

US EPA ARCHIVE DOCUMENT

## **PROGRAM DESCRIPTION**

### Attachment 2

*Secretary's Enforcement Policy*



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
& ENVIRONMENTAL CONTROL

89 KINGS HIGHWAY  
P.O. BOX 1401

DOVER, DELAWARE 19903

TELEPHONE (302) 736-1212

OFFICE OF THE  
SECRETARY

SECRETARY'S ENFORCEMENT POLICY  
FOR THE DIVISION OF AIR AND WASTE MANAGEMENT  
AND THE DIVISION OF WATER RESOURCES

Dated: April 3, 1987

No. 87-EP-1

I. INTRODUCTION

Achieving and maintaining a high level of compliance with environmental laws and regulations is one of the most important goals of this agency and is an essential prerequisite to realizing the benefits of our regulatory programs. However, in the process of developing an effective enforcement policy at the state level, it is necessary to keep in mind the broad objectives of parallel Federal programs upon which many of our statutes and regulations are based. In addition, we must endeavor to reach an acceptable degree of consistency within the various programs so that the regulated community, as well as concerned and affected parties, will be treated in generally the same manner in similar situations. The following policy therefore, is intended to achieve all 3 objectives - a high degree of compliance, consideration of overall Federal objectives where applicable, and case-by-case consistency within the framework of existing DNREC/DOJ enforcement authorities as set forth in various state statutes.

II. STRUCTURE AND PROCEDURE

Each Division Director shall designate a panel for review of enforcement matters. The Panel shall consist of the Branch Supervisor, the section Manager, the Division Director and/or Deputy Director, Supervisor of Enforcement and a representative of DOJ. It shall be the duty of the Panel to periodically meet and review the status of violations brought to its attention either by program personnel or Environmental Protection Officers. EPO's investigative reports should be filed with the appropriate Branch Supervisor with a copy to the Director. Such reviews shall be performed in accordance with the guidelines set forth in Section III below. Upon completion of the review process, if the decision is made to pursue enforcement action, the matter shall be forwarded to the Secretary with a recommendation as to a proposed enforcement response. After approval or modification of the Panel's recommendation, the Division Director shall refer the violation and approved recommendations to the DOJ for appropriate action, except in the case of minor violations handed by EPO's in J.P. Court as discussed below.

### III. GUIDELINES FOR ENFORCEMENT ACTION

In selecting an enforcement response that will be both timely and appropriate for a given violation, the Panel will necessarily have to exercise its collective judgment in a wide variety of factual and legal contexts, many of which cannot be anticipated. When making a determination on the appropriate response in a given case, the Panel will choose from a variety of statutory authorities and will consider a series of fundamental factors.

With respect to enforcement responses, the alternatives available to the Panel are set forth primarily in three statutes:

- 1) 7 Del. C. Ch. 60 - Air, Water, Solid Waste, etc.
- 2) 7 Del. C. Ch. 63 - Hazardous Waste
- 3) 7 Del. C. Ch. 66 - Wetlands

Essentially there are four types of actions under each statute, depending to some extent on the violator's state of mind and the type of harm to be addressed as well as the range of penalties to be sought. These provisions are summarized as follows:

<u>STATUTE</u>			
<u>RESPONSE</u>	<u>Ch. 60</u>	<u>Ch. 63</u>	<u>Ch. 66</u>
<u>ADMIN. ORDER</u>	\$6018 Cease and Desist Order any violation  \$6005(b)(2) Conciliation any violation	\$6309(a) Compliance Order any violation  Reasonable penalty based on seriousness and efforts to comply	\$6614. Ceas Desist Order any violation
<u>INJUNCTION</u>	\$6005(b)(2) "continuing or threatening to begin" (Chancery)	\$6309(c) "threatened or continuing or likely to reoccur" (Chancery)	\$6615 Injunctio to prevent violation (Chancery)
<u>CIVIL PENALTY</u>	\$6005(b)(1) \$1,000 - 10,000 any violation (Superior Court)	\$6309(b) \$1,000 - 25,000 any violation (Superior Court)	\$6617(c) \$1,000 - 10,000 any violation (Superior Court)

CRIMINAL  
PENALTY

\$6013(c) --\$50.- 500 any violation (J.P. Court)	\$6309(f) \$2,500 - 25,000 1 year \$50,000; 2 years "intentional or knowing violation" (Superior Court)	\$6617(b) \$50 - 500 any violation (J.P. Court)
\$6013(b) \$500 - 5,000; 6 months "knowing false statement in application, approval, etc."	\$6309(g) \$500 - 25,000 or 1 year \$50,000; 2 years "knowing false statement" (Superior Court)	\$6617(a) \$500 - 10,000 "intentional or knowing violati (Superior Court)
\$6013(a) \$2,500 - 25,000 "willful or negligent violation" (Superior Court)		

It is obvious that all three statutes exhibit the same pattern - a range of responses from administrative orders and J. P. Court Criminal cases through injunctions and civil penalties and finally criminal actions in Superior Court. These Superior Court criminal actions, it should be noted, are the only responses requiring proof of "scienter" or the violator's state of mind. All of the rest merely require evidence that some regulation, order, permit condition etc. has been violated, regardless of any state of mind. This principle serves as a good starting point for a discussion of appropriate responses: Unless there is adequate proof of the requisite state of mind, a criminal prosecution in Superior Court would be ruled out.

Having established the requisite "scienter" however is not necessarily enough to warrant an all out criminal response. The Panel should also consider at least the following factors:

- harm to the environment or health;
- seriousness of the violation;
- duration of the violation;
- notification efforts by the violator;
- previous enforcement history;
- consistency within the program.

After reviewing the matter in light of all of the above, the Panel should then be able to either recommend proceeding with a major criminal effort in Superior Court or to rule out that approach. If the decision is to proceed with a Superior Court criminal case, approval of the Secretary should be immediately obtained and the Department of Justice should be involved through the State Solicitor's office.

Should the Panel rule out Superior Court criminal action, a decision should be made on the remaining options. If the violation is a continuing one or is threatening to begin, some thought should be given to injunctive relief. However, despite clear statutory authority to seek injunctions for any violation, practical experience has shown that such remedies are only available where there is adequate evidence of harm or potential harm to human health or the environment. In the absence of such proof, therefore, such a response should be normally ruled out. As with Superior Court criminal cases, approval of the Secretary and immediate coordination with DOJ is essential.

Generally it will not be difficult to decide on Superior Court criminal cases or injunctions since they usually involve the most extreme violations and environmental harm. If these options have been eliminated, as they usually will be, the more difficult choices will remain among civil penalties in Superior Court, J. P. Court criminal cases and administrative orders. For the most part, Superior Court civil actions should be used for serious violations where the requisite "scienter" is lacking for a major criminal case. Consideration should be given to all of the factors discussed earlier - harm to the environment, seriousness of violations, etc. However, the civil penalty approach raises a variety of issues including the appropriate amount of the penalty, abatement of the problem, installation of pollution control equipment, etc. A decision will also have to be made on whether to litigate the case or resolve it by means of a pre-trial settlement and consent order.

Needless to say, civil penalty cases should usually be settled if the agency's main objectives of achieving compliance, creating a deterrent effect by appropriate penalties and remaining consistent within the framework of each program can be reached. Toward that end, the Division Directors are hereby authorized to develop civil penalty policies which will guide the Panel in arriving at appropriate settlement proposals. These policies shall become part of this enforcement policy once they have been approved by the Secretary and should incorporate the following factors:

- (1) Economic benefit from non-compliance;
- (2) Gravity of the violation;
- (3) Degree of willfulness or negligence;
- (4) Degree of cooperation/noncooperation;
- (5) History of noncompliance;
- (6) Ability to pay;
- (7) Credit projects;
- (8) Unique factors.

Further, any policy must also make special provisions for chronic violators which will include, at a minimum, the concept of escalating penalties for recurring violations. As with the Superior Court criminal and injunctive responses, immediate involvement of DOJ is essential following approval by the Secretary.

In connection with civil cases, it should also be noted that under 7 Del. C. §6005(c) and under 7 Del. C. §6308(4) the Secretary may undertake abatement action and recover the costs from the violator in addition to any other enforcement actions. Cost recovery should always be considered when the Department has expended State funds to address an environmental problem. Since these two statutory provisions differ somewhat in both the circumstances under which cost recovery is available and the scope of recoverable costs, the Panel should carefully review those sections before making a recommendation.

The remaining choices - J. P. Court criminal and administrative orders - have traditionally been handled within this agency without DOJ review although occasionally DOJ guidance may be helpful in more complicated matters or where the case is likely to draw considerable public attention. Presumably, if the Panel has eliminated the three most serious responses, the situation does not yet pose a threat to human health or the environment and each of the factors listed earlier have been discussed and have not yielded significantly negative results. One exception may be the Cease and Desist Order under Chapters 60 and 66 which may be issued unilaterally by the Secretary to bring a serious threat under control and may be used as a first step prior to seeking an injunction.

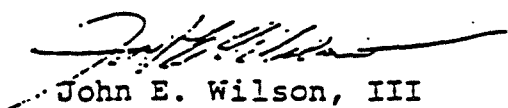
Except for the Cease and Desist situation, administrative orders and J. P. Criminal actions will be reserved for minor violations which do not pose any significant, immediate threat to health or the environment and do not reflect very negative evaluations by the Panel after considering all of the factors listed previously. As a rule of thumb, J.P. Court criminal cases should be used for minor, isolated violations where little or no corrective action is required and where our objective is to bring the matter to the violator's attention. Since it would not be practical or even desirable to require Panel review of every minor violation, the EPO's will continue to prosecute most of these cases directly in J. P. Court, although all of these matters should be reported to the Panel afterward. However, special circumstances such as those having significant public interest, media coverage, involvement of other agencies, etc. may warrant consideration by the Panel. In such cases, the EPO's will be instructed accordingly by the Supervisor of Enforcement after he has consulted with the rest of the Panel to determine if it warrants their attention.

Finally, Administrative Orders are available where there is no immediate threat to health or the environment and our objective is to bring the violator back into compliance so as to avoid further violations. Often, this approach will involve a compliance order with possible penalties and appropriate deadlines for meeting compliance goals and, if unsuccessful, may also be the first step toward more serious enforcement responses.

As noted early on, enforcement must not only be appropriate but must also be timely in order to achieve this agency's objectives. Since no single set of time periods and deadlines may be workable for all programs, the Directors are hereby authorized to develop guidelines which shall become part of this enforcement policy upon approval by the Secretary on what is "timely" enforcement action within each of their respective programs. Necessarily such guidelines will consider resource capabilities, status of investigative efforts, the violator's cooperation or lack thereof, progress toward compliance and enforcement history. Once in place, these guidelines will set the pace for reviewing violations, making recommendations to the Secretary, and referring cases to DOJ for enforcement.

The above enforcement policy shall become effective immediately.

SO ORDERED, this 3rd day of April, 1983.

  
John E. Wilson, III  
Secretary

## **PROGRAM DESCRIPTION**

### Attachment 3

#### *Hazardous Waste Management Enforcement Strategy*

## STATE OF DELAWARE

### DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL DIVISION OF AIR AND WASTE MANAGEMENT HAZARDOUS WASTE MANAGEMENT ENFORCEMENT STRATEGY

#### INTRODUCTION

Environmental enforcement is a many-faceted program that ranges from technical guidance on correcting deficiencies up to courtroom litigation. The principal objective of enforcement is to achieve an improved environment through compliance with environmental laws and regulations.

The Division's enforcement policy will be firm, fair, and consistent. We believe that a strong enforcement posture will prove the best deterrent to potential violators. This strategy sets forth a consistent approach for all enforcement cases in Delaware.

The achievement of high rates of environmental compliance in the hazardous waste management program is a primary objective of the State and EPA. Delaware received final authorization to administer this program in 1986 and has received further authorizations for program revisions in 1996 and 1998. EPA will continue to provide oversight to ensure that Delaware's program is consistent with national objectives and adequately enforceable.

The Division will place greater emphasis on major polluters of the environment than it has in the past and will find more efficient ways to deal with minor complaints.

The strategy reviews cases where non-compliance is likely to arise and determines the appropriate enforcement action to be taken by the Department. The intent of this strategy is to provide firm, consistent, equitable, management supported decisions on violations, preventing decisions from being made reactively and hastily on a case-by-case basis.

#### STATE EPA RELATIONSHIPS

It is imperative that all enforcement activities be coordinated closely between the Department and EPA. The Department will use the current EPA Enforcement Response Policy (ERP) when evaluating enforcement cases, and the EPA Civil Penalty Policy will be considered in assessing fines under the RCRA program.

#### ENFORCEMENT

The Department utilizes various enforcement mechanisms to deal with non-compliance. The mechanisms range in strength, depending on the severity and complexity of the non-compliance, from a Notice of Deficiency, through a Letter of Warning, Notice of Violation, Secretary's Order, Civil Action, Criminal Action, to an Imminent Hazard Order. Experience from our inspections and our compliance-monitoring program has helped us to determine which enforcement mechanisms are most appropriate for certain kinds of violations.

The EPA Enforcement Response Policy establishes a set of minimum standards, which the Department must apply. Violations drawing the most severe initial actions will be those which involve danger to human health and the environment, intentional violations, violations that result in a financial gain for the violator, and repeat offenses.

At all times, enforcement must be at least as stringent as the requirements of the national criteria for RCRA. The Department will follow the ERP guidelines for categorizing violators as either Significant Non-Compliers (SNCs) or Secondary Violators (SVs) and when determining the appropriate enforcement action for non-compliance with the State's hazardous waste regulations. A timely and appropriate enforcement action will return the facility to compliance, as well as deter any future or potential non-compliance. It is also a valuable tool in considering judicial enforcement as opposed to administrative actions.

The Department's enforcement mechanisms consist of the following:

I. Notice of Deficiency (NOD)

A Notice of Deficiency is issued when an application or a required facility document has been found to lack certain required information necessary to perform an adequate review.

II. Letter of Warning (LOW)

A Letter of Warning is issued for paperwork violations where there is no potential hazard to human health or the environment.

III. Notice of Violation (NOV)

A Notice of Violation is issued for a potential hazard to human health and the environment: for example, in case of a paperwork violation or a minor waste management violation.

IV. Secretary's Order (SO)

A Final Secretary's Order is issued to stop operations and to order the implementation of corrective actions approved by the Department.

V. Compliance Order/Schedule (CO)

A Compliance Order or Compliance Schedule is equivalent to a Secretary's Order and is issued to allow a facility to operate while implementing corrective actions which would require considerable time to alleviate a violation. For example: an owner or operator has taken all the required corrective actions except for installing a groundwater monitoring system, evaluating any groundwater contamination, and providing a mechanism for groundwater clean-up. The implementation of the groundwater-monitoring program will require considerable time. A Compliance Order or Schedule is issued to allow the company to resume normal business operations while implementing the groundwater-monitoring program. The Order or Schedule will require the company to meet specific deadlines. If the Order or Schedule is not adhered to, then the Department could pursue litigation under VI below.

VI. Civil Action (CA)

A Civil Action may be undertaken when at least one of the following occurs:

- a negligent act that causes injury or produces an imminent or substantial hazard to human health or the environment;
- a violation created by financial constraints of the violating party;

- a repeat violation where an NOV or SO has been issued in the past;
- Noncompliance with a Secretary's Order issued by the Department.

VII. Criminal Action (CRA)

Criminal Action requires at least one of the following:

- a knowing act that causes injury to human health or the environment;
- a violation that results in a profit for the violating party.

VIII. Imminent Hazard Order

In the event the Secretary receives information that the storage, transportation, treatment, or disposal of any hazardous waste may present an imminent and substantial hazard to the health of persons, or the environment the Secretary may issue an order directing the owner or operator of the treatment, storage or disposal facility or site, to take the necessary steps to prevent the act or eliminate the practice which constitutes such hazard.

INSPECTIONS AND COMPLIANCE MONITORING

Inspection frequency and thoroughness are consistent with the national strategy. Specific actions are noted in annual work programs agreed upon between the Department and EPA. The compliance-monitoring program has been closely coordinated with our permitting program. It is the Department's belief that personnel involved with permitting best know the facilities and are most qualified to conduct inspections. It is also important for the compliance monitoring activities to be closely coordinated with the enforcement program. Accordingly, meetings between compliance and enforcement personnel are conducted on a regular basis to determine where enforcement actions should be taken.

We have found it useful in achieving compliance to conduct various types of inspections beyond those required by the RCRA program. Spot inspections, in which no notice is provided to the generator or facility, have given more satisfactory long-term results than announced inspections. It appears, in some cases, that facilities or generators will do a quick cleanup job to meet the upcoming inspection and then allow compliance activities to lag until the next inspection is scheduled. By looking at facilities that have had minor violations, we can schedule spot inspections and correct these problems. Moreover, it appears that the higher the level of management advised of the problem, the more responsive the action taken.

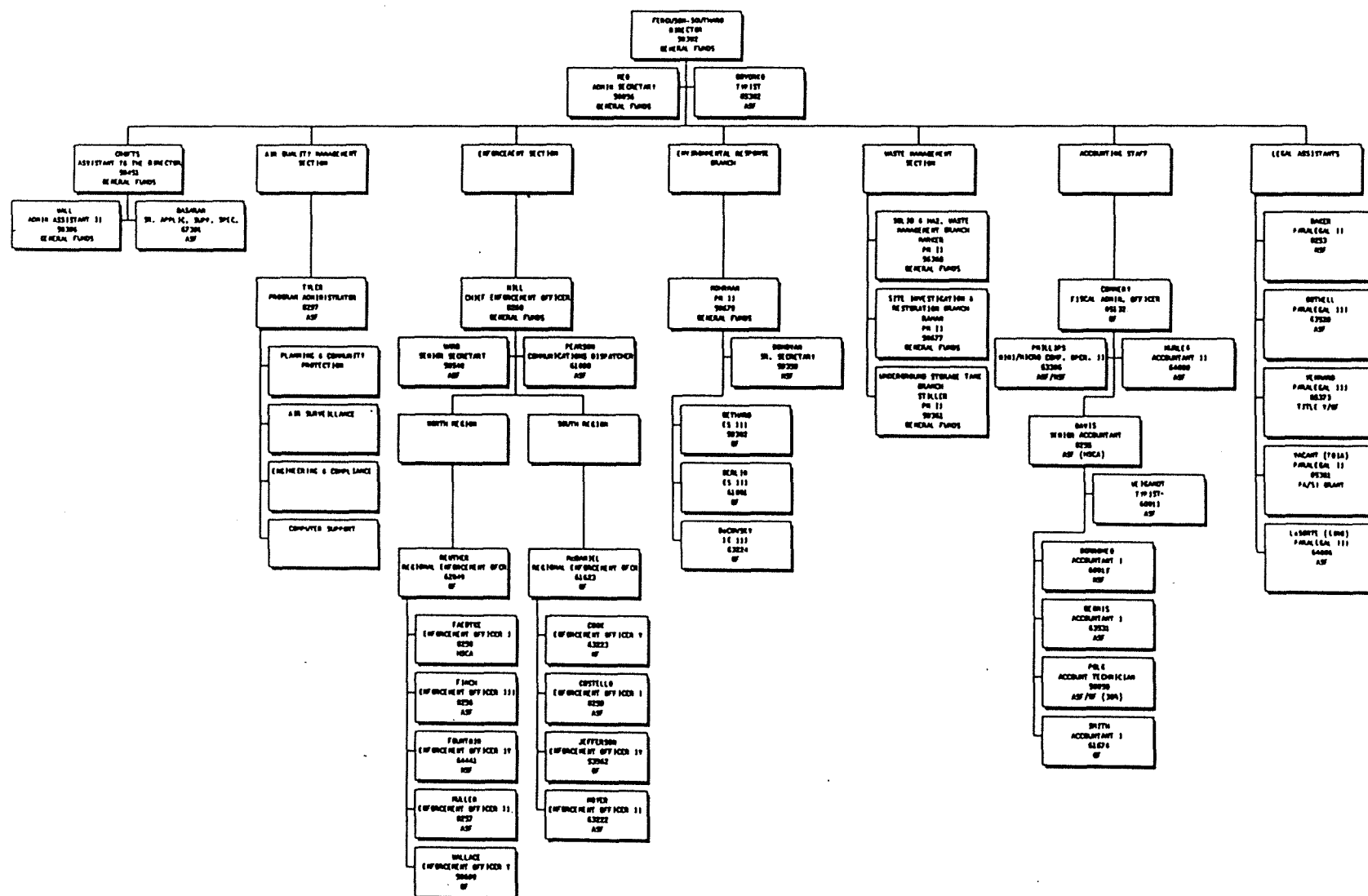
We look carefully at what we term "troubled companies." These are firms which have received NOV's or committed violations under other environmental programs within DNREC. We identify companies with chronic hazardous waste management problems and carefully focus our attention on these companies.

*Revised\_Enf\_Strategy.doc*

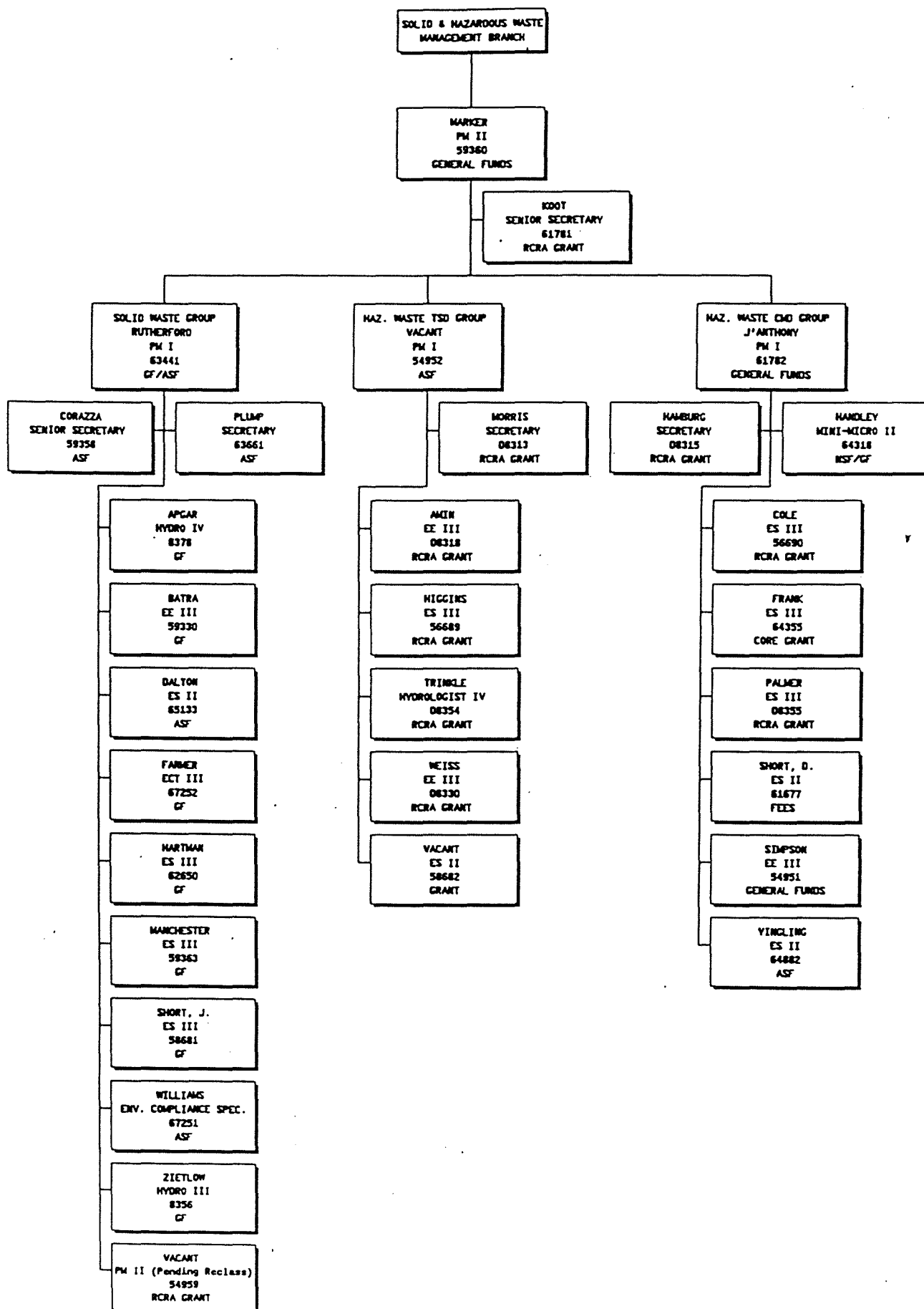
## PROGRAM DESCRIPTION

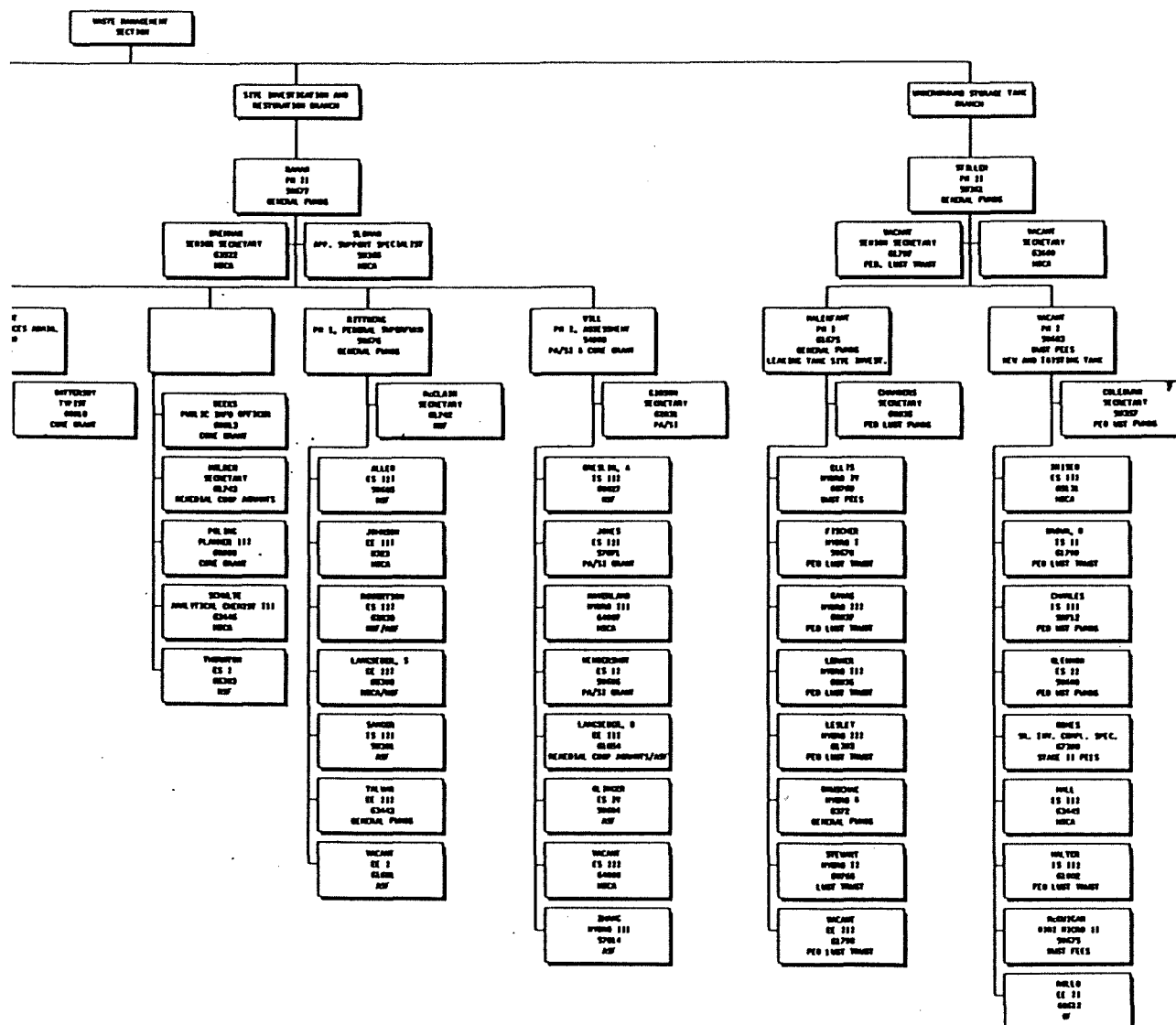
### Attachment 4

#### *Hazardous Waste Management Organization Chart*



DIVISION OF AIR & WASTE MANAGEMENT  
WASTE MANAGEMENT SECTION  
JANUARY 1, 2000





## **PROGRAM DESCRIPTION**

### Attachment 5

#### *Staffing And Funding*

## BUDGET INFORMATION - SALARY &amp; FRINGE

GOAL #	% PER GOAL	% PER GOAL	POS #	POSITION TITLE	SALARY	FRINGE COSTS	% of FTE	SALARY % FTE	FRINGE % FTE	FEDERAL FUNDING	STATE MATCH
2.05	100%		08313	Secretary	\$ 22,537	\$ 9,584	1.00	22537	9584	\$ 32,121	
2.05	100%		08315	Secretary	\$ 26,090	\$ 11,930	1.00	26090	11930	\$ 38,020	
2.05	100%		08318	Environmental Engineer III	\$ 48,772	\$ 12,808	1.00	48772	12808	\$ 61,580	
2.05	100%		08330	Environmental Engineer III	\$ 52,249	\$ 14,894	1.00	52249	14894	\$ 67,143	
2.05	100%		54951	Environmental Engineer III	\$ 55,637	\$ 16,879	1.00	55637	16879	\$ 72,516	
2.05	100%		54952	Environmental Program Manager I	\$ 53,989	\$ 16,585	0.50	26995	8292		\$ 35,287
2.05	100%		61782	Environmental Program Manager I	\$ 54,925	\$ 16,209	1.00	54925	16209	\$ 71,134	
2.05	100%		08355	Environmental Scientist III	\$ 38,990	\$ 13,904	1.00	38990	13904	\$ 52,894	
2.05	100%		56689	Environmental Scientist III	\$ 33,799	\$ 11,597	1.00	33799	11597	\$ 45,396	
2.05	100%		56690	Environmental Scientist III	\$ 39,698	\$ 14,362	1.00	39698	14362	\$ 54,060	
2.05	100%		58682	Environmental Scientist III	\$ 30,628	\$ 9,394	1.00	30628	9394	\$ 40,022	
2.05	100%		64882	Environmental Scientist II	\$ 27,846	\$ 11,912	0.50	13923	5956		\$ 19,879
2.05	100%		64318	Mini/Micro Computer Op II (Vacant)	\$ 30,438	\$ 11,833	0.25	7610	2958	\$ 10,568	
2.05	100%		59360	Environmental Program Manager II	\$ 62,600	\$ 18,123	0.50	31300	9062		\$ 40,362
2.05	100%		61677	Environmental Scientist II	\$ 41,872	\$ 13,039	0.75	31404	9780		\$ 41,184
2.05	100%		08354	Hydrologist IV	\$ 52,617	\$ 16,339	0.50	26309	8170		\$ 34,478
2.05	100%		61781	Senior Secretary	\$ 24,384	\$ 11,625	1.00	24384	11625	\$ 36,009	
2.05	100%		64318	Mini/Micro Computer Op II (Vacant)	\$ 30,438	\$ 11,833	0.25	7610	2958		\$ 10,568
2.05	100%		53562	Sr. Environmental Protection Officer	\$ 44,140	\$ 10,499	0.75	33105	7874		\$ 40,979
SALARY TOTAL:					\$ 771,649	\$ 253,349	15.00	605963	198236	\$581,463	\$ 222,736

BUDGET INFORMATION: CONTRACTUAL SERVICES			
	GRANT FUNDING	STATE MATCH	
State Personnel Charges	\$ 3,000		
Analytical Services	\$ 6,000		
Legal	\$ 5,867		
<b>TOTAL:</b>	<b>\$ 14,867</b>	<b>\$ -</b>	
State Personnel Charges - These expenses are paid to our State Personnel Office for their costs incurred for handling payroll, payroll deductions, pension issues, maintenance of files, and assistance in the hiring process for positions listed in this grant application. This is a yearly per position charge.			
Analytical Services are expenses that will be incurred for laboratory analysis of samples collected at various RCRA sites. This analysis will be performed at appropriate laboratories, to be determined based on sample analysis requirements.			
The legal charges are paid to the State's Attorney General's Office for legal support provided to the Hazardous Waste Management Branch regarding hazardous waste facilities or issues (i.e. - Administrative Orders, regulatory adoption).			

**HAZARDOUS WASTE MANAGEMENT GRANT BUDGET BREAKDOWN  
SUPPLIES AND TRAVEL**

TRAVEL	
Out of State Travel (2 trips @ \$500 per trip avg.)	\$1,000.00
SUPPLIES	
Office Supplies	\$5,668.00
Health and Safety/Sampling Supplies	\$5,668.00
Computers	\$3,500.00
Total	\$14,836.00

BUDGET INFORMATION: OTHER					
	GRANT FUNDING	STATE MATCH			
Audit Charge	\$	805			
TOTAL:	\$	805	\$	-	
The audit charge is paid to the State Auditor's Office for their time auditing our records for the Single Audit Report. EPA requires this report and the 0.1% is charged only on federal funds since the audit is done to fulfill federal requirements.					

## PROGRAM DESCRIPTION

### Attachment 6

*Notification Of Regulated Waste  
Activity Form*

&

*Non-Notifier Tracking Form*

Please print or type with ELITE type (12 characters per inch) in the unshaded areas only

Please refer to the Instructions for Filing Notification before completing this form. The information requested here is required by law (Section 3010 of the Resource Conservation and Recovery Act).



# Notification of Regulated Waste Activity

United States Environmental Protection Agency

Date Received  
(For Official Use Only)

## I. Installation's EPA ID Number (Mark 'X' in the appropriate box)

☐

A. First Notification

☐

B. Subsequent Notification  
(Complete Item C)

C. Installation's EPA ID Number

## II. Name of Installation (Include company and specific site name)

## III. Location of Installation (Physical address not P.O. Box or Route Number)

Street

Street (Continued)

City or Town

State

Zip Code

County Code

County Name

## IV. Installation Mailing Address (See Instructions)

Street or P.O. Box

City or Town

State

Zip Code

## V. Installation Contact (Person to be contacted regarding waste activities at site)

Name (Last)

(First)

Job Title

Phone Number (Area Code and Number)

## VI. Installation Contact Address (See Instructions)

A. Contact Address  
Location Mailing Other

B. Street or P.O. Box

City or Town

State

Zip Code

## VII. Ownership (See Instructions)

A. Name of Installation's Legal Owner

Street, P.O. Box, or Route Number

City or Town

State

Zip Code

Phone Number (Area Code and Number)

B. Land Type

C. Owner Type

D. Change of Owner Indicator

(Date Changed)

Month Day Year

## ID - For Official Use Only

## VIII. Type of Regulated Waste Activity (Mark 'X' in the appropriate boxes; Refer to Instructions)

## A. Hazardous Waste Activity

## 1. Generator (See Instructions)

- ☐ a. Greater than 1000kg/mo (2,200 lbs.)  
☐ b. 100 to 1000 kg/mo (200-2,200 lbs.)  
☐ c. Less than 100 kg/mo (220 lbs.)

## 2. Transporter (Indicate Mode in boxes 1-5 below)

- ☐ a. For own waste only  
☐ b. For commercial purposes

## Mode of Transportation

- ☐ 1. Air  
☐ 2. Rail  
☐ 3. Highway  
☐ 4. Water  
☐ 5. Other - specify \_\_\_\_\_

## 3. Treater, Storer, Disposer (at installation) Note: A permit is required for this activity; see Instructions.

## 4. Hazardous Waste Fuel

- ☐ a. Generator Marketing to Burner  
☐ b. Other Marketers  
☐ c. Boiler and/or Industrial Furnace

1. Smelter Referral  
2. Small Quantity Exemption  
Indicate Type of Combustion Device(s)

- ☐ 1. Utility Boiler  
☐ 2. Industrial Boiler  
☐ 3. Industrial Furnace

## 5. Underground Injection Control

## B. Used Oil Recycling Activities

## 1. Used Oil Fuel Marketer

- ☐ a. Marketer Directs Shipment of Used Oil to Off-Specification Burner  
☐ b. Marketer Who First Claims the Used Oil Meets the Specifications

## 2. Used Oil Burner - Indicate Type(s) of Combustion Device(s)

- ☐ a. Utility Boiler  
☐ b. Industrial Boiler  
☐ c. Industrial Furnace

## 3. Used Oil Transporter - Indicate Type(s) of Activity(ies)

- ☐ a. Transporter  
☐ b. Transfer Facility

## 4. Used Oil Processor/Re-refiner - Indicate Type(s) of Activity(ies)

- ☐ a. Process  
☐ b. Re-refine

## IX. Description of Hazardous Wastes (Use additional sheets if necessary)

## A. Characteristics of Nonlisted Hazardous Wastes. (Mark 'X' in the boxes corresponding to the characteristics of nonlisted hazardous wastes your installation handles; See 40 CFR Parts 261.20 - 261.24)

## 1. Ignitable (D001)

☐

## 2. Corrosive (D002)

☐

## 3. Reactive (D003)

☐

## 4. Toxicity Characteristic (List specific EPA hazardous waste number(s) for the Toxicity characteristic contaminant(s))

☐☐☐☐☐☐☐☐☐☐

## B. Listed Hazardous Wastes. (See 40 CFR 261.31 - 33; See Instructions if you need to list more than 12 waste codes.)

1
7

2
8

3
9

4
10

5
11

6
12

## C. Other Wastes. (State or other wastes requiring a handler to have an LD. number; See Instructions.)

1

2

3

4

5

6

## X. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature

Name and Official Title (Type or print)

Date Signed

## XI. Comments

Note: Mail completed form to the appropriate EPA Regional or State Office. (See Section III of the booklet for addresses.)

## V. Line-by-Line Instructions for Completing EPA Form 8700-12

Type or print in black ink all items except item X, "Signature," leaving a blank box between words. The boxes are spaced at 1/4" intervals which accommodate elite type (12 characters per inch). When typing, hit the space bar twice between characters. If you print, place each character in a box. Abbreviate if necessary to stay within the number of boxes allowed for each Item. If you must use additional sheets, indicate clearly the number of the Item on the form to which the information on the separate sheet applies.

**Note:** When submitting a subsequent notification form, notifiers must complete in their entirety Items I, II, IV, VI, VII, VIV and X. Other sections that are being added to (i.e., newly regulated activities) or altered (i.e., installation contact) must also be completed. All other sections may be left blank.

### Item I -- Installations EPA ID Number:

Place an "X" in the appropriate box to indicate whether this is your first or a subsequent notification *for this site*. If you have filed a previous notification, enter the EPA Identification Number assigned to this site in the boxes provided. Leave EPA ID Number blank if this is your first notification *for this site*.

**Note:** When the owner of an installation changes, the new owner must notify DNREC of the change, even if the previous owner already received a U.S. EPA Identification Number. Because the U.S. EPA ID Number is site-specific, the new owner will keep the existing ID number. If the installation moves to another location, the owner/operator must notify DNREC of this change. In this instance a new U.S. EPA Identification Number will be assigned, since the installation has changed location.

### Items II and IV -- Name and Location of Installation:

Complete Items II and IV. Please note that the address you give for Item IV, Location of Installation, must be a physical address, *not a post office box or route number*.

**County Code and Name:** Give the county code.

New Castle County, Delaware: 003

Kent County, Delaware: 001

Sussex County, Delaware: 005

**Item IV – Installation Mailing Address:**

Please enter the Installation Mailing Address. If the Mailing Address and the Location of Installation (Item IV) are the same, you can print "Same" in the box for Item IV.

**Item V – Installation Contact:**

Enter the name, title and business telephone number of the person who should be contacted regarding information submitted on this form.

**Item VI – Installation Contact Address:**

- A. Code: If the contact address is the same as the location of installation address listed in Item IV or the installation mailing address listed in Item IV, place an "X" in the appropriate box to indicate where the contact may be reached. If the location of installation address, the installation mailing address, and the installation contact address are all the same, mark the "Location" box. If the contact address is *not* the same as those addresses in either Item III or IV, place an "X" in the "Other" box and complete Item VI.B. If an "X" is entered in either the location or mailing box, Item VI.B. should be left blank.
- B. Address: Enter the contact address *only* if the contact address is different from either the location of installation address (Item IV) or the installation mailing address (Item IV), and if Item VI.A. was marked "Other."

**Item VII – Ownership:**

- A. Name: Enter the name of the legal owner(s) of the installation, including the property owner. Also enter the address and phone number where this individual can be reached. Use the comment section in XI or additional sheets if necessary to list more than one owner.
- B. Land Type: Using the codes listed below, indicate in VII.B. the code which *best describes* the current legal status of the land on which the installation is located:
- |   |   |            |
|---|---|------------|
| F | = | Federal    |
| S | = | State      |
| I | = | Indian     |
| P | = | Private    |
| C | = | County     |
| M | = | Municipal* |
| D | = | District   |
| O | = | Other      |

## Notification of Regulated Waste Activity

*\*Note: If the Owner Type is best described as Indian, County or District, please use those codes. Otherwise, use Municipal.*

- C. **Owner Type:** Using the codes listed below, indicate in VII.C. the code which *best describes* the legal status of the current owner of the installation:

F	=	Federal
S	=	State
I	=	Indian
P	=	Private
C	=	County
M	=	Municipal*
D	=	District
O	=	Other

*\*Note: If the Owner Type is best described as Indian, County or District, please use those codes. Otherwise, use Municipal.*

- D. **Change of Owner Indicator:** *(If this is your installations first notification, leave Item VII.D. blank and skip to Item VIII. If this is a subsequent notification, complete Item VII.D. as directed below.)*

If the owner of this installation has changed since the installation's original notification, place an "X" in the box marked "Yes" and enter the date the owner changed.

If the owner of this installation has not changed since the installation's original notification, place an "X" in the box marked "No" and skip to Item VIII.

If an additional owner(s) has been added or replaced since the installation's original notification, place an "X" in the box marked "Yes." Use the comment section in XI to list any additional owners, the dates they became owners, and which owner(s) (if any) they replaced. If necessary attach a separate sheet of paper.

### Item VIII -- Type of Regulated Waste Activity:

- A. **Hazardous Waste Activity:** Mark an "X" in the appropriate box(es) to show which hazardous waste activities are going on at this installation.

1. **Generator:** If you generate a hazardous waste that is identified by characteristic or listed in the *Delaware Regulations Governing Hazardous Waste* (DRGHW), Part 261, mark an "X" in the appropriate box for the quantity of non-acutely hazardous waste that is generated per calendar month. If you generate acutely hazardous waste please refer to the DRGHW, Part 262 for further information.

Notification of Regulated Waste Activity

2. **Transporter:** If you transport hazardous waste, indicate if it is your own waste, for commercial purposes, or mark both boxes if both classifications apply. mark an "X" in each appropriate box to indicate the method(s) of transportation you use. Transporters do not have to complete Item IX of this form, but must sign the certification in Item X. The Delaware regulations for hazardous waste transporters are found in the DRGHW, Part 263.
3. **Treater/Storer/Disposer:** If you treat, store or dispose of regulated hazardous waste, then mark an "X" in this box. You are reminded to contact the Delaware DNREC, Hazardous Waste Management Branch to request Part A of the RCRA Permit Application. The Delaware regulations for hazardous waste installation owners/operators are found in the DRGHW, Parts 264 and 265.
4. **Hazardous Waste Fuel:** If you market hazardous waste fuel, place an "X" in the appropriate box(es). If you burn hazardous waste fuel on-site, place an "X" in the appropriate box and indicate the type(s) of combustion devices in which hazardous waste fuel is burned. (Refer to the definition section for complete descriptions of each device).

Note: Generators are required to notify for waste-as-fuel activities only if they market directly to the burner.

"Other Marketer" is defined as any person, other than a generator marketing hazardous waste, who markets hazardous waste fuel.

5. **Underground Injection Control:** The disposal of hazardous waste through underground injection wells is prohibited in the State of Delaware.
- B. **Used Oil Recycling Activities:** Mark an "X" in the appropriate box(es) to indicate which used oil recycling activities are taking place at this installation.
1. **Used Oil Fuel Marketer:** If you market off-specification used oil, mark an "X" in box 1a. If you are the first to claim the used oil meets the used oil specification established in the DRGHW, Part 266 Subpart E, mark an "X" in box 1b. If either of these boxes are marked, you must also notify (or have previously notified) as a used oil transporter, off-specification used oil fuel burner, or used oil processor/re-refiner, unless you are a used oil generator. (Used oil generators are not required to notify.)
  2. **Used Oil Burner:** If you burn off-specification used oil fuel, place an "X" in the box(es) to indicate the type(s) of combustion device(s) in which off-specification used oil fuel is burned.

## Notification of Regulated Waste Activity

3. **Used Oil Transporter:** If you transport used oil and/or own/operate a used oil transfer facility, place an "X" in the appropriate box(es) to indicate this used oil recycling activity.
4. **Used Oil Processor/Re-refiner:** If you process and/or re-refine used oil, place an "X" in the appropriate box(es) to indicate this used oil activity.

### Item IX -- Description of Hazardous Wastes:

**Note:** Only persons involved in hazardous waste activity (Item VIII.A.) need to complete this item. Transporters requesting a U.S. EPA Identification Number do not need to complete this item, but must sign the "Certification" in Item X.

You will need to refer to the DRGHW, Part 261 in order to complete this section. Part 261 identifies those wastes that EPA defines as hazardous. If you need help completing this section, please contact the Delaware DNREC, Hazardous Waste Management Branch at (302) 739-3689.

- A. **Characteristics of Nonlisted Hazardous Wastes:** If you handle hazardous wastes which are not listed in the DRGHW, Part 261, Subpart D, but do exhibit a characteristic of hazardous waste as defined in the DRGHW, Part 261, Subpart C, you should describe these wastes by the EPA hazardous waste number for the characteristic. Place an "X" in the box next to the characteristic of the wastes that you handle. If you mark "4. Toxicity Characteristic," please list the contaminant(s) in the box(es) provided.
- B. **Listed Hazardous Wastes:** If you handle hazardous wastes that are listed in the DRGHW, Part 261, Subpart D, enter the appropriate 4-digit numbers in the boxes provided.

**Note:** If you handle more than 12 listed hazardous wastes, please contact DNREC for additional listed waste sheets.

- C. **Other Wastes:** If you handle other regulated wastes that have a waste code, enter the appropriate code number in the boxes provided.

### Item X -- Certification:

This certification must be signed by the owner, operator, or an authorized representative of your installation. An "authorized representative" is a person responsible for the overall operation of the installation (i.e., a plant manager or superintendent, or a person of equal responsibility). *All notifications must include this certification to be complete.*

Notification of Regulated Waste Activity

Item XI – Comments:

Use this space for any additional comments.

Please mail the completed form to:

The Delaware Department of Natural Resources and Environmental Control  
Division of Air and Waste Management  
Hazardous Waste Management Branch  
P.O. Box 1401  
89 Kings Highway  
Dover, Delaware 19903  
Attn: Notification Coordinator

## VI. Definitions

The following definitions are included to help you to understand and complete the Notification Form:

**Act or RCRA** means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. Section 6901 *et seq.*

**Authorized Representative** means the person responsible for the overall operation of the installation or an operational unit (i.e., part of an installation), e.g., superintendent or plant manager, or person of equivalent responsibility.

**Boiler** means an enclosed device using controlled flame combustion and having the following characteristics:

1. The unit has physical provisions for recovering and exporting energy in the form of steam, heated fluids, or heated gases;
2. The unit's combustion chamber and primary energy recovery section(s) are of integral design (i.e., they are physically formed into one manufactured or assembled unit);
3. The unit continuously maintains an energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel;
4. The unit exports and utilizes at least 75 percent of the recovered energy, calculated on an annual basis (excluding recovered heat used internally in the same unit, for example, to preheat fuel or combustion air or drive fans or feedwater pumps); and
5. The unit is one which the DNREC Secretary has determined on a case-by-case basis, to be a boiler after considering the standards in the DRGHW 260.32.

**Burner** means the owner or operator of any boiler or industrial furnace that burns hazardous waste fuel for energy recovery and that is not regulated as a RCRA hazardous waste incinerator.

**Disposal** means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

**Disposal Installation** means an installation or part of an installation at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

**DRGHW** means the *Delaware Regulations Governing Hazardous Waste*.

**EPA Identification (I.D.) Number** means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal installation.

**Generator** means any person, by site, whose act or process produces hazardous waste identified or listed in the DRGHW Part 261.

**Hazardous Waste** means a hazardous waste as defined in the DRGHW 261.3.

**Hazardous Waste Fuel** means hazardous waste and any fuel that contains hazardous waste that is burned for energy recovery in a boiler or industrial furnace that is not subject to regulation as a RCRA hazardous waste incinerator. However, the following hazardous waste fuels are subject to regulation as used oil fuels:

1. Used oil fuel burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of the DRGHW Part 261; and
2. Used oil fuel mixed with hazardous wastes generated by a small quantity generator subject to the DRGHW 261.5.

**Hazardous Waste Fuel Marketer** is a person who markets hazardous waste fuel. However, generators and initial transporters (i.e., transporters who receive hazardous waste directly from generators including initial transporters who operate transfer stations) who do not market directly to persons who burn the fuels are not subject to waste-as-fuel requirements (including notification) under Subpart D of the DRGHW Part 266.

**Industrial Boiler** means a boiler located on the site of an installation engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

**Industrial Furnace** means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame combustion to accomplish recovery of materials or energy: cement kilns, lime kilns, aggregate kilns (including asphalt kilns), phosphate kilns, coke ovens, blast furnaces, smelting furnaces, refining furnaces, titanium dioxide chloride process oxidation reactors, methane reforming furnaces, pulping liquor recovery furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and other devices as the Administrator may add to this list.

## Notification of Regulated Waste Activity

**Installation** means all contiguous land, structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. An installation may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

**Municipality** means a city, village, town, borough, county, parish, district, association, Indian tribe or authorized Indian tribal organization, designated and approved management agency under Section 208 of the Clean Water Act, or any other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

**Operator** means the person responsible for the overall operation of an installation.

**Owner** means a person who owns an installation or part of an installation, including landowner.

**Processing** means chemical or physical operations designed to produce from used oil, or to make used oil more amendable for production of fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, and chemical or physical separation.

**Smelter Deferral** means that the mandate in section 3000(g) of the Resource Conservation and Recovery Act to regulate facilities burning hazardous waste for energy recovery as may be necessary to protect human health and the environment does not apply to devices burning for the purpose of material recovery.

**Storage** means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

**Transportation** means the movement of hazardous waste by air, rail, highway, or water.

**Transporter** means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

**Treatment** means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or composition of hazardous waste so as to render it nonhazardous.

**Underground Injection Control** means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

# RCRA NON-NOTIFIER TRACKING FORM

## Part I: Handler Data

To be completed by the compliance data coordinator.

**Date of Assessment:**

**Initials:** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

**Facility Information:**

Handler: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: DELAWARE Zip: \_\_\_\_\_ County: \_\_\_\_\_

**Hazardous Waste Indicator:**

Does this facility handle hazardous waste?

☐ YES

☐ NO

What generator universe does this handler belong in:

☐ CESQG

☐ SQG

☐ Non-Generator

☐ Out of business

☐ Never generated hazardous waste

**Contact Information:**

Contact Name: \_\_\_\_\_ Telephone No. \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Supporting Documentation:**

☐ Assessment Report

## Part II: EPA I.D. Assigned

To be completed by the handler data entry staff.

EPA I.D. Assigned: \_\_\_\_\_

Date Data Entry Completed: \_\_\_\_/\_\_\_\_/\_\_\_\_

## Part III:

To be completed by the handler data entry staff, if applicable.

Date Notification Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

## PROGRAM DESCRIPTION

### Attachment 7

*Uniform Hazardous Waste Manifest*



DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
HAZARDOUS WASTE MANAGEMENT BRANCH, 89 KINGS HIGHWAY  
P.O. BOX 1401, DOVER, DELAWARE 19903

ase print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2050-0039. Expires 9-30-94

UNIFORM HAZARDOUS  
WASTE MANIFEST

1. Generator's US EPA ID No.

Manifest  
Document No.

2. Page 1  
of

Information in the shaded areas  
is not required by Federal  
law.

Generator's Name and Mailing Address

A. State Manifest Document Number

**DE-A- 31328**

B. State Generator's ID

4. Generator's Phone ( )

5. Transporter 1 Company Name

6. US EPA ID Number

C. State Transporter's ID

D. Transporter's Phone

7. Transporter 2 Company Name

8. US EPA ID Number

E. State Transporter's ID

F. Transporter's Phone

9. Designated Facility Name and Site Address

10. US EPA ID Number

G. State Facility's ID

H. Facility's Phone

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

12. Containers  
No. Type

13.  
Total  
Quantity

14.  
Unit  
Wt/Vol

1.  
Waste No.

a.

b.

c.

d.

J. Additional Descriptions for Materials Listed Above

K. Handling Codes for Wastes Listed Above

a.

b.

c.

d.

15. Special Handling Instructions and Additional Information

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

Signature

Month Day Year

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Month Day Year

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Month Day Year

19. Discrepancy Indication Space

20. Facility Owner or Operator Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19

Printed/Typed Name

Signature

Month Day Year