inspection using their own discretion. In any event, an inspection should be completed in a timely manner.

Upon arrival, inspectors should:

- Locate the proper official (owner, operator, or agent) as soon as possible and determine whether this official is authorized to offer assistance
- Present identification to the proper officials, even if it is not requested, and keep identification in sight at all times
- Document arrival in a logbook or field notebook, noting date, time, and the names and titles of facility personnel encountered.

Generally, proper identification consists of an inspector's EPA or state agency identification card and any additional identification required by EPA Regional or state policy. Inspectors should familiarize themselves with applicable Regional or state policy on identification requirements.

Inspectors may be asked on arrival to sign a log, passbook, waiver, or other form prior to entering the facility. In general, inspectors may sign logs or passbooks; they are used by facilities to keep a record of visitors to the facility and are useful in the event of a fire or other emergency.

Important:

Inspectors should **not** sign waivers or other legal documents if they limit the facility's liability in the event of an accident. Additionally, inspectors **should not sign other legal documents limiting their rights or the owner's responsibilities while the facility visit is occurring.**

Consent

The owner or agent in charge of a facility at the time of an inspection must give consent to the inspector to inspect the premises.

Inspectors should note that a consent to inspect may be withdrawn at any time. However, any segment of an inspection that is completed before such withdrawal remains valid. Withdrawal of consent is equivalent to a refused entry. In such an event, inspectors must secure a warrant to complete the inspection. Refusal of entry and use of a warrant to obtain entry are discussed in the following sections.

Inspectors may observe and report on things in **plain view** (i.e., anything that a member of the public could be in a position to observe) even without consent to site entry. This includes observations made while on private property in areas not closed to the public (e.g., matters observed while the inspector presents identification).

During an inspection, an owner/operator may try to limit an inspector's access to portions of the facility. Limiting access to portions of the facility is similar to denying access to the facility. The appropriate response to being denied access is discussed in the following sections.

Denial of Access

Inspectors may be denied access for several reasons, some of which may be valid. Inspectors can reasonably be denied access if they do not have the safety equipment required by a facility (per OSHA or NIOSH requirements). In such a case, it will generally be possible to obtain access by satisfying the owner/operator's objection (e.g., by returning on another day with the required safety equipment). Inspectors do not usually need a warrant to obtain access in such cases.

Legally indefensible actions resulting in denial of access include:

- An owner/operator refusing to allow an inspector to bring in necessary equipment (e.g., camera)
- An owner/operator refusing an inspector access to documents
- An owner/operator refusing entry due to a strike and/or plant shutdown
- An owner/operator refusing entry due to an inspector's refusal to sign a waiver or other legal document restricting the owner/operator's liabilities or obligations.

Response to Denial of Access

- Ask the reason for denial
- If the problem is beyond the inspector's authority, suggest that the official contact an attorney to obtain legal advice on his/her responsibility under §3007 of RCRA
- Do not, under any circumstances, discuss potential penalties or do anything that might be construed as threatening
- If access is still denied, fill out a "Denial of Access Report" (the format is set forth in Exhibit 4.1) (obtain the signature of the facility representative if possible)
- Leave the premises and document any observations made pertaining to the denial, particularly any suspicion of violations
- Report all aspects of denial of access to the appropriate Regional or state enforcement division to determine the appropriate action to take and to get help in obtaining a search warrant
- A federal or state enforcement division attorney should assist the inspector in preparing the documentation necessary to obtain a search warrant and in arranging for a meeting with the inspector and a U.S. or State Attorney (the inspector or attorney will bring a copy of the appropriate draft warrant and affidavits to the meeting)
- For federal inspections, the enforcement division attorney will inform the appropriate EPA Headquarters enforcement attorney or equivalent of any entry refusals and will forward copies of all papers filed
- The attorney will then secure a warrant and forward it to the inspector and/or the U.S. Marshal or equivalent state law enforcement authority.

Exhibit 4-1
Format for Denial-of-Access Report

DENIAL-OF-ACCESS REPORT

On _____ at _____ I was denied access into

_____ at _____
Location

by _____
Facility Representative's Name and Title

for the following reason(s):

List here:

1. _____

2. _____

_____
Signed/Inspector

_____
Signed/Facility Representative

The facility representative, _____ , has refused

to sign this Denial-Of-Access Report. (_____ , _____ .)

Use of Warrant to Gain Access

Inspectors should keep the following points in mind when seeking access to a facility under a **search warrant**:

- A U.S. Marshal or local law enforcement officer should accompany inspectors if the probability is high that entry will still be refused, or if the owner/operator has made threats of violence
- Inspectors should never attempt to make forceful entry into a facility
- If an owner/operator refuses entry to an inspector with a warrant and the inspector is not accompanied by a U.S. Marshal or local law enforcement officers, the inspector should leave the facility and inform an enforcement division attorney.

Conducting an Inspection Under Warrant

The procedures for **conducting an inspection under a search warrant** will differ from those for conducting an inspection under normal circumstances.

Procedures for Inspection Under Warrant

- **The inspection must be conducted in strict accordance with the warrant. If the warrant restricts the inspection to certain areas or to certain records, inspectors must comply with these restrictions.**
- **If sampling is authorized, all procedures must be carefully followed, including presentation of receipts for all samples taken. The facility should also be informed of its right to retain a portion of the samples obtained by inspectors.**
- **If records or property are authorized to be taken, inspectors must provide receipts and maintain an inventory of all items removed from the premises.**

Dealing With Threats

The receptiveness of facility officials to an inspection will vary from facility to facility. In general, most inspections proceed without difficulty. However, in some cases, facility representatives may threaten inspectors trying to obtain entry to the facility or during the course of an inspection (e.g., when trying to obtain access to a particular portion of a facility or after an inspector suggests the existence of a violation).

Inspectors should determine the appropriate course of action for managing a threat based upon the nature of the threat and the actions of facility officials. If threatened with violence, inspectors should terminate an inspection and follow procedures presented in the section entitled "Denial of Access." In such cases, inspectors should not return to the facility unless accompanied by a U.S. Marshal or local law enforcement officer. Inspectors will probably need to obtain a warrant in these cases.

If inspectors receive threats that do not involve a threat of physical harm (e.g., a threat to call the inspector's supervisor), they will not generally need to terminate the inspection, unless the owner/operator withdraws consent or denies access in addition to making a threat. In such a case, inspectors should follow the relevant procedures discussed in previous sections. They should also be certain to note the threats in their field log.

Inspectors must avoid making any statements to facility representatives that could be construed as threatening or inflammatory.

4.3 Opening Discussion

When inspectors locate proper facility authorities and present their identification, it may be appropriate to discuss their inspection plans with facility officials.

AGENDA FOR OPENING MEETING

- **Outline inspection objectives**—this will inform facility officials of the purpose and scope of the inspection and may help to avoid misunderstandings.

- **Provide management with information on RCRA**—during an initial inspection, inspectors may wish to discuss the provisions of RCRA and any new requirements that may affect the facility, as well as furnishing a copy of the Act. Acting in this manner, inspectors are regarded as sources of regulatory information and can help strengthen Agency-industry relations.

- **Establish the order of the inspection**—discussing the sequence of the inspection will eliminate wasted time by allowing officials time to make records available and to start intermittent operations.

- **Establish meeting schedules**—scheduling meetings with key personnel will avoid time wasted in waiting for people to become available. Inspectors should obtain business cards from all persons interviewed during the inspection.

- **Arrange for accompaniment by facility personnel**—during compliance inspections, it is helpful if a facility representative accompanies inspectors to explain operations and to answer questions.

- **Schedule a closing conference**—a wrap-up meeting should be scheduled with appropriate officials to provide a final opportunity to gather information, to answer questions, and to complete administrative duties.

- **Advise management of the availability of duplicate samples**—the facility has a right to request, and receive immediately, duplicates of any samples collected during the inspection for laboratory analysis, as well as copies of subsequent analysis results (if an enforcement case is not pending or being pursued).

- **Gather general information**—inspectors should obtain any necessary general information, such as the name and address of the chief executive officer of the facility.

- **Ascertain whether the owner/operator is going to claim any information as confidential business information**—an owner/operator should inform inspectors if and when information is confidential. If an owner/operator does make a claim of confidentiality, inspectors should provide the appropriate forms.

Inspectors should establish charge of an inspection during the opening discussion with the owner/operator. However, inspectors should be sensitive to the need to avoid, as much as possible, disrupting a facility's operations.

Throughout an inspection, inspectors should consider themselves to be investigative reporters searching for information that shows non-compliance with regulations. If inspectors diligently question facility personnel and observe operations, they will be able to discern inconsistencies in what they see, hear, and have previously reviewed, leading to possible findings of violations.

Inspectors must pursue inconsistencies until they are resolved. For example, if a facility is using a commercial solvent that generates a listed waste, but does not report that it is generating that waste, inspectors should determine what happens to the solvent. Questions: "Where is the solvent used in the plant?" "Is it all consumed during use?" Inspectors must then decide if the facility representative's explanation is plausible, and whether it is consistent with the inspector's observations and knowledge. **Inspectors should pursue inconsistencies until they are satisfied that they either constitute a violation or do not.**

Holding an opening discussion immediately after receiving access to a facility may not be appropriate in all cases. Depending upon the objective of an inspection, inspectors may want to see particular operations or locations in a facility prior to an opening discussion. For example, in an unannounced inspection of a facility with a suspected violation, an inspector may want to go directly to the site of the suspected violation to observe the violation before the owner/operator can stop, conceal, or otherwise obscure the non-complying operation or condition.

4.4 Operations, Waste Handling, and Record Review

Discussion of Operations and Waste Handling

Following an opening discussion, inspectors should have facility representatives describe facility operations and waste generation and management practices. In general, inspectors will have become familiar with a facility through previous review of the facility's file. Therefore, the purposes of the discussion will be to:

- Obtain a more detailed understanding of operations
- Answer any questions inspectors may have regarding waste generation, waste flow, and waste management activities
- Identify any changes in operating and/or waste management practices
- Identify and reconcile any discrepancies between the operations described by the facility representative and those described in the facility file.

During this discussion, inspectors should prepare waste information sheets (included in Appendix IV) on each waste managed at the facility.

Record Review

After discussing **facility operations and waste handling practices**, inspectors usually proceed to the **record review**. The record review provides inspectors with the opportunity to become thoroughly familiar with a facility and to formulate specific questions to be investigated during the visual inspection of the facility. However, the record review does not have to occur before the visual inspection. In some cases, inspection objectives may be best served if the visual inspection occurs before the record review, or the visual inspection may be performed first for other reasons (e.g., availability of facility personnel or weather conditions).

RCRA inspectors are responsible for reviewing all recordkeeping, as required of the owner/operator. Although no standard format is required, inspectors should check for: 1) the presence of required records or plans, 2) dates of the documents to ensure the documents are kept up-to-date and/or maintained for the required period, and 3) any suspected falsification of data.

The regulatory requirements under Parts 262, 263, 265, 266, 268, 270, and 279 mandate that the following records be maintained by regulated parties:

Records To Be Maintained By Regulated Parties

1. Generators:

- 262.34 - Job titles and personnel records, agreements with local authorities, and contingency plan.
- 262.40 - Manifests, biennial reports, exception reports, and waste analyses and test results (or other bases for determining the hazardous nature of a waste and its classification).
- 268.7 - Land disposal notification and certification.

2. Transporters:

- 263.22 - Manifests, shipping papers for bulk shipments by rail or water, and manifests for foreign shipments
- 279.46 - Tracking records for shipments of used oil.

3. Treatment, Storage, and Disposal Facilities:

- General facility standards, including the following:

  265.13 - Waste analysis plan
  265.15 - Inspection schedule
  265.16 - Job titles and personnel records
  265.51,53 - Contingency plan
  265.71-77 - Manifest system (records of manifests)
  265.73 - Operating record
  265.93 - Outline of ground-water monitoring plan
  265.94 - Ground-water monitoring record
  265.112 - Closure plan
  265.118 - Post-closure plan
  268.7 - Land disposal notification and certification
  268.19(d) - Special notification for characteristic wastes.

- Facility-specific standards, including the following:

  265.193(i) - Annual assessment for tanks
  265.196(f) - Certification of major repairs
  265.197(2) - Contingent post-closure plan
  265.279 - Land treatment, requirements for operating record and closure plan
  265.309 - Landfills, requirements for operating record, contents and organizations of cells, and closure plan
  265.440(c) - Drip pad contingency plan
  265.441(a) - Drip pad evaluation
  265.441(b) - Drip pad upgrade plan
  265.443(a) - Drip pad assessment
  265.443(b) - Drip pad waste collection system cleaning
  266.42 - Used oil analysis
  266.44 - Used oil fuel analysis

Records To Be Maintained By Regulated Parties (Continued)

3. Treatment, Storage, and Disposal Facilities: (continued)

266.100(c) - Boiler and industrial furnace exemption for metals recovery units
266.103(k) - Boiler and industrial furnace operating record
266.108 - Small quantity boiler and industrial furnace burner exemption waste quantity records
266.111 - Direct transfer equipment inspection records for boilers and industrial furnaces
266.112 - Boiler and industrial furnace waste residue data
270.30 - Permits, requirements for monitoring information (Subparts F & G).

- Required submittals to the Regional Administrator (see Exhibit 4-2).

4. Part A Permit Applicants (interim status TSDFs):

- 270.10 - Data used to complete permit applications.
- 270.30 - Records of all monitoring information.

5. Used Oil Processors and Re-Refiners

- 279.55 - Used oil analysis plan.
- 279.56 - Tracking records.
- 279.57 - Operating record.
- Required submittals to the Regional Administrator (see Exhibit 4-2).

6. Off-Specification Used Oil Burners

- 279.65 - Tracking records.
- 279.66 - Off-specification used oil certification.
- Required submittals to the Regional Administrator (see Exhibit 4-2).

7. Used Oil Fuel Marketers

- 279.72 - Analysis of used oil fuel.
- 279.74 - Tracking records.
- 279.75 - Off-specification used oil certification.
- Required submittals to the Regional Administrator (see Exhibit 4-2).

Exhibit 4-2
Required Submittals to the Regional Administrator

Section 265.11	EPA identification number.
Section 265.12	Notice of date of arrival of hazardous waste from a foreign source.
Section 265.56	In cases of releases, fires, or explosions, notification by emergency coordinator that an affected area is adequately cleaned before operations are resumed. Written report by emergency coordinator on emergency incident, within 15 days of incident.
Section 265.72	Manifest discrepancy report within 15 days of receipt of waste.
Section 265.74	Upon closure, copy of records of waste disposal locations and quantities.
Section 265.75	Biennial report.
Section 265.93	In cases of confirmation of analyses indicating significant increase (or pH decrease), a written notice that the facility may be affecting ground-water quality within 7 days of date of such confirmation. Within 15 days after above notification, specific plan for a ground-water quality assessment program at the facility. After determination of the above ground-water quality assessment, written report containing an assessment of ground-water quality and/or indicating a reinstatement of the indicator evaluation program.
Section 265.94	Recordkeeping and reporting: ground-water monitoring information as specified. Annual reports of Section 265.75 contain results of ground-water quality assessment program.
Section 265.115	Certification of closure.
Section 266.103	Certifications of pre-compliance and compliance.
Section 270.110	Permit application and amendments.
Section 279.51	EPA identification number.
Section 279.57	Biennial report.
Section 279.62	EPA identification number.
Section 279.73	EPA identification number.

While performing a record review in accordance with the applicable regulations, inspectors may encounter problems in accurately interpreting the regulations. Therefore, the Agency has made available a number of guidance documents and lists of background documents that will aid both inspectors and the regulated community to comply with the recordkeeping requirements of Subtitle C. These are presented in Appendix V of this Manual. A complete catalog of background documents can be obtained from the RCRA Superfund Industrial Assistance Hotline at 1-800-424-9346 (in the Washington, D.C. area, 703-412-9810).

4.5 Visual Inspection Procedures

In general, the **visual inspection of a facility** should proceed in accordance with an inspection plan or strategy that inspectors develop during inspection planning. As previously discussed in Section 2.6 above, this plan should outline, in the level of detail considered appropriate by inspectors, the operations they intend to inspect and the tentative order in which they will conduct the inspection. Inspectors may, however, determine that it is appropriate to modify a plan based upon information obtained during the record review or other factors, such as the availability of specific personnel for interviewing or the scheduled operations of waste management units to be inspected.

Inspectors should change their planned approach, as needed, to accommodate conditions they encounter at a facility.

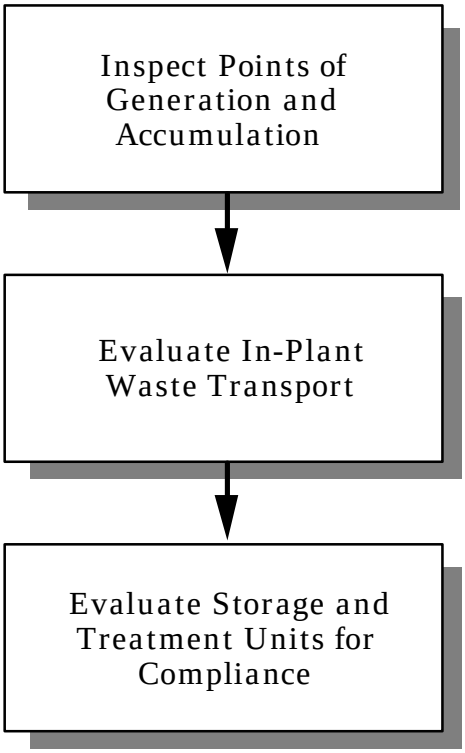
Step-by-step procedures for visually inspecting a facility will vary according to the type of facility and the objectives of the inspection. Specific procedures for inspecting facilities for compliance with particular RCRA standards are organized by regulation in Appendix III to this document. That appendix provides a summary of RCRA standards and describes detailed suggested inspection procedures for determining compliance with Parts 262, 263, 268, and the general facility standards of Parts 264, 265, and 266.

Generic checklists, which may serve to guide inspectors in performing inspections and in recording results of inspections, are provided in Appendix IV of the Manual. Regional offices and state agencies may have developed their own checklists that should be used in lieu of those provided in Appendix IV.

Inspectors should conduct inspections in a way that allows them to evaluate and understand the waste flow within a facility and to determine the compliance status of each segment of the facility's waste management system.

EXAMPLE

In ABC Manufacturing's plant, which generates hazardous waste, stores waste for off-site disposal, and treats some waste on-site, an inspection **COULD** proceed as follows:



Determine if ABC Manufacturing has identified all hazardous waste by following the manufacturing process and identifying each point at which hazardous wastes are generated and where they are stored. Determine if accumulation points meet satellite storage area requirements, if applicable. Identify waste minimization opportunities.

Determine if there is potential for mislabeling, misplacing, or mishandling wastes, and if wastes are adequately tracked to enable proper identification at storage and treatment units.

Determine if wastes in units correspond to those whose points of generation have been inspected, and identify the source of any other wastes in the units. Determine if any hazardous wastes are generated in the unit (e.g., treatment sludge) and evaluate the management of such waste for compliance.

The progression of steps described above enables inspectors to understand the movement and control of wastes within a facility. Inspectors will then be able to identify:

- Hazardous wastes that may not currently be considered hazardous by the owner/operator
- Non-complying procedures or management practices that are part of the facility's routine operations
- Steps in the management process during which wastes may be mishandled or misidentified, and in which there are opportunities for spills or releases
- Unusual situations which may be encountered during an inspection that vary from the facility's stated normal operating procedures and that may indicate potential violations.

Such a progression also allows inspectors to complete a checklist and to evaluate the facility in an organized manner, helping to ensure that all aspects of hazardous waste management activities at the facility are thoroughly inspected.

Inspections may be conducted completely on foot or, at larger facilities, partially by vehicle. In any case, inspectors should note all that is happening at the facility. Although inspectors should generally follow an inspection plan to better understand waste generation and management within a facility, they should not feel compelled to adhere to their original inspection plan or route. Rather, they should feel free to diverge from their original plan to further investigate any observations that may uncover potential violations or environmental hazards.

As stated earlier, inspectors should maintain control of the pace and direction of an inspection. They should ask relevant questions of both the facility representative guiding them through the facility and of other personnel. By questioning diverse personnel, inspectors may identify inconsistencies in explanations of procedures or operations that could indicate possible non-compliance that they should further investigate, and get an indication of the adequacy of the personnel training program. Inspectors should record answers to questions and observations in a field log or notebook, which is discussed in Section 4.6.

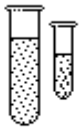
Inspectors should be careful to **remain oriented** during the tour of a facility so that they can accurately note locations of waste management areas, possible release points, potential sampling locations, etc. At larger facilities, inspectors should carry a map or plot plan in order to note locations and maintain their orientation.

Use of Inspection Checklists

As previously discussed, inspectors should complete as much of applicable checklist(s) as possible in the facility office, generally during the record review, prior to visually inspecting the facility (unless the objectives of the inspection or other circumstances dictate that the visual inspection occur before the record review). Inspectors should leave blank those sections of checklist(s) that require visual inspection to complete.

During the visual inspection, inspectors should complete those sections of checklist(s) requiring visual inspection. However, completing these sections is not the sole purpose of a visual inspection, and the inspector must not limit the visual inspection to only completing the checklist. Inspectors should be aware of, and investigate, all relevant waste generation and management activities throughout the facility, and note what is happening around them as they tour the facility. If inspectors conduct visual inspections in ways which allow them to understand how wastes are generated, transported, and managed at the facility (as previously discussed), they should be able to complete the applicable checklists easily during the inspection and obtain other important information.

Determining the Need for Sampling and Identifying Sampling Points

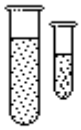


Inspectors do not routinely conduct **sampling** as part of CEIs at interim status and permitted facilities. Rather, they generally perform sampling during inspections in support of case development, which normally occur after potentially non-complying conditions or criminal activities have been identified during a CEI or through some other means. Sampling procedures to be followed during case development inspections/evaluations are provided in detail in the Technical Case Development Guidance Document, OSWER Dir. 9938.3 (1988), available from the Office of Waste Programs Enforcement. Additional information on sampling is provided in several EPA publications, including:

- Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Office of Solid Waste, Pub. No. SW-846, July 1982, as amended (Update I - April 1984; Update II - April 1985)

- Characterization of Hazardous Waste Sites - A Methods Manual, Volume II. Available Sampling Methods, EPA, Pub. No. 600/4-84/075, April 1985.

If inspectors are to conduct sampling during a CEI, they will determine this, or be so informed, during inspection planning. Inspectors should refer to the above mentioned manuals during inspection planning to obtain information on preparing sampling plans, taking samples, preserving samples, splitting samples with an owner/operator, and completing chain-of-custody requirements.



Although inspectors will not usually perform sampling during CEIs, they should be aware of, and identify, potential sampling requirements that may need to be fulfilled in future inspections, particularly in cases where an inspector has identified potentially non-complying conditions or criminal activity. In these cases, it is possible that case development inspections/evaluations will need to be performed at the facility in the future. Some conditions indicating a possible need for future testing include:

- The owner/operator is handling a potentially hazardous waste as a non-hazardous waste—sampling may be required to verify that the waste is hazardous or non-hazardous.

- In-plant waste handling practices indicate that mislabeling/ misidentification of waste is likely to occur, or that wastes may vary significantly in characteristic over time and be mismanaged as a result—sampling may be required to demonstrate that the facility is mislabeling or misidentifying wastes.

- There is visible or other observable evidence of possible releases of hazardous wastes from waste management units, satellite storage areas, waste generating areas, etc.—sampling media and wastes may be required to demonstrate that a release has occurred or is occurring.

- Wastes may be managed improperly, i.e., in an inappropriate treatment or disposal unit—sampling may be required to verify that the correct wastes are being managed in the facility's various waste management units.

To facilitate any future sampling, inspectors may identify the media or wastes to be sampled, the physical locations at which sampling should occur (e.g., the location of a possible release), the steps within a treatment process to sample, the physical characteristics of the medium to be sampled (e.g., sludge, granular solid), and other relevant information.

Observations for Follow-Up Case Development

Observations of potentially non-complying conditions or criminal activity made by inspectors during CEIs may result in the initiation of enforcement actions.

In all cases, inspectors should accurately and validly document all observations that may lead to or support further case development activities. They should record in their notebooks any and all observations made during an inspection and, where appropriate, use other forms of documentation (e.g., photographs) to further record potentially non-complying conditions. Documentation is discussed further in Section 4.6 following.

4.6 Documentation

Documentation refers to all printed and mechanical media produced that inspectors copy or take to provide evidence of suspected violations. **It is strongly recommended that inspectors record information collected during an inspection in the following types of records only: field notebooks, checklists, photographs, maps, and drawings. Recording information on other loose papers is discouraged; loose papers may be easily misplaced and the information on them discredited during hearings. Proper documentation and document control are crucial to the enforcement system**, as the Government's case in a formal hearing or criminal prosecution often hinges on evidence that inspectors gather. Therefore, it is imperative that inspectors keep detailed records of inspections, investigations, photocopies, photographs taken etc., and thoroughly review all notes before leaving a site.

Document control ensures accountability for all documents when an inspection is completed. Accountable documents include items such as: logbooks, field data records, correspondence, sample tags, graphs, chain-of-custody records, bench cards, analytical records, and photos. To ensure proper document control, each document should bear a serialized number and should be listed, with the number, in a project document inventory assembled upon completion of an inspection. Water-proof ink should be used to record all data on serialized, accountable documents.

Field Notebook

In keeping field notes, inspectors should maintain a legible daily diary or **field notebook** containing accurate and inclusive documentation of all inspection activity, conversations, and observations. This field notebook should also include any comments, as well as a record of actual or potential future sampling points, photograph points, and areas of potential violation. The diary or field notebook should contain **only facts and observations** because it will form the basis for later written reports and may be used as documentary evidence in civil or criminal hearings. Notebooks used for recording field notes should be bound and have consecutively numbered pages. A separate notebook should be used for each facility inspected, in case the notebook has to be made available to the owner/operator and/or his or her attorney as part of a legal action (e.g., through discovery). **Because field notebooks may be made available to owner/operators and their attorneys, inspectors should be careful to avoid recording potentially embarrassing notes or notes which may weaken any future enforcement action.**

For federal inspectors, field notebooks are part of EPA's Regional files, not inspectors' personal records. State policy on field notebooks may vary; thus, state inspectors are advised to become familiar with applicable state policy.

Checklists

In general, inspectors should use **checklists** in conjunction with field notebooks to record inspection observations. However, Regions or states may have different policies on the use of checklists, and inspectors should follow their applicable Regional or state policy. Also, some inspectors may not be comfortable with checklists and should find a mechanism for recording information consistent with his/her style.

Appendix IV of this document provides checklists for use by inspectors. In some cases, Regions or states may have preferred checklists that should be used instead of the checklists provided here. Inspectors should use the checklists preferred by their Region or state. **Inspectors should not rely on checklists as a substitute for knowledge and understanding of the regulations.**

As discussed in Section 4.5, inspectors should remember that checklists are only a tool for organizing, conducting, and recording the results of an inspection; they should not limit the scope of an inspection in any way since completion of a checklist is not a valid goal. Inspectors should be observant of the general operation of a facility, waste management practices, and potentially regulated activities not covered by checklists (e.g., new activities of which they were not aware in planning the inspection) as they perform the record review and visual inspection.

Inspectors should generally limit the scope of comments on a checklist to checking the relevant answers, although more extensive comments may be made if no alternative record is available for noting observations. It is recommended that comments or observations on checklist answers be recorded in the field notebook, where there is adequate room for explanations, sketches, etc., to expand upon checklist answers.

Photographs

Photographs provide the most accurate documentation of inspectors' observations, and inspectors can use this significant and informative source for review prior to future inspections, at informal meetings, and at hearings. **Documentation of a photograph's origin is crucial to its validity as a representation of an existing situation**. Inspectors should note, in a field notebook or on a facility map, the following information about each photograph they take:

- Date
- Time
- Number of the photo on the roll
- Type of film, lens, and camera used
- Signature of photographer
- Name and ID number of site
- General direction faced by inspector when taking photograph
- Location of checkpoint on site
- Other comments (e.g., weather conditions).

Inspectors should limit their comments to these pertinent facts because any discussion of the photograph in terms of its content could jeopardize its value as evidence.

Inspectors may select the type of camera they will use, although 35mm single lens reflex cameras are most common. Inspectors should also note that photographs taken with a telephoto lens may not be admissible evidence as these lenses may distort the scale of the photo or image. When taking photos, inspectors should include in the photograph a ruler or other item, as appropriate, for showing the scale of an object photographed.

If inspectors have video cameras available to them, they are well-advised to employ them as an excellent means of documentation. EPA anticipates that video cameras may gradually become standard equipment to be used on inspections. Video cameras have the unique ability to capture verbal and visual inputs simultaneously, thereby providing a more comprehensive picture of a facility. Inspectors should be sure to display the date and time of their recording in the video itself.

EPA has not developed a specific policy pertaining to the use of video cameras on inspections. Certainly, some facility owner/operators may object to their use by inspectors. Inspectors, therefore, should be well-versed in their own offices' policies.

Maps and Drawings

Schematic **maps, drawings, charts,** and other graphic records can be useful in documenting violations. They can provide graphic clarification of a particular site relative to the overall facility; demonstrate spill or contamination parameters (e.g., the size of a contaminated area) relative to the height or size of objects; and other information that, in combination with other documentation, can produce an accurate and complete evidence package.

Maps and drawings should be simple and free of extraneous details. Basic measurements should be included to provide a scale for interpretation, and compass points should be included. Generally, maps should also be used to show where photographs were taken, and in what direction; photo locations can be shown on the map using the roll number, exposure (photo) number, and a direction arrow.

4.7 Closing Discussion

Facility officials are usually anxious to discuss the findings of an inspection before inspectors leave. Inspectors should hold a **closing meeting or conference** for the presentation and discussion of preliminary inspection findings. During this meeting or conference, inspectors can answer final questions, prepare necessary receipts, provide information about RCRA, and request the compilation of data that were not available at the time of the inspection. Inspectors should also be prepared to discuss general follow-up procedures, such as how results of the inspection will be used and what further communications the Region or state may have with the facility. Inspectors should conduct closing conferences in accordance with any applicable guidelines established by the EPA Regional Administrator or state director.

APPROACH TO CLOSING DISCUSSION

When conducting a closing discussion, inspectors should:

- Review inspection notes and checklists in private prior to the closing discussion. Inspectors may need to take time to refer back to applicable federal or state standards, call their supervisor, talk with Regional or Headquarters counsel, or call the RCRA Superfund Industry Assistance Hotline (1-800-424-9346 or, in the Washington, D.C. area, 703-412-9810), to obtain a clear interpretation of the regulations as they apply to the specific conditions at the facility. In general, at this point, inspectors should:

  1) Identify any questions that remain to be asked of facility officials. These may include questions raised during the visual inspection that need clarification and questions concerning potential violations uncovered during the inspection of which the facility representative is unaware.

  2) Determine which inspection results to discuss with the facility representatives and how to approach the discussion, i.e., how definitively to present results. **Of course, all inspection findings are preliminary until reviewed by an inspector's supervisor.** However, inspectors should be prepared to discuss all obvious violations of rules observed during the inspection forthrightly; they should not suggest that an owner/operator of a facility is in criminal violation of RCRA or that civil or criminal action will be taken. Inspectors may not want to discuss tentative findings when there is doubt that a violation has occurred and where they will need to further review facility conditions, regulations, and guidance to determine compliance.

APPROACH TO CLOSING DISCUSSION (Continued)

3) Anticipate questions that may be asked by the facility representatives and determine how to respond. Obviously, questions that may be asked will largely depend on inspection results. Inspectors can anticipate that a facility representative may challenge specific results, ask for clarifications of rules or results, and request help in understanding how to respond to or correct non-complying conditions. Inspectors should be prepared to answer all questions within their ability, authority, and knowledge, and to defer answering questions that they cannot answer with certainty. Inspectors should tell the facility representative how they will follow-up on deferred questions, and may refer the representative to appropriate EPA or state officials for answers to questions beyond their authority.

- After completion of the first step, meet with the facility representatives to ask questions, review results, and answer their questions. When presenting results, inspectors should inform the facility representative that all inspection results are preliminary and that the overall compliance status of the facility will be determined after review of inspection results with supervisory personnel and the issuance of an inspection report.

In conducting a closing meeting, it is essential that inspectors maintain a professional, courteous demeanor, even though the attitude of facility representatives may not be cordial. Because inspectors are often the only contact point between EPA or a state agency and the regulated industries, they should be keenly aware of opportunities to maintain and improve agency-industry relations. The closing conference provides a good opportunity for inspectors to offer various kinds of help to facility officials, within appropriate limits. Having just completed an inspection, inspectors will have first-hand knowledge of existing problems and solutions.

Improving Relations with the Regulated Community

- Discuss problems with facility officials and tactfully offer help and suggestions, as appropriate. Inspectors should limit their comments to relatively straightforward interpretations of rules and resolutions of problems. **They should avoid providing any advice or assistance that would prejudice the government's case in a subsequent enforcement action (e.g., making guarantees that the facility would come into compliance by performing certain actions, other than those specified verbatim in regulations).** Additionally, inspectors should be careful to avoid making suggestions that might imply that a "consultant" type of relationship exists with the owner/operator.

- Offer or suggest available resources to facility officials to help overcome specific problems or assist in their waste minimization efforts (e.g., Agency outreach materials, technical publications, special services available to industry, etc.).

Contact with a facility after an inspection can lead to gathering of additional information and demonstrate interest in the facility, but inspectors should exercise discretion in making such contacts. Contacts should serve enforcement or compliance objectives. It is important for inspectors, as industry relations representatives, to follow-up on deferred questions, referrals, and offers of help made during an inspection. These activities, within appropriate limits (which may be set by Regional or state policy), contribute towards achievement of a major enforcement objective: making regulated facilities come into, or maintain, compliance. Communicating through letter, phone call, or repeat visit indicates to facility officials that the regulatory agency is genuinely interested in assisting them achieve compliance (within appropriate limits), and that the agency is paying attention to their efforts, or inaction, in achieving or maintaining compliance.

Inspectors should never recommend a particular consultant or consulting firm to a facility, even if asked to do so. However, inspectors may recommend that a facility contact a professional society to obtain professional assistance.

4.8 Summary

Although inspectors may exercise a certain amount of discretion in conducting an inspection, certain rules and procedures should be followed to ensure the required level of consistency and quality. Inspectors must at all times maintain a professional approach to their work, even in the face of difficult circumstances, and must concern themselves with detail.

Thorough information-gathering is central to any inspection effort and should occur during all phases of the inspection discussed in this chapter:

- Opening discussion
- Discussion of operations and waste handling
- Record review
- Visual inspection
- Documentation
- Closing discussion.

As the key link between EPA and state agencies and the regulated community, inspectors must also serve as an information source for facilities.

Upon completion of an inspection, and appropriate documentation of findings, an inspector is ready to prepare the inspection report, discussed in Chapter 5.

5.0 Inspection Follow-Up

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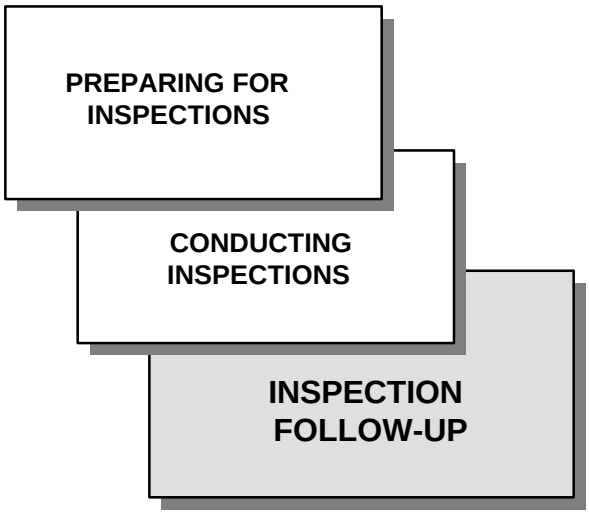

5.1 Introduction

In this chapter, inspectors will be informed of critical steps in the final phase of inspection work—inspection follow-up. This includes preparation of the inspection report and related activities. As the culmination of inspectors' efforts, this phase must be undertaken in a consistent, thorough, and comprehensive manner.

To successfully complete inspection follow-up, inspectors must:

- Understand their objective(s)
- Be familiar with procedures that can help reach the objective(s)
- Include all relevant information in their reports and files
- Ensure that inspection files are as current as possible
- Perform in a manner consistent with applicable law.

All of these aspects of inspection follow-up will be thoroughly discussed below.

5.2 Report Preparation

The **report package** that inspectors prepare following an inspection greatly impacts on the adequacy of follow-up to correct problems or deficiencies noted during an inspection. Inspectors must organize their reports in a manner that allows them and their supervisors to make maximum use of all information. It is also essential that inspectors complete their reports expeditiously so that results are available to support further enforcement actions, especially in situations where a facility has significant violations or where other offices plan activities related to an inspected facility. Specifically, inspection reports will support the following types of enforcement actions:

- Administrative actions (warning letters, administrative orders, etc.)
- Civil court actions
- Criminal court actions.

This Manual presents a general method for reporting inspection findings and conclusions. A recommended report format is included. Many Regions and states have preferred formats tailored to their own specific procedures and requirements, but in cases where inspectors may not have a specific model to follow, they will need to develop their own approach that meets all of the requirements outlined below.

Inspection reports must be well-written and should document all key facts because they may become the focal point for an enforcement action.

Objective

An inspection report should organize and coordinate all relevant information and evidence gathered during an inspection in a comprehensive and usable manner. To meet this objective, the information presented in an inspection report must be:

- **Accurate** — All information must be factual and based on sound inspection practices; observations should be the verifiable results of first-hand knowledge and must be objective and factual.
- **Relevant** — Information in an inspection report should be pertinent to the subject of the report; irrelevant data clutter a report and can reduce its clarity and usefulness.
- **Comprehensive** — The subject of a report (e.g., suspected violations) should be substantiated by as much factual, relevant information as possible. The more comprehensive the evidence is, the better and easier the case development process becomes.

- **Coordinated** — All information pertinent to the subject should be organized into a complete, well-organized, lucid package. Documentary support (photographs, photocopies, statements, sample analyses, etc.) accompanying the report should be clearly referenced so that any interested party reading the report gets a complete and clear overview of the subject. Additionally, the report should be neat and legible.

Report Preparation Procedures

Inspectors should follow **four basic steps** when preparing inspection reports, regardless of the specific nature of the elements/contents. Each of these steps is briefly described here:

Step 1: **Review Information:** When preparing a report, inspectors should gather all information developed during the inspection. More specifically, inspectors should assemble checklists, field notebooks, photos, maps, photocopies, and drawings and review the material for relevance and completeness. When gaps in information are discovered, inspectors should obtain necessary data by calling the facility representative or, in unusual circumstances, conducting a follow-up visit.

Step 2: **Organize Material:** Inspectors may organize their information in one of several ways, depending on the requirements of the agency the inspector represents. However, the report should always include each of the items mentioned in Step 1 above and should present the information in a logical, comprehensive manner. The narrative should be easily understandable (a cross-referencing system with the checklist can be useful).

Step 3: **Reference Accompanying Material:** Inspectors should clearly reference all documentary support that accompanies an inspection report so that any reader can easily locate relevant documents. Inspectors should check all documentary support for clarity prior to writing an inspection report.

Step 4: **Write the Narrative Report:** After gathering all appropriate information, inspectors can write the narrative section of the inspection report. The narrative report presents a factual record of the procedures used in the inspection and of the resulting findings. Using the field notebook as a guide for preparing the narrative report, inspectors should refer to the routine procedures and practices used during the inspection, but should describe in detail facts relating to potential violations and discrepancies.

Inspectors should reference any **confidential business information** included in the inspection report in a nonconfidential manner (i.e., by Document Control Number and a general description of the information contained in the document). Inspectors may also include the confidential information and treat the entire inspection report as a confidential document. If they select the latter alternative, inspectors must log the report with the Document Control Officer to ensure that only persons cleared for access are permitted to review it.

5.3 Report Elements

Although the specific information about a facility that must be included in an inspection report will vary, **each report will usually be composed of three elements: narrative information, checklists, and documentary support.** Suspected violations must be documented through employment of these elements, each of which is described below.

Narrative Information

A **narrative discussion** of the facility inspected, its operations, and the findings of the inspection is a key element of an inspection report. The narrative should, at a minimum:

- Explain the overall nature of a facility's activities
- Discuss manufacturing and waste management operations at the facility
- Describe the generation and handling of wastes
- Describe apparent violations, and discuss the documentary evidence supporting a determination that a facility has a violation.

The narrative explains and supports findings presented in any inspection checklists included in the inspection report (discussed below). The narrative also may include recommendations for follow-up actions. A recommended outline for a narrative discussion is presented in Exhibit 5-1.

Inspectors should present narrative information in a simple manner.

Tips for Effective Narrative Discussion
• Use a simple writing style; avoid stilted language
• Use active rather than passive voice (e.g., "I observed …" rather than "It was observed …")
• Keep paragraphs brief and direct
• Avoid repetition
• Proofread the narrative carefully upon completion.

Checklists

Checklists are designed to lead to the collection of standard reviewable information. They function as guides to ensure that inspectors collect all basic data. As discussed in Chapter 4 of this Manual, inspectors generally complete checklists as they progress through an inspection. In instances where checklist(s) require further clarification and elaboration, inspectors should use the information they recorded in their field notebooks and other information (e.g., from the inspection file) to expand upon checklist results in the narrative body of the inspection report. **Inspection checklists are only one component of a complete report**; they are not sufficient in and of themselves. The checklists that inspectors use and include in reports will vary according to individual state and Regional procedural requirements.

Documentary Support

Inspectors should include, as part of their inspection reports, all **documentation** that is intended to provide evidence of suspected violations. Such documentation may include: statements, photographs, photocopies, drawings and maps, printed matter, mechanical recordings, and copies of permits and records. The information that inspectors should record in field notebooks and on facility maps to document photographs is discussed in Chapter 4 of the Manual.

Exhibit 5-1
Recommended Narrative Outline for Inspection Report

GENERAL INFORMATION	
Facility Information	(Name, Address, Telephone Number)
Facility Representative	(Name, Title)
Inspection Participants	(Name, Agency or Company)
Date of Inspection	
Applicable Regulations	40 CFR Parts 260-272
Purpose of Inspection	(Requested by ...; inspection of ...; sampling of ...; etc.)
State Coordination	(Assisted by ...; Copy of report to ...; Additional information obtained from ...)
Facility Description	(RCRA related activities, including operations, wastes generated, waste handling operations, etc.)
Violations Observed or Alleged	(Regulatory citation; nature of violation; evidence)
FOR GENERATORS	
General Standards for Generators	Parts 262.10 - 262.12 (Describe compliance with these standards)
The Manifest	Parts 262.20 - 262.23 (Establish existence of manifest records; assess adequacy with respect to regulatory requirements)
Pre-Transport Requirements	Parts 262.30 - 262.34 (Review packaging, labeling, marking, and placarding procedures for compliance with the regulations; establish compliance with accumulation time restrictions)
Recordkeeping and Reporting	Parts 262.40 - 262.43 (Establish existence of annual reports and additional reports)
Special Conditions	Parts 262.50 - 262.51 (Inspect for reports of international shipments of waste, and proper notification to the Administrator)

Exhibit 5-1 (Continued)
Recommended Narrative Outline for Inspection Report

FOR TRANSPORTERS	
General	Parts 263.10 - 263.12 (Ensure that the transporter has obtained an EPA I.D. number and only stores waste at transfer facilities for fewer than 10 days)
Manifest System and Recordkeeping	Parts 263.20 - 263.22 (Establish existence of manifest records and compliance with manifest procedures)
Hazardous Waste Discharges	Parts 263.30 - 263.31 (Ensure that transporter is aware of responsibilities under these sections; check to see if any discharge reports have been made to the Department of Transportation as required by these regulations)
FOR TSDFs	
General Facility Standards	Parts 264/5.10 - 264/5.18 (Describe compliance with standards)
Preparedness and Prevention	Parts 264/5.30 - 264/5.37 (Check for required equipment and arrangements with local authorities)
Contingency Plan and Emergency Procedures	Parts 264/5.50 - 264/5.56 (Check records and procedures for adequacy with respect to the requirements of these sections)
Manifest System, Recordkeeping, and Reporting	Parts 264/5.70 - 264/5.77 (Establish existence of manifest records, operating record, annual report, and unmanifested waste report; assess adequacy with respect to regulatory requirements)
Groundwater Monitoring	Parts 264/5.90 - 264.99 or 265.94 (Examine ground-water monitoring plan and review results of sampling analysis)
Corrective Action Program	Parts 264.100 - 101 (Review status of corrective action program)
Closure and Post Closure	Parts 264/5.110 - 264/5.120 (Review closure and post-closure plans for adequacy with respect to regulatory requirements)
Facility Specific Standards	Parts 264/5.170 - 264.603 or 265.445 and Parts 264/5.1100 - 1102 (Depending upon the type of facility being inspected, establish compliance with the appropriate regulatory standard)
Permit Conditions	(For permitted facilities, review violations of specific permit conditions or schedules of compliance)

5.4 Follow-Up Discussions And File Preparation

In many cases, inspectors will **brief their supervisors** on inspection results (particularly observed violations). Inspectors may also brief the Regional Case Development Officer (RCDO), equivalent state case development officer, or enforcement decision group on an inspection. These briefings may be given to:

- Assist in determining the need for possible enforcement action
- Answer questions about performance of the inspection
- Clarify inspection results to develop additional evidence in support of enforcement case development.

In addition to these briefings or discussions, inspectors may need to discuss results with other Regional or state personnel as appropriate.

Briefing Required?

- **Where inspectors have referred a facility representative to other Regional or state personnel for information or assistance.** These personnel should be contacted by the inspector and briefed about conditions at the facility and the types of questions that they should expect to receive.
- **Where a facility is subject to both federal and state enforce-ment, and inspectors observe potential violations at units not within their jurisdiction.** Inspectors should contact the Regional or state agency with enforcement authority over the unit(s) with violations. Regions and states may have policies concerning the need to consult with other agencies with which they share joint authority over hazardous waste management facilities; inspectors should become familiar with and follow policies applicable to their respective jurisdictions.
- **Where a facility has applied for a permit, or is operating under a permit, and where inspectors identify conditions that conflict with those presented in the permit application or required in the permit.** If a facility has applied for a permit, and conditions at the facility are not consistent with the application, inspectors should inform the permit writer of the conflicting conditions. If the facility has been permitted, and conditions are not consistent with the permit, the conditions may constitute violations unless a modification has been granted. In such cases, inspectors should confer with the permit writer on the observed conditions and any modifications which the facility may have applied for or discussed with the permit writer, prior to determining how to present these conditions in an inspection report.

Preparing Inspection Files

Upon completion of an inspection report, inspectors should organize the report, supporting notes, and other documentary information into an **inspection file**. If inspection documentation includes confidential business information (CBI), inspectors should separate the information into two files, one non-confidential and the other confidential.

Properly organizing the inspection information into files so that material can be easily reviewed by inspectors or other interested Agency officials helps expedite review of inspection results to determine possible enforcement actions. For EPA inspections, inspection files are normally sent to RCDOs for review. The RCDO reviews the file in depth to determine the information's adequacy for purposes of supporting any necessary enforcement actions and substantiating elements of a violation. The result of the review will generally be a recommendation to proceed with an enforcement action or to dismiss violations as unworthy of prosecution. For state inspections, state inspection files may go through a similar review by comparable state enforcement personnel.

The non-confidential inspection file should contain the inspector's report and all forms of non-confidential documentation, which may include:

- Field notebooks
- Documents relating to sampling, as appropriate (e.g., custody records, analytical results)
- Photographs
- Drawings and maps.

Where necessary, inspectors may need to prepare a CBI inspection file. This file should include all CBI inspectors gather during an inspection, and the results of analyses for samples considered to be CBI. Inspectors should follow relevant procedures for logging CBI with Document Control Officers, or the state equivalent. The CBI inspection file can only be reviewed in accordance with RCRA CBI control and security procedures. For more information on CBI procedures, inspectors should review the RCRA Confidential Business Information Security Manual, available from the Office of Solid Waste, Office of Program Management and Support.

5.5 Disclosure of Official Information

In addition to their inspection duties, **inspectors are responsible for making information available to the public.** This section describes how to handle requests for general information and the procedures for managing confidential business information.

Requests for Information

EPA's "open-door" policy on releasing information to the public strives to make information about EPA and its work freely and equally available to all interested individuals, groups, and organizations. In fact, EPA employees have both a legal and traditional responsibility for making useful educational and safety information available to the public.

This policy, however, does not extend to all information. When information related to suspicion of a violation, evidence of possible misconduct, or confidential business information is requested, personnel should immediately notify their supervisor and/or legal counsel.

Representatives of state agencies may use EPA's policies on information disclosure as a guide in the absence of formal procedures of their own.

Inspectors should **clear any contacts with the press**, other communications media, and interested groups with their supervisor, Regional public affairs office, or state public affairs office, as appropriate. Inspectors should be familiar with and follow Regional or state policy regarding press relations.

In situations where inspectors or an inspection team are authorized to discuss activities with the press or interested groups, one person should be designated as the spokesperson to provide information concerning inspection responsibilities and investigative activities. Inspection teams should refer questions concerning investigation of alleged violations and enforcement policy to the EPA Regional Counsel or appropriate state enforcement staff attorney for response. In all contacts with the media, inspectors should be careful not to make careless or accusatory statements.

Confidential Business Information

All confidential information obtained will be identified as such and placed in a locked filing cabinet or safe. Only authorized personnel will be allowed access to the file. No copies of CBI will be made unless authorized in writing by the document control officer. Inspectors and other enforcement personnel have a responsibility to the submitters of RCRA CBI to maintain the confidentiality of such information. Personnel handling CBI are prohibited from disclosing, in any manner or to any extent not authorized by law, any RCRA CBI they have access to in the course of their employment or official duties. Requests for access to confidential information by any member of the public or by a state, local, or federal agency will be handled according to the procedure described in the Freedom of Information Act regulations (40 CFR 2). All requests will be referred to the responsible Regional organizational unit.

Section 3001(b) of RCRA and 40 CFR 2.305(h) authorize EPA to furnish CBI to state agencies acting as authorized representatives of the United States in support of RCRA, provided the state agency has its own CBI procedures approved by EPA. State and Regional RCRA CBI procedures vary. Inspectors must become familiar with their specific procedures prior to obtaining CBI authorization access.

Confidential claims for RCRA should not be confused with confidential claims under other environmental laws (e.g., Toxic Substances Control Act).

Unauthorized disclosure of RCRA CBI may subject an employee to criminal penalties under 18 United States Code (USC) Section 1905. Violations of RCRA CBI procedures by employees may result in the revocation of CBI authorization access and/or further disciplinary action.

For more detailed information, inspectors should consult the RCRA Confidential Business Information Security Manual, Office of Solid Waste, U.S. EPA, Draft, March 1984.

Contract inspectors must provide the same degree of protection to RCRA CBI that EPA or an authorized state agency provides. Although the contractor protection of CBI must be equivalent to EPA, the nature of contracts is such that the specific procedures are somewhat different. Contract inspectors should first consult Contractor Requirements for the Control and Security of RCRA Confidential Business Information, Office of Solid Waste, U.S. EPA, March 1984.

5.6 Summary

To ensure that all of their hard work preparing for and conducting an inspection has been worthwhile, inspectors must focus on all of the necessary follow-up work. This includes:

- Report preparation
- Follow-up discussions with appropriate personnel
- Preparation of an inspection file
- Appropriate handling of requests for information and CBI.

It is critical that reports and files be prepared in such a manner that they will be useful in future case development, inspections, and other activities.