

June 12, 2013

Gail Hansen  
Office of Resource Conservation and Recovery  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (MC 5302P)  
Washington, D.C. 20460

Re: Waste Analysis at Facilities That Generate, Treat, Store, and Dispose of  
Hazardous Wastes: A Guidance Manual

Dear Ms. Hansen:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Hazardous Waste Subcommittee appreciates the opportunity to provide comments regarding the revision to the U.S. Environmental Protection Agency (USEPA) "Waste Analysis at Facilities That Generate, Treat, Store, and Dispose of Hazardous Wastes: A Guidance Manual", dated January 2013. These comments reflect input from the Hazardous Waste Subcommittee and some additional State hazardous waste programs; the comments have not been reviewed or adopted by the ASTSWMO Board of Directors. In addition, individual State or Territorial waste programs may also provide comments based on their own State perspectives and experiences.

ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States). Our membership includes State program experts with individual responsibility for the regulation or management of wastes and hazardous substances, including remediation, tanks, materials management and environmental sustainability programs.

In the enclosure to this transmittal letter, the Hazardous Waste Subcommittee is providing general comments regarding the revised guidance, as well as specific comments that are organized by its components.

Thank you for the opportunity to review the revised guidance and provide feedback. We look forward to your response to our comments and to the continuing dialogue on this important topic. I can be reached at (501) 682-0831 or [hynum@adeq.state.ar.us](mailto:hynum@adeq.state.ar.us).

Sincerely,

A handwritten signature in blue ink, appearing to read "Tammie Hynum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tammie Hynum (AR)  
Chair, ASTSWMO Hazardous Waste Subcommittee

cc: ASTSWMO Hazardous Waste Subcommittee

## Enclosure

### **ASTSWMO Hazardous Waste Subcommittee Comments re: Waste Analysis at Facilities That Generate, Treat, Store, and Dispose of Hazardous Wastes: A Guidance Manual (January 2013)**

#### **General Comments:**

Although the document title suggests that the guidance is equally applicable to generators and Treatment, Storage or Disposal Facilities (TSDFs), in reality, the document is primarily directed towards TSDFs. The introduction should be changed to state that the primary audience is the TSDF owner/operator, but hazardous waste generators may benefit from it as well, since many of the concepts applicable to TSDFs are also relevant for generators. An alternative suggested might be to separate out the generator waste analysis requirements and put them in their own guidance document, or in an attachment to this guidance. This alternative has been suggested in light of the increase seen in waste mischaracterization, since characterization is the generator's responsibility.

The statement is made several times in the document that the waste analysis plan (WAP) should not be cluttered with information available elsewhere in the facility's permit application (second bullet item on page F-1, for example.) However, some of the elements that the guidance document suggests should be part of the WAP appear to go beyond the core function of the WAP and into broader facility operating procedures. In particular, some of the actions the guidance says to include in the plan related to facility response to discrepancies revealed by waste analysis seem to be more directly related to general facility operating procedures than specific waste analysis requirements. Unless the corrective measure involves changes to methods of sampling or analysis, descriptions of actions to be taken following discovery of a discrepancy seem to be more appropriately placed in an "operating procedures" section of the application.

The federal Comparable/Syngas Fuel Exclusion (40 CFR 261.38) includes a fuel analysis plan requirement at 40 CFR 261.38(b)(4), which is essentially a WAP (and was previously called a WAP when these provisions were initially promulgated, with the WAP requirements codified at that time at 40 CFR 261.38(c)(7)). The guidance document should make reference to this requirement in the Overview section, and should include a subsection discussing the requirement in more detail in Section 1.1.1 (Generator Waste Analysis Requirements).

Although the revised guidance contains useful information, there are some formatting changes that might be made to enhance its user-friendliness. One suggestion is to start the document with Figures 1-1 (page 1-4), 1-2 (page 1-5), the Content and Organization of the Waste Analysis Plan (WAP) sidebar and Table 2-1. Figures 1-1, 1-2, the sidebar and Table 2-1 could then list the sections and/or page number(s) to find more information about each box (or step). The table of contents is not detailed enough to provide this information. That way, the reader would not have to read through the entire document to find the one piece of information they need.

Since a given section of the document may reference another section, or another document altogether (in this guidance, usually the Code of Federal Regulations), it might assist the reader if visual cues, e.g., italicizing external references, were provided to denote whether the information can or cannot be easily accessed within the guidance itself. For pre-1994 Federal Register notices referenced in the document that are not available online via the Government Printing Office website, it would be helpful for USEPA to post the referenced pages on its own website somewhere, and provide an active link to them in the WAP guidance document (e.g., for the 1993 notice referenced in the footnote on page 1-12). The specific comments that follow include additional suggestions for enhancing the readability and user-friendliness of the guidance.

### **Specific Comments:**

#### **Acronym List**

Page v: “mg/L” is identified as micrograms per liter. It should be “milligrams per liter”.

#### **Part One: RCRA Waste Analysis – An Overview**

##### **General Comments regarding Part One**

1. The guidance should explain that analysis for the purposes of land disposal restrictions (LDR) requirements only applies if the hazardous waste will be land disposed. If no land disposal of the hazardous waste occurs, then the LDR do not apply.

Examples of waste management situations where no land disposal occurs include: a) hazardous waste burned as fuel in a cement kiln where the cement kiln dust is Bevill exempt and b) hazardous waste treated in a wastewater treatment system that only has tank storage/treatment and a National Pollutant Discharge Elimination System (NPDES) permitted discharge.

2. It would be helpful if the guidance presented and explained the LDR prohibition of impermissible dilution especially with regards to combustion and how a generator or TSD needs to evaluate for this aspect. In short, a metal bearing hazardous waste cannot be treated by combustion (except in a Bevill exempt unit) unless one of six waste criteria is met; otherwise the hazardous waste is being treated by dilution.
3. It should be made clear that a WAP is not required by a generator per the LDR rules unless the hazardous waste is being treated to meet the LDR treatment standard. If the treatment does render the hazardous waste LDR compliant, then no WAP is required. For example, a generator may have a corrosive or ignitable hazardous waste that contains characteristic metals. The generator deactivates the waste only for the purpose of removing the hazard of ignitability or corrosivity during storage prior to sending the waste off-site for required LDR treatment.

4. The guidance needs to better explain that listed hazardous wastes also need to be evaluated to determine if they exhibit a hazardous waste characteristic for which they were not listed and/or that is not included in the LDR treatment for the listed waste (see 268.9). This is so the LDR notification form can be properly completed to inform the TSD of the hazardous aspects for which the waste needs treatment. Also, it should be explained that the manifest and the LDR notification form may contain different waste codes. The following are examples of how the waste codes may differ:
- K062 is listed due to corrosivity, hexavalent chromium and lead. The LDR treatment standard for K062 only includes treatment for metals. So, if the K062 is actually corrosive, the LDR notification form will need to include the waste codes K062 and D002 so the treatment facility knows to treat the waste for corrosivity. The manifest would include K062; the LDR notification form would include K062 and D002.
  - F006 generated from a facility that performs silver plating fails the Toxicity Characteristic Leaching Procedure (TCLP) for silver. The LDR treatment standard for F006 does not include a treatment standard for silver. Therefore, the LDR notification form will need to include F006 and D011 so the TSD knows to treat the waste for silver. The manifest would also include F006 and D011 since F006 was not listed for silver.
  - F005 spent solvent exhibits the toxicity characteristic for lead. The LDR treatment standard for F005 does not account for lead or ignitability. So, the LDR notification form will include the following information: F005, the specific solvent(s) present, D008 and D001. The manifest will include F005 and D008.

Please note: The generator is required to only put one waste code on the manifest although there is room for six. And if a generator has the TSD determine what LDR treatment standards apply to the waste, the LDR notification form will not contain waste specific information.

#### Specific Comments regarding Part One:

##### *Section 1.0 What Waste Analysis Requirements Must You Meet?:*

Page 1-1: The first paragraph states: "What Waste Analysis Requirements Must You Meet? The cornerstone of the RCRA hazardous waste program is the *ability* (emphasis added) of generators and owner/operators of treatment, storage and disposal facilities (TSDFs) to properly identify and characterize, through waste analysis and/or knowledge, all hazardous wastes that are generated, treated, stored, or disposed of at their site or facility." We suggest changing "ability" to "requirement" in order to match the word "requirements" in the title, to reduce confusion.

Page 1-1: Also in the first paragraph, we suggest that the four points noted after what a proper waste analysis is needed to do be turned into bullet points.

Page 1-1: Footnote 2: We suggest this footnote be attached to the previous sentence, since a conditionally exempt small quantity generator (CESQG) would have no reason to read beyond the previous sentence and thus would not see footnote 2 where it is attached at its current point.

*Section 1.1.1 Generator Waste Analysis Requirements:*

Page 1-3: In the first paragraph under the bulleted section, we suggest that the cut-off levels for a large quantity generator (LQG), small quantity generator (SQG) and CESQG be converted to bullet points.

*Section 1.1.2 TSDf Waste Analysis Requirements:*

Page 1-7: First bullet title: Consider a heading such as ‘Prior to Start-Up’ rather than “Pre-Acceptance” in order to cover the need for both on- and off-site TSDFs to conduct chemical and physical waste analyses.

*Section 1.1.3 Transmitting Waste Analysis Information:*

Page 1-10: First paragraph: Change “waste analysis” to ‘waste analyses’ to reflect plural usage of terms.

Page 1-11: First full paragraph at top of the page, second sentence: Same comment as above – change “analysis” to ‘analyses’ to reflect plural usage of terms.

*Section 1.2.1 Sampling and Analysis for TSDFs:*

Pages 1-13 and 1-14: Regarding the bullet points under “Sampling and Analysis for TSDFs”: Consider adding a bullet for on-site operations, for example: ‘An on-site facility generates a new waste stream that will be treated on-site.’

Page 1-14: Beneath the “Considerations for TSDf Pre-Acceptance Procedures” box is a line “in accordance with their permit and/or regulations.” It is suggested that line be moved above the box so it matches the other center-box information.

*Section 1.2.2 Acceptable Knowledge and TSDFs:*

Page 1-16: First paragraph: Consider inserting a sentence after the first that will include on-site TSDFs, for example: ‘On-site TSDFs are responsible from a generator and TSDf perspective to ensure accurate waste characterizations are performed.’

Page 1-17: There is an information side bar titled, “Suggested Checklist for Evaluating Waste Determinations Using Acceptable Knowledge (AK)”, that starts on page 1-17 and then continues

on page 1-18. We suggest either adding a note at the end of the side bar on page 1-17 that it is continued on the next page, or perhaps placing the side bar in its entirety on page 1-18.

Page 1-20: Second Bullet: The statement that precipitation run-off from a corrosive solid could be a corrosive hazardous waste should be qualified by noting that USEPA has determined that precipitation run-off from an exempt waste (such as a Bevill exempt waste like a coal combustion residue) is not a hazardous waste if the run-off only exhibits a characteristic that it derived from the exempt waste. (See RCRA Online document numbers 11145, 11162 and 12552.)

## **Part Two: Documenting and Conducting Waste Analysis**

### *Section 2.0 Developing a WAP and Conducting Waste Analysis:*

Page 2-1: With regard to the “Key Initial Considerations for the Facility” side bar box:

- First bullet: A word may be missing in the second portion of the bullet. Consider inserting the word ‘on-site’ or ‘non-commercial’, for example: “...may not be appropriate for *on-site* treatment/disposal facilities, or even captive storage facilities.”
- Second bullet: This bullet states that the facility should not clutter up the WAP by repeating information that exists elsewhere in the permit (i.e., basic facility description, process descriptions). Then in Sections 2.2 and 2.2.1, page 2-4, the document states that the facility descriptions and process descriptions are important and should be in the WAP. Either the text of the side bar or the text in these sections should be changed to be consistent.

### *Section 2.1 Content and Organization of the WAP:*

Page 2-1: General comment: The section is slightly confusing in that it tries to be comprehensive in the beginning of the section, addressing generator and TSD requirements, but then focuses exclusively on TSD considerations at the end. The latter material should be set off by a heading such as “Special Considerations for TSD Facilities”.

Page 2-2: In the side bar titled, “Content & Organization of the WAP”:

- Item 1.B. should be changed to read “Outline how the WAP addresses each permit condition or applicable regulatory requirement” to reflect that this guidance is also directed towards generators who may not have a permit.
- A qualifier should be added to items that apply only to permitted facilities to indicate that that is the case (e.g., “4. Rejection Policy (see Section 2.11) (permitted facilities only”).

Page 2-3: In Table 2-1:

- Summarizing key considerations, entries concerning post-treatment issues should include a question about evaluating whether the treatment process has been successful.
- With respect to storage of hazardous waste, the issue of compatibility/incompatibility among wastes that will be stored should be mentioned (i.e., how is it determined whether wastes that will be stored in proximity to each other are mutually compatible?).

*Section 2.2.2 Identification/Classification of Hazardous Wastes Generated or Managed at Your Facility:*

Page 2-6: There is an apparent typo in first line, "(i.e., all wastes generated on-site are received from off-site)", which we believe should be changed to "(i.e., all wastes generated on-site or received from off-site)".

*Section 2.3 Systematic Planning:*

Page 2-8: We note that the *Guidance on Systematic Planning Using the Data Quality Objectives Process* provides guidance to USEPA program managers and planning teams as well as to the general public where appropriate. We further note that it does not impose legally binding requirements and may not apply to a particular situation based on the circumstances.

Page 2-10: In the side bar titled "DQO Step 3": We suggest the line "Use of the SW-846 Methods 3010A and 6010B to prepare and analyze the sample" be changed to 'Use the SW-846 methods 3010A and 6010C to prepare and analyze the leachate produced from method 1311' since it is the leachate, not the original sample, that 3010A and 6010C would analyze.

Page 2-11: In the side bar titled, "DQO Step 4 – Define the Study Boundaries", the statement located under Additional Constraints that reads: "The action level for lead in TCLP leachate under RCRA is 5.0 mg/L" should be changed to: "The action level for lead in TCLP leachate under RCRA's LDRs is 0.75 mg/L."

This change will make it consistent with both:

- DQO Step 2's identification of the decision ("Does the new waste contain lead at a concentration that exceeds the regulatory standard requiring it to be treated before disposal?"), and with:

- DQO Step 1's statement of the problem ("Do you need to treat the new waste before disposal due to high levels of lead?")

REASON: Treatment prior to disposal is in the realm of the Part 268 LDR program, which has a TCLP-Pb treatment standard of 0.75 mg/L (for nonwastewaters). The 5.0 mg/L TCLP limit given in DQO Step 4 is just the threshold for a waste to be a D008 hazardous waste, which is not the issue stated in Step 1's statement of the problem. (Had DQO Step 1's statement of the problem

been "Do you need to manage the waste as hazardous waste?", DQO Step 4's constraint would indeed be "The action level for lead in TCLP leachate under RCRA is 5.0 mg/L.")

Page 2-11: The DQO Step 5 discussion contains the statement: "As RCRA typically only requires a single exceedance of a standard to consider the waste hazardous...", but that statement is misleading: SW-846 Chapter Nine's first example (on pages Nine-14 through 17) makes it clear that individual samples may in fact exceed the TCLP regulatory threshold (as long as the upper confidence limit remains below that regulatory threshold).

Page 2-11: In the side bar titled "DQO Step 5", the example decision rule statement is inconsistent with DQO Step 1's example statement of the problem: The example problem is whether the waste needs to be treated before disposal, but the decision being made from the data is whether the waste is hazardous or not. Those are two very different issues.

Page 2-12: In the side bar titled "DQO Step 6", the specific example has the same general shortcoming as DQO Step 5 of being inconsistent with DQO 1's statement of the problem.

Page 2-12: The fixing of DQO Steps 4, 5, and 6 to make them consistent with DQO Step 1 (as detailed in the above comments) would appear to fall under DQO Step 7, Optimize the Design, on page 2-12.

#### *Section 2.4 Selecting Waste Analysis Parameters:*

Page 2-13: Third bullet: The bullet is absolutely pertinent, but consider alternative wording for the example given within the parentheses. An alternative might read: '(i.e., ensure that wastes managed on-site are within the scope of the facility permit, and process performance standards can be met)'. This example will include captive facilities as well as those who accept and manage wastes from off-site sources.

Page 2-14: Side bar: The discussion of "Proving the Positive" versus "Proving the Negative" may have some undesirable implications with respect to heterogeneous waste streams, such as debris from the demolition of a building. The discussion could be taken to imply that the generator of such a waste must remove every individual component of the debris that may exceed a TCLP limit or else face the risk of an enforcement action if enforcement personnel happen to take a single sample that turns out to be hazardous – yet it is acceptable to characterize the waste based on an average value over the entire mass of the debris, since that is the waste stream as-generated, and it may be legitimate to characterize that waste stream as nonhazardous even though there may be some scattered, individual components within the waste stream that, if disposed separately, would meet the definition of hazardous waste.

Page 2-14: Side bar: Third paragraph: To make it clear that a single grab sample may not be determinative that the waste as a whole is hazardous, the first quote from the 2/8/90 Federal Register at page 4442 ("If a sample possesses...") should include the subsequent sentence "Depending on the degree to which the property of interest is exceeded, testing of samples

which represent all aspects of the waste or other material may not be necessary to prove that the waste is subject to regulation." (See also the above page 2-11 comment regarding DQO Step 5, which cited the SW-846 Chapter Nine example of an individual grab sample exceeding the TCLP-Barium regulatory threshold of 100 mg/L, yet the waste as a whole was determined to be non-hazardous.)

#### *Section 2.4.1 Criteria for Parameter Selection:*

Page 2-15: First paragraph: fourth sentence: Regarding the statement: "If the generator determines that their waste is subject to LDR requirements, they must include this information in the manifest with the appropriate LDR treatment standard(s)", LDR information such as the treatment standards does not appear on the manifest, but rather on the LDR notification/certification. See 268.7 table entitled "Generator Paperwork Requirements." Also, LDR notification/certification submittals are not required with each manifested shipment, per 268.7(a)(2) and (3)(i). Therefore, this statement should be revised.

Page 2-17: Second paragraph: There is a reference to a USEPA publication on determining compatibility of wastes that is only available from the National Technical Information Service (NTIS). USEPA should consider scanning the document, making it available on the USEPA website, and including an active link to the website location in the guidance document.

#### *Section 2.4.2 Parameter Selection Process:*

Page 2-18: Third sentence: Missing the word "to" ("This tool is designed **to** be applied....").

#### *Section 2.4.4 Special Parameter Selection Requirements:*

Page 2-20: "Ignitable, Reactive, and Incompatible Waste Considerations": Period missing between the third- and second-to-last sentences.

Page 2-21: There are references to two USEPA publications that are only available from the NTIS. USEPA should consider scanning the documents, making them available on the USEPA website, and including active links to the website locations in the guidance document.

#### *Section 2.5 Selecting Sampling Procedures:*

Page 2-24: Second paragraph, first sentence: Delete the word "and" just before the first parenthetical sentence.

#### *Section 2.5.1 Sampling Strategies and Sampling Frequencies:*

Page 2-29: Another useful reference on sampling strategies is: *Guidance on Choosing a Sampling Design for Environmental Data Collection for Use in Developing a Quality Assurance Project Plan* (EPA QA/G-5S) EPA/240/R-02/005, December 2002.

Page 2-29: First full paragraph: Under the discussion of "grab sample" it states: "A grab sample is a single sample from a particular location within a volume of waste at a distinct point in time. Grab samples should generally *not* (emphasis added) be collected if the integrity of the sample may be affected by the physical mixing of samples during the compositing process (e.g., volatile constituents) and when determining compliance with LDR requirements...". The word *not* is incorrect and should be removed.

Page 2-30: Second bullet under "Sampling Frequencies": We suggest deleting the following words for clarity: "the generator has been notified by an off-site TSDf that", since notification of the generator is not a factor in whether an analysis should be repeated. (See also the page 2-52 comment below.)

#### *Section 2.6.1 Selecting a Laboratory:*

Page 2-42: There is a typo in the last line on the page -- change "labs" to "lab's".

Page 2-44: In Table 2-7, recommendations are made for the frequency of various quality control checks. The basis for these recommendations should be given (i.e., references to the source of these recommendations).

#### *Section 2.7 Quantifying Data Uncertainty:*

Page 2-51: Side bar: First note: the meaning of the second part of the second sentence is not clear ("...you do not know how to calculate the standard deviation or use the t-table."). If the intended meaning is that someone may need to apply a different statistical technique if they do not know how to calculate the standard deviation or use the t-table, then that should be stated in a separate sentence. However, that seems to be unhelpful advice (in effect, it is saying "If you don't know what you are doing, do something else.") It might be better to reword the sentence as "If your sample results are not normally distributed, or otherwise violate the assumptions that must be met for the method to be applicable, you will need to apply a different statistical method.", and leave it at that.

#### *Section 2.8 Determining Re-Evaluation Frequencies:*

Page 2-52: Second bullet: We suggest deleting the following words: "the generator has been notified by an off-site TSDf that", for the following reasons:

- The generator is not subject to 264.13 (or 265.13), and
- Notification of the generator is not a factor in whether an analysis should be repeated by the TSDf.

(See also the page 2-30 comment above.)

Page 2-53: Side bar: Example A:

- Under Relative Percent Difference, the intermediate numbers should be "(0.08/0.46)" instead of "(0.06/0.47)".
- For the sake of clarity, change the second-to-last step to "In accordance with Table 2-9, re-evaluate the waste quarterly based on RPD = 17%." Also, a citation for a reference that discusses this technique in more detail should be provided. (Similar comment applies to Example B on page 2-54.)

Page 2-54: Table 2-9: last row: It appears that the parenthetical "RDP < 50%" should be changed to "RDP > 50%", for the following reasons: Less than 50% is already covered in the row above, and plugging in very good toxaphene concentrations such as 0.10 mg/l produces RDPs much greater than 50% (e.g., RDP = 133% for the 0.10 mg/l).

#### *Section 2.9.1 Procedures for Receiving Wastes Generated Off-Site:*

Page 2-55: At the end of this section, it may be useful for the guidance to suggest that some off-site facilities may have a need to temporarily archive samples of generators' wastes to allow subsequent analyses. This would be the case where wastes from multiple generators are commingled into a single bulk load before delivery to the facility (a tank truck picking up waste oil, for instance) and contaminants in the material from one or more generators may cause the overall load to fail acceptance criteria. If a load fails acceptance criteria, there may be a need to determine the source of the problem, so that costs can be properly assigned if a more expensive management method is required for the waste; so that corrective measures may be taken to prevent similar situations in the future with the responsible party; and so that regulatory authorities may be notified, if appropriate.

#### *Section 2.9.3 Procedures for Ignitable, Reactive, and Incompatible Waste:*

Page 2-58: There is a reference to a USEPA publication on determining compatibility of wastes that is only available from the NTIS. USEPA should consider scanning the document, making it available on the USEPA website, and including an active link to the website location in the guidance document.

#### *Section 2.9.4 Procedures for Complying with LDR Requirements:*

Page 2-58: The last paragraph (and concluding on 2-59) is out of date, with the referenced 268.41, 268.43, and 268.46 all being replaced with the table in 268.40. The reader should instead be referred to 268.40 to obtain the current LDR treatment standard for a particular hazardous waste.

#### *Figure 2-9 Example Waste Profile Sheet:*

Page 2-64: Item 10: the SIC Code has been supplanted by the NAICS Code.

### **Part Three: Checklist**

Page 3-1: An introductory note should be added clarifying that this checklist is intended for permitted TSDFs, although some of the elements of the checklist also have applicability for generators' waste analysis plans.

Page 3-1: Checklist item 2.b – This item should be removed from the checklist as personnel training requirements under 40 CFR 246.16 do not require personnel be trained in systematic planning.

### **Part Four: Sample WAPs**

Page 4-1: We have a general recommendation that USEPA provide an example of a WAP that was complete and approvable by Agency standards.

### **Appendices**

#### *Appendix A Hazardous Waste Identification:*

Page A-4: Third paragraph: The test methods for D002-corrosivity listed are incorrect. 40 CFR 261.22(a)(1) lists the only test method to determine if an aqueous waste is corrosive is the use of a pH meter using Method 9040C in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846.

#### *Appendix B Regulatory Summary:*

Page B-1: General comment: Consideration should be given to including a discussion of the Comparable/Syngas Fuel Exclusion provisions of 40 CFR 261.38. These provisions include a fuel analysis plan requirement at 40 CFR 261.38(b)(4), which is essentially a WAP.

Page B-1: A disclaimer should be added advising the reader that the provisions discussed in this appendix are not necessarily in effect in all States, and that State regulators should be consulted if there is a question about the applicability of any provision.

Page B-2: Last sentence of the Definition of Solid Waste (DSW) section: Update the December 2012 date USEPA committed to resolving issues brought forward by the Sierra Club and heard in DC District Court. Current EPA web information pertaining to DSW estimates a June 2013 date, per: <http://yosemite.epa.gov/oepi/rulegate.nsf/byRIN/2050-AG62>

Page B-5: In the last full paragraph, it incorrectly states "LDRs apply to all generators and transporters of hazardous waste as well as to owners and operators of treatment, storage, and disposal facilities (TSDFs)." The LDRs do not apply to CESQG-level generators.

Page B-5: On the bottom of page B-5 and top of B-6, the statement "HSWA requires that both listed and characteristic determinations be made for each waste." This is not true when: (1) the generator is a CESQG (since LDRs do not apply to CESQGs), and (2) when the "in lieu of" provision of 268.9(b) applies, such as with a waste that is just F005-toluene.

*Appendix C Regulatory Citations for Conducting Waste Analysis:*

Page C-1: General comment regarding Appendix C: Similar to the suggestion regarding Appendix B, consideration should be given to including a reference to the fuel analysis plan requirement at 40 CFR 261.38(b)(4) (part of the Comparable/Syngas Fuel Exclusion provisions of 40 CFR 261.38). The plan is essentially a WAP.

Page C-3: Last paragraph: The statement "If the sludges in the WWTU go directly from that unit into a municipal sewer, and travel through that sewer to a "Publicly Owned Treatment Works" (POTW)..." seems ill-advised since it could encourage discharge of solid sludge to the public sewer.

Page C-5: First paragraph: Change the last sentence to read, "You may be able to reuse the material if the use is legitimate according to U.S. Environmental Protection Agency or authorized State regulatory authority (i.e., the proposed use is not a subterfuge to avoid regulation of the material as hazardous waste)."

Page C-5: Definition of POTW: the statement that Federally-owned treatment works are not considered POTWs is misleading. The Federal Facility Compliance Act of 1992 extended the domestic sewage exclusion to FOTWs. See Section 3023(a) of RCRA, or discussions at <http://www.epa.gov/superfund/contacts/infocenter/reports/1998/jan98.txt> and on page 23 of <http://www.epa.gov/wastes/inforesources/pubs/training/excl.pdf>.

*Appendix E Glossary of Terms:*

According to "Supporting Statement For Information Collection Request (ICR) 0801.18, Requirements for Generators, Transporters, & Waste Management Facilities Under the RCRA Hazardous Waste Manifest System", January 2012:

A captive TSDf is defined as a facility that receives hazardous waste from onsite sources only, or from onsite sources and offsite sources that are part of its same company only.

A commercial TSDf as a facility whose waste management capacity is available to any generators or facilities for commercial hazardous waste management, or to a limited group of generators or facilities for commercial hazardous waste management.

The definitions in this guidance should be consistent with those in other USEPA publications.

*Appendix F Key Considerations and Tips:*

Page F-2: Under “Key Considerations for the Permitting Agency”: the 3<sup>rd</sup> and 4<sup>th</sup> bullets are addressing the same point.