

US EPA ARCHIVE DOCUMENT

# PROGRAM DESCRIPTION

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## **I. INTRODUCTION**

Since 1979, the State of Louisiana, through the Louisiana Department of Natural Resources, has conducted an effective program designed to regulate generators, transporters and disposers of hazardous waste. During the 1983 Regular Session of the Louisiana Legislature, Act 97 was adopted, which amended and reenacted La. R.S. 30:1051 et seq. or the Environmental Affairs Act. This Act created the Department of Environmental Quality (DEQ), including provisions for new offices within the new Department (See Figure 1). The Louisiana Legislature transferred the duties and responsibilities previously delegated to the Department of Natural Resources, Office of Environmental Affairs, to the new Department.

In order to accomplish the environmental goals of the State, the Legislature determined that it was necessary to provide for comprehensive policies on a Statewide basis to unify, coordinate and implement a program to provide for the most advantageous use of the resources of the State and to preserve, protect and enhance the quality of the environment in Louisiana.

It is the State's intention through this application, to demonstrate its equivalence and consistency with the Federal Statutory tests, which are outlined in the Environmental Protection Agency's regulatory requirements under 40 CFR 271, Subpart A, for final authorization. The submittal of this application is in keeping with the spirit and intent of the Resource Conservation and Recovery Act (RCRA), which provides equivalent States the opportunity to apply for final delegation to operate all aspects of their hazardous waste management programs in lieu of the federal government.

Under RCRA, State programs applying for final authorization are subject to six statutory standards. This application will provide evidence that the Louisiana program:

- A. Is "equivalent" to the Federal program as described in RCRA Section 3006;
- B. Does not impose any requirements "less stringent" than the Federal requirements in accordance with RCRA Section 3009;
- C. Is "consistent" with the Federal program and other State programs in accordance with RCRA Section 3006;
- D. Imposes some requirements which are "more stringent" than those imposed by Federal regulations under RCRA Section 3009;
- E. Follows specific procedures for public "notice and hearing" during the permitting process as detailed in RCRA Section 7004; and
- F. "Provides adequate enforcement" in accordance with RCRA Section 3006.

# **PROGRAM SCOPE**

## II. PROGRAM SCOPE

In 1978, the Louisiana Legislature recognized that the existing laws and regulations regarding the generation, transportation, treatment, storage and disposal of hazardous waste were inadequate. Past activities involving hazardous waste had resulted in abuse to the environment and posed dangers to the citizens of the State.

Because of the large number of petrochemical industries located along the lower Mississippi River and in southwestern Louisiana, the State was faced with a major problem in properly managing a wide range of industrial process wastes, many of which are toxic or otherwise hazardous. Wastes which were once stored in pits on the generation site, released to transporters who deposited the material surreptitiously in convenient, but perhaps unsafe places, or were taken to dumps or landfills not suitable for those types of wastes, can no longer be handled in this manner without violating the law.

Act 334 of 1978 directed the promulgation of regulations which would monitor and control generators, transporters and disposers of hazardous waste. In addition to the adoption of regulations, the Act authorized the establishment of a regulatory division within the Department of Natural Resources (DNR) responsible for regulating hazardous waste. The Louisiana State Constitution provides for twenty (20) cabinet level Departments, one of which is the DNR (See Figure 2). In August, 1979, the Hazardous Waste Division (HWD) began implementing the Hazardous Waste Management Plan (HWMP), which was designed to insure the proper management of hazardous waste from "cradle to grave."

Act 449 of 1979 (Louisiana Environmental Affairs Act - LEAA) amended and reenacted the legislation titled "Hazardous Waste Control" which was adopted in 1978 (Act 334). The LEAA provided for the consolidation of environmental regulatory functions under one agency. The Act set forth enforcement procedures and penalties which the divisions within the Office of Environmental Affairs (OEA) could utilize in order to ensure compliance.

The Purpose of Louisiana's comprehensive hazardous waste management system as stated in the rules and regulations is fourfold:

- A. to protect the health and well-being of the citizens of the State of Louisiana and to prevent damage to property or to the environment through the proper management of hazardous waste;
- B. to provide incentives for the maximum recovery and reuse of hazardous wastes substances that is possible through the use of the most advanced technology;
- C. to carefully consider the impact of the program on the economic life of the State and to achieve a proper balance which protects the health of the citizens and the environment of the State while meeting the needs of industry.
- D. to establish minimum State standards that define the acceptable management of hazardous waste.

Louisiana has taken the initiative in developing its own hazardous waste program. It is an ambitious program and has required many adjustments on the part of the regulated community. The environment that generators of hazardous waste manage their waste in an environmentally sound manner creates new demands for adequate hazardous waste management capacity. The HWD has worked with the regulated community, private interest groups and the federal government to ensure equivalent standards which would qualify the State to administer its own program in lieu of the federal government. The amount of waste and the number of people subject to these regulations make this cooperation necessary for the progressive program envisioned for the State of Louisiana.

The program is financed by self-generated funds through permit application fees and annual maintenance fees paid by the industries regulated by the hazardous waste program and by grant funds provided under the Resource Conservation and Recovery Act (RCRA) through the Environmental Protection Agency (EPA). In addition, Act 547 of 1983 established the Environmental Programs Trust Fund to provide for the disposition of revenues generated from monitoring and maintenance and other fees imposed to defray the cost of administering environmental programs. All monies in the fund in excess of that amount necessary to administer the program remain in the fund, and are invested by the State Treasurer, until such time as federal funds become unavailable for these purposes. The purpose of this legislation is to insure that the State has funds to replace any decrease in federal environmental funds.

Louisiana has demonstrated to EPA that its program was "substantially equivalent" in its management of hazardous waste to the Federal program developed pursuant to RCRA. EPA awarded Phase I Interim Authorization to Louisiana on December 19, 1980, based on those Federal standards promulgated on May 19, 1980. Phase II Interim Authorization, Components A, B and C was granted to the State on January 24, 1984, based on Federal standards promulgated on January 12, 1982, January 23, 1982 and July 26, 1982 respectively.

As noted in the introduction of this document, Act 97 of 1983 amended and enacted portions of the previously mentioned LEAA by further reorganizing the environmental regulatory functions under DEQ. This Act also renamed the LEAA the Louisiana Environmental Quality Act (LEQA). Although the organizational structure of DEQ did change, much of the statutes regarding enforcement actions, penalties, etc. remain unchanged. The structure of DEQ will be discussed in further detail under III. Program Structure.

The 1984 Legislative Session produced additional changes to LEQA. The most significant change was the abolishment of the Environmental Control Commission (ECC), which previously served as an oversight body regarding the activities of DEQ. All powers and duties previously granted to the ECC were transferred and vested in the Secretary of DEQ. The ECC's main role had been to serve as an appeals and review board. The ability to appeal an action of the Secretary still exists but appeals are now directed to the First Circuit, Court of Appeal rather than the ECC.

The implementation of the State's hazardous waste management program under Subtitle C of RCRA has been vested in DEQ. DEQ has lead agency jurisdictional authority for administering the Subtitle C program in Louisiana. The Office of Solid and Hazardous Waste (OSHW) is designated within the Department as the regulatory entity responsible for environmental monitoring.

# **PROGRAM STRUCTURE**

### **III. Program Structure—Department of Environmental Quality**

#### **A. Secretary**

The OSHW is under the supervision and direction of the Secretary, who is appointed by the Governor with the consent of the Senate. The Secretary serves as the executive head and chief administrative officer of the Department. As head of DEQ, the Secretary has the responsibility for the policies, administration, control and operation of the functions, programs and affairs of the Department which is under the general control and supervision of the Governor. The Secretary has the following powers and duties:

1. To adopt, amend or repeal all rules and regulations, and standards for the protection of the environment. Prior to adoption of any rule or regulation, the Secretary will hold a public hearing to receive comments and recommendations from all interested parties and the public.
2. To grant or deny permits, licenses, registrations, variances or compliance schedules;
3. To delegate the power to grant or deny certain permits, licenses, registrations, variances, or compliance schedules to the Assistant Secretaries;
4. To hold meetings or hearings on his own motion or upon complaint for fact finding, receiving public comments, conducting inquiries and investigations;
5. To issue orders or determinations and cease and desist orders and to delegate the power to issue such orders to the Assistant Secretaries;
6. To advise, consult and cooperate with other states, interstate and federal agencies and with affected groups, political subdivisions, interested agricultural, industrial, professional, and environmental groups;
7. To encourage, participate in, or conduct studies, investigations, training programs, research and demonstrations;
8. To collect and disseminate information on certain aspects of environmental protection and control;
9. To receive and budget through DEQ appropriated monies and to accept, receive and administer grant monies or state funds;
10. To conduct inspections and investigations and enter facilities to determine compliance with environmental standards without obtaining a warrant from the courts for entry.
11. To formulate contingency plans for environmental emergencies, including interagency agreements with State, local and federal agencies and with private agencies and persons;

12. To assign certain duties to administrative law judges.

NOTE: The term "Administrative Authority" is used interchangeably with the term Secretary of DEQ throughout this document.

**B. Deputy Secretary**

The Deputy Secretary of DEQ is appointed by the Secretary with the consent of the Senate. The duties and functions of the Deputy Secretary are determined and assigned by the Secretary. If appointed, the Deputy Secretary can serve as acting secretary in the absence of the Secretary.

**C. Undersecretary**

The Undersecretary of DEQ is appointed by the Governor with the consent of the Senate. He is directly responsible to, and performs his functions under, the supervision and control of the Secretary. The Undersecretary is responsible for the functions of the Office of Management and Finance within the DEQ. In this position, he is responsible for accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and grants management for the Department.

**D. Assistant Secretaries**

The Department is divided into Offices. The Office of Air Quality is responsible for the administration and enforcement of the Louisiana Air Control Law, the Louisiana Nuclear Energy and Radiation Control Law, and the Central Interstate Low-Level Radioactive Waste Compact. The Office of Water Resources is responsible for the administration and enforcement of the Louisiana Water Control Law. The Office of Solid and Hazardous Waste is responsible for the administration and enforcement of the Louisiana Solid Waste Management and Resource Recovery Law, the Louisiana Hazardous Waste Control Law and the Louisiana Resource Recovery and Development Law. Each Office is under the immediate supervision and direction of an Assistant Secretary who is appointed by the Governor with the consent of the Senate. The duties and functions of each office and its Assistant Secretary are determined by the Secretary, and all such duties and functions assigned are under the direct supervision and control of the Secretary.

**E. Office of Solid and Hazardous Waste-Hazardous Waste Division**

As stated in Chapter 5-A of Title 36, La. R.S. 36:239 D, the purpose of the OSHW:

"The Office of Solid and Hazardous Waste shall be responsible for the functions related to the enforcement and administration of the states solid and hazardous waste control laws, to insure the proper disposal and utilization of solid waste, to encourage resource recovery and development, to develop a statewide solid waste management plan to encourage maximum practicable use of resource recovery procedures, to promote planning and application of recycling and resource recovery systems, to regulate, monitor, and control the generation, transportation, treatment, storage, and disposal of hazardous wastes, to develop a program to identify, plan, monitor,

control and clean-up abandoned hazardous waste sites in the State."

At the present time the Secretary of DEQ has retained all authority to grant or deny permits. However, the Secretary may decide, at some future date, to delegate the responsibility to issue or deny permits to non-commercial facilities, to the Assistant Secretary of the OSHW.

The Hazardous Waste Division (HWD) within the (OSHW) Office of Solid and Hazardous Waste is composed of four (4) sections responsible for different aspects of hazardous waste management (See Figure 3).

### **1. Emergency Response**

Emergency Response personnel, within the HWD, in conjunction with the Department of Public Safety's Hazardous Materials Section are responsible for the containment and clean-up of hazardous waste released to the environment as a result of accidents, spills and other emergency situations. The HWD requested and was granted the authority and funds to establish this unit within the HWD in 1982. Prior to this period, Enforcement personnel were responsible for responding to incidents. This resulted in a drain on man-power resources. This Unit assists in the education of emergency preparedness personnel in both the public and private sectors throughout the State. In addition to these responsibilities, personnel from this Unit assist in responding to citizen complaints and conduct RCRA inspections on non-major generators and transporters.

### **2. Enforcement Section**

The Enforcement Section is responsible for the monitoring and surveillance procedures as set forth in statute, regulation and policy in order to ensure continued compliance by generators, transporters, and disposers of hazardous waste. The Enforcement Section is responsible for investigating:

- a. suspected permit violations;
- b. routine compliance monitoring at facilities with interim status permits;
- c. citizen complaints;
- d. referrals from other Divisions, Departments or local governing bodies; and,
- e. companies which have failed to notify the HWD of possible hazardous waste activities.

As a result of investigations conducted by this Section, facilities may be subject to enforcement actions, i.e., letters of warning, notices of violation, orders, compliance orders, cease and desist orders, etc. or referrals to the Administrator, Assistant Secretary, or Secretary for suspension, revocation and other civil penalties. All facts developed in any investigations are fully documented through the use of field investigations, reports, photographs,

sampling, laboratory analysis, and other appropriate techniques. The Enforcement Section continues to work with state and local law enforcement officials to bring criminal convictions against persons involved in the illegal dumping of hazardous waste.

### **3. Permit Section**

The Permit Section is responsible for the review of permit applications for those facilities involved in the treatment, storage or disposal of hazardous waste. It is the duty of this Section to provide information and/or recommendations on issuance or denial of permits, modifications of permits, revocation of permits and the establishment of schedules of compliance and performance guidelines for facilities and equipment. This Section communicates and responds to inquiries from industry, governmental agencies and citizen groups regarding applications for permits and program requirements. The Permit Section is responsible for reviewing, for technical accuracy, all new and amended notification forms from generators, transporters and disposers of hazardous waste.

The Permit Section is also responsible for all closure/post-closure plans both for facilities undergoing active closures as well as those who are in the permitting mode. It is the responsibility of this Section to insure that all facilities meet the technical, legal and financial requirements of the regulations and statutes. Members of the Permit Staff have lead roles in the review and approval of all of the complex plans (e.g. waste analysis, closure/post-closure, groundwater quality assessment, financial instruments, etc.) associated with the operation of a hazardous waste facility.

In addition to the above tasks the Manifest Unit within the Permit Section is responsible for ensuring that the system, procedures and forms used for identifying the quantity, composition, origin, routing and destination of hazardous waste during transportation from the point of origin to the point of treatment, storage, or disposal are adhered to. To accomplish this task the Manifest Unit reviews both the actual manifests, as well as the annual reports submitted by the regulated community that detail tonnage generated, transported and disposed as well as the method of disposal. All intrastate and interstate shipments of hazardous waste are subject to this system.

### **4. Technical Services**

The Technical Services Section is responsible for ensuring that the system, procedures and forms used for identifying the quantity, composition, origin, routing and destination of hazardous waste during transportation from the point of origin to the point of treatment, storage or disposal are adhered to. To accomplish this task, the Technical Services Section reviews both the actual manifests, as well as annual reports submitted by the regulated community, that document tonnage generated, transported and disposed of, as well as the method of disposal. All intrastate and interstate shipments of hazardous waste are subject to this system. Also included among duties of the Technical Services Section are preparation of annual budget requests, invoicing for collection of annual maintenance fees, requisitioning all equipment and supplies, preparing the annual grant application, compiling monthly and quarterly statistical reports to the EPA and preparation of various reports for use by the Administrator and other Department officials.

- F. In 1984, the Louisiana Legislature created and empowered the Hazardous Waste Advisory Board (HWAB). The Board is composed of five members appointed by the governor from professional disciplines integral to the treatment, storage or disposal of hazardous waste.

The Board shall have the following powers and duties:

1. To prepare, in cooperation with the Louisiana Geological Survey, a geological and hydrological inventory of the State for purposes of determining areas of the State which may not be suitable for the siting of a hazardous waste facility.
2. To establish criteria which must be met for determining the location of any hazardous waste disposal facility and for issuance of a permit at that location and to make recommendations for such criteria to the Secretary of DEQ for adoption.
3. To conduct studies to determine future needs for hazardous waste disposal facilities in the State and make recommendations to the Secretary of DEQ.
4. To conduct any studies or investigations that the Board considers to be necessary or proper to fulfill its duties.
5. To plan, encourage and recommend appropriate methods for reducing the volume and types of hazardous waste disposed of in the State.
6. To plan, encourage, and recommend the recovery and reuse of materials which might otherwise be disposed of as hazardous waste.
7. To assess the impact of proposed hazardous waste disposal facilities on the environment.

All appeals from a decision of the Board shall be to the First Circuit, Court of Appeal. The procedure for appeals from decisions of the Board to the Court of Appeal shall be the same as those provided for appeals from decisions of the Secretary of DEQ.

# **PROGRAM COVERAGE**

#### IV. Program Coverage

The State law governing the generation, transportation, treatment, storage and disposal of hazardous waste can be found in La. R.S. 30:1131 - 1149. This part may be cited as the "Louisiana Hazardous Waste Control Law." The laws governing hazardous waste should be viewed as part of a larger framework of environmental laws specified in Chapter 11 of Title 30 of the Louisiana Revised Statutes. The Louisiana Environmental Quality Act (LEQA) previously known as Louisiana Environmental Affairs Act (LEAA) encompasses a wide range of regulatory and administrative programs which govern air, water, nuclear, hazardous waste and solid waste. Also included in this legislation are the administrative tools, both civil and criminal, to achieve enforcement.

The HWD works closely with the other environmental divisions within DEQ to achieve a comprehensive compliance program. In many investigations, a multi-disciplinary approach is utilized among the divisions to provide the Secretary with a more comprehensive assessment of the problem. The easy access to information in other divisions' files enables the HWD personnel to evaluate facilities covered under a variety of environmental regulatory programs. Assistance and consultation is also provided by engineers and specialists from other divisions within DEQ during the permit review process and enforcement actions.

The Louisiana Hazardous Waste Control Act defines "waste" and "hazardous waste" as:

**"Waste** - means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining or agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under R.S. 30:1094, or source, special nuclear, or byproduct material as defined by R.S. 30:1103."

**"Hazardous Waste** - any waste or combination of wastes, which because of its quantity, concentration, physical, chemical or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Such definition shall be applied only to those wastes identified and designated as such by the department, consistent with applicable federal laws and regulations."

Regulatory coverage of low-hazard wastes not covered under the federal program is the responsibility of the Solid Waste Division within OSHW.

During the Phase I and Phase II processes the State demonstrated substantial equivalency between Louisiana's and the Federal hazardous waste management program by adopting regulatory amendments effective September 20, 1980, December 20, 1981, July 20, 1983 and March 20, 1984. The amendments to the Louisiana Hazardous Waste Management Plan (LHWMP) effective March 20, 1984, completely reorganized the document in a more orderly fashion to simplify compliance by the regulated community and increase understanding by all users. The March 20, 1984, amendments also retitled the regulations from the LHWMP

to the Louisiana Hazardous Waste Regulations (LHWR). Additional amendments to the LHWR were adopted on April 20, 1984, and July 20, 1984. These amendments clarified areas of ambiguity, corrected miscites and typographical errors and added language to improve consistency with corresponding federal regulations.

## **A. Interagency Coordination**

### **1. Department of Natural Resources—Office of Conservation**

Under Act 795 of 1984, the authority and responsibility for Class I hazardous waste injection wells was returned to the Underground Injection Control (U.I.C.) program in the Office of Conservation, Department of Natural Resources, where it resided prior to Act 97 of 1983.

The Office of Conservation, under the direction of the Assistant Secretary of Conservation, also continues to regulate waste materials such as mineral brines, salt water, waste oils and other such materials resulting from the production of, or used in conjunction with, the exploration for or production of oil and gas.

Therefore, it is within the power of the Assistant Secretary of the Office of Conservation to issue permits and make regulations relative to the subsurface injection of waste products and oil and gas field salt water in compliance with Chapter 1 of Title 30 of the Louisiana revised Statutes of 1950 and the subsurface injection of hazardous wastes in compliance with the Safe Drinking Water Act, 42 USC 300 F et seq. and RCRA.

Permitting, monitoring and enforcement for injection wells of all classes rests with the Office of Conservation. Surface facilities for hazardous waste as defined by the LHWR remain under the authority and responsibility of the HWD of OSHW, including permitting, monitoring and enforcement. Cooperation and information exchange is ongoing.

### **2. Department of Public Safety & Department of Agriculture—RCRA Subgrantees**

The DEQ is the primary agency in Louisiana responsible for environmental protection and regulation. Although the Department's HWD within OSHW is the lead agency responsible for administering and implementing the State's hazardous waste management program under Subtitle C of RCRA, the Louisiana Department of Agriculture (DAG) and the Louisiana Department of Public Safety (DPS) have specific support activities relating to the regulation of generators, transporters and treatment, storage and disposal facilities under Louisiana Statute. The DPS is responsible for enforcing transportation standards over all commercial or private hazardous material transporters, including all modes of transportation, such as highway, waterway, railway and airways. The responsibility for permitting hazardous waste management facilities including those that deal with pesticides waste rest solely with DEQ. However, the DAG provides compliance monitoring and enforcement assistance through its regulation of pesticide use and application. As the recognized lead agency, DEQ is the EPA grantee with the DPS and DAG as subgrantees. Through interagency agreements with DPS and DAG, DEQ in conjunction with EPA negotiates grant activities assigning those milestones and outputs applicable to the subgrantees' respective jurisdiction. A complete description of the DAG and DPS, including their organization structure and responsibilities and the interagency agreements is included.

**B. Equivalent and No Less Stringent 3006 (b) and 3009**

The Louisiana Hazardous Waste Management Program, based on the Louisiana Hazardous Waste Regulations is designed to provide the same authority and regulatory control as the Federal Program corresponding to the following:

**1. Universe of Hazardous Waste**

The universe of waste regulated by the Federal hazardous waste management program as listed in 40 CFR 261, Identification and Listing of Hazardous Waste, including Appendices I, II, III, VII, and VIII is identical to those wastes regulated by the State. Louisiana also has the same characteristics used for identifying hazardous waste as that of the Federal program.

**2. Generator Standards**

The State's hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 262 regarding its regulatory authority over generators of hazardous waste.

All new generators of hazardous waste regardless of the volume generated, are required to apply to the Environmental Protection Agency for an EPA identification number in accordance with 40 CFR 262.12, the provisions for Louisiana generators requiring an EPA identification number can be found in LHWR Chapter 7, Section 7.3.

No generator can treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number.

It is the responsibility of the generator to determine whether or not he is generating a hazardous waste. The following procedures are required by generators, in order to determine if their waste is covered under the LHWR:

- a. Determine if the waste is exempt from regulation under 1.3d).
- b. If the waste is not listed as a hazardous waste in 24.1 (Category I Hazardous Waste - consists of hazardous wastes from non-specific and specific sources, acute hazardous wastes and toxic wastes), the generator must determine whether the waste is identified in 24.2 (Category II Hazardous Wastes consists of wastes which are ignitable, corrosive, reactive, or toxic) by either:
  - 1) Testing the waste according to the methods stated in 7.2b)1) or according to an equivalent method approved by the Administrative Authority; or
  - 2) applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

All generators of hazardous wastes are subject to the requirements of the manifest system before transporting the waste for off-site treatment, storage, or disposal unless exempt under the provisions of 1.3d). Prior to the shipment of any hazardous waste for off-site disposal, the generator must designate the name of the permitted disposal facility, sign the manifest, obtain the handwritten signature of the transporter along with the date the waste was accepted for transport and retain one copy.

The manifest consist of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and two copies to be returned to the generator. The pre-transport requirements outlined in 7.5 insure that the generator will properly package, label, mark and placard the hazardous waste intended for transport to an off-site treatment, storage or disposal facility.

Generators of hazardous waste are responsible for the maintenance of records and reports. Generators are required to keep a signed copy of each manifest for at least three years from the date the waste was accepted by the initial transporter. Records of any test results, waste analyses or other determinations must be maintained for at least three years from the date that the waste was last sent to an on-site or off-site treatment, storage or disposal facility. A generator who ships his hazardous waste off-site must submit an annual report of his activities to the Department by March 1 of each year. This information requirement corresponds to 40 CFR 262.41. In addition, generators who also dispose, treat or store hazardous waste on-site must also submit an annual report, which includes the total quantity, by type, of waste handled, and how that waste was disposed, treated or stored.

Any generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within fifteen (15) days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste. An exception report must be filed with the Department if a generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within forty-five (45) days of the date the waste was accepted by the initial transporter. The exception report must include a copy of the manifest for which no confirmation of delivery has been received and a letter signed by the generator explaining the efforts taken to locate the hazardous waste and the results of those efforts.

All the requirements of Chapter 7 of the LHWR are to be complied with for Louisiana exporters of hazardous waste to foreign countries. When shipping hazardous waste outside the United States from Louisiana, generators are required to: 1) notify the Administrative Authority in writing four weeks before the initial shipment of waste; 2) identify the waste by its EPA hazardous waste identification number and its DPS shipping description; 3) identify the name and address of the foreign consignee; 4) require that the foreign consignee confirm the delivery of the waste in the foreign country (signed manifest is appropriate).

**NOTE:** The requirements to notify specified in 7.7a) will not be delegated to the States authorized under 40 CFR Part 271. Therefore, all generators must notify the EPA and the State Administrative Authority.

A generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without having interim status provided that the waste is placed in containers and the generator complies with Chapter 12 of the LHWR, or the waste is placed in tanks and the generator complies with Chapter 11 of the LHWR; the date upon which each period of accumulation begins is clearly marked on each container and tank is labeled or marked clearly with the word "Hazardous Waste".

In addition to the requirements stated previously, all generators are subject to the provisions of 7.8, 7.9, 7.10 and 7.11 which require a preparedness and prevention plan, contingency plan, personnel training and measures for handling spills.

### **3. Transporter Standards**

The State's hazardous waste management program is equivalent to the Federal program outline in 40 CFR 263 in terms of its regulatory authority over transporters of hazardous waste.

All new transporters of hazardous waste are required to apply to the EPA for an EPA identification number in accordance with 40 CFR 263.11, the provisions for this requirement can be found in 8.2.

In conjunction with the regulations of the HWD, the DPS adopted regulations governing the transportation of hazardous materials, which included hazardous waste. These regulations require, among other things, labeling, marking, placarding, using proper containers and reporting discharges. The LHWR references the DPS regulations in order to ensure consistency with the requirements of DPS and thus avoid the establishment of duplicative or conflicting requirements with respect to transportation standards.

Transporters of hazardous waste are cautioned that DPS's regulations are fully applicable to their activities and enforceable by DPS. The Department and DPS sought to develop standards for transporters of hazardous waste in order to avoid conflicting requirements. Regardless of any action taken by DPS, the Department retains its authority to enforce the regulations set forth in Chapter 8 of the LHWR.

Transporters cannot accept hazardous waste from generators or other transporters unless the load is accompanied by a manifest, signed by the generator in accordance with the provisions of 7.4. The transportation of any hazardous wastes without a manifest is a violation of the LHWR and the LEQA. Before transporting hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator or other transporter. The transporter is then responsible for returning a signed copy of the manifest to the generator or other transporter before leaving the generator's property or other transporter's facility. The transporter is responsible for ensuring that the manifest accompanies the hazardous waste shipments at all times. In addition, when delivering a hazardous waste to another transporter or to the designated disposal facility, the transporter must obtain the date of delivery and the handwritten signature of that transporter or disposer on the manifest, retain one copy of the manifest and give the remaining copies of the manifest to the accepting transporter or designated disposal facility. Transporters must deliver the entire quantity of hazardous waste which has been accepted from a generator or a transporter to the facility designated on the manifest or another designated facility (if such action has been approved by the Administrative Authority). No person may deliver a hazardous waste to a place other than the permitted facility shown on the manifest.

Transporters must clean-up any hazardous waste discharge that occurs during transportation and take such action as may be required by the Administrative Authority so that the discharge no longer presents a hazard to human health or the environment. For purposes of clean-up, the transporter becomes the generator, unless such responsibility is transferred to the owner of the material or other responsible parties.

Transporters of hazardous waste are responsible for maintaining copies of the manifests signed by the generator, himself and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

#### **4. Facility Standards**

The Louisiana hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 264 and 265 in terms of its regulatory authority over facilities which treat, store or dispose of hazardous waste.

Except in the areas which are more stringent than the Federal program, the Louisiana hazardous waste program is equivalent to the Federal program in regard to the following sections of 40 CFR:

- a) Purpose, scope and applicability concerning treatment, storage and disposal facilities in accordance with 40 XCFR 264 and 265, Subparts A respectively. (See Chapters 9 and 23)
- b) General facility standards, i.e., applicability, use of EPA identification number, required notices, general waste analysis, security, general inspection requirements by owner or operator, personnel training, general requirements by owner or operator, personnel training, general requirements for ignitable, reactive, or incompatible wastes and location standards in accordance with 40 CFR 264 and 265, Subpart B respectively. (See Chapters 9 and 23)
- c) Preparedness and prevention regarding the applicability, required equipment, testing and maintenance of equipment, required aisle space, and arrangements with local authorities in accordance with 40 CFR 264 and 265, Subpart C respectively. (See Chapters 9 and 23)
- d) Contingency plan and emergency procedures regarding the applicability, purpose and implementation of contingency plan, maintenance of copies of contingency plan, amendment of contingency plan, emergency coordinator and emergency procedures in accordance with 40 CFR 264 and 265, Subpart C respectively. (See Chapters 9 and 23)
- e) Manifest System, recordkeeping and reporting requirements regarding the applicability, use of the manifest system, manifest discrepancies, operating record, availability, retention and disposition of records, biennial report, unmanifested waste report and additional reports in accordance with 40 CFR 264 and 265, Subpart E respectively. (See Chapters 9 and 23)

- f) Groundwater protection requirements, including applicability, standards, hazardous constituents, concentration limits, point of compliance, compliance period, general requirements, detection monitoring program, compliance monitoring program, and corrective action program in accordance with 40 CFR 264 and 265 Subpart F respectively. (See Chapters 18 and 23)
- g) Closure and post-closure requirements, including applicability, closure performance standards, closure plan/amendment of plan, closure/time allowed for closure, disposal or decontamination of equipment, post-closure care and use of property, post-closure plan/amendment of plan, notice to local land authority, notice in deed to property in accordance with 40 CFR 264 and 265, Subpart G respectively. (See Chapters 19 and 23)
- h) Financial requirements, including applicability, cost estimate for closure, financial assurance for closure, cost estimate for post-closure, financial assurance for post-closure care, use of a mechanism for financial assurance of both closure and post-closure care, liability requirements, incapacity of owners or operators, guarantors, or financial institutions, use of State required mechanisms, state assumption of responsibilities, and wording of the instruments in accordance with 40 CFR 264 and 265, Subparts H, respectively. (See Chapters 20 and 23)
- i) Technical facility standards for containers, tanks, surface impoundments, waste piles, land treatment facilities, landfills, incinerators, thermal treatment facilities, chemical and biological treatment facilities and injection wells in accordance with 40 CFR 264, Subparts I through O and 40 CFR 265, Subparts I through R. (See Chapters 11, 12, 13, 15, 16, 17 and 23)

NOTE: Chapter 23 referenced above contains all of the regulatory requirements for interim status facilities.

## 5. Permitting Standards

The Louisiana hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 270 and 40 CFR 124 in terms of its regulatory authority in the permitting process, including requirements regarding permits and permit application for facilities which treat, store or dispose of hazardous waste.

All new facilities which treat, store or dispose of hazardous waste are required to apply to EPA for an EPA identification number in accordance with 40 CFR 264.11 and 40 CFR 265.11, the provision for which can be found in 3.2h)4) of the LHWR.

Treatment, storage or disposal of hazardous waste is prohibited by any person who has not received an interim status or standard permit. Owners and operators of existing TSD facilities were required to submit Part I of their permit application to the Administrative Authority in compliance with the standards set forth in the LHWP (now LHWR). Interim status was granted by EPA only to those facilities which were in operation or under construction prior to or on November 19, 1980, and who submitted a notification of operation and a Part A application to EPA. Regulation of facilities under

interim status was previously handled by way of interim permits and compliance schedules and performance guidelines which required that they comply with all interim status standards. However, on March 20, 1984, the interim status standards were incorporated into the LHWR in Chapter 23, and are now applicable to all interim status facilities.

The requirements of Chapter 9 - Treatment, Storage and Disposal Facilities of the LHWR do not apply to :

- a) facilities permitted to management municipal or industrial solid waste, if the hazardous waste the facility treats, stores or disposes of is excluded in the LHWR;
- b) a wastewater treatment unit (See Chapter 2);
- c) a farmer disposing of waste pesticides from his own use as provided in 1.3d)5);
- d) treatment facilities which are totally enclosed (See Chapter 2);
- e) elementary neutralization units (See Chapter 2);
- f) emergency response actions involving containment or treatment of hazardous waste spills;
- g) transporters storing manifested hazardous waste in containers, properly packaged, at a transfer facility for less than ten (10) days; and
- h) the addition of absorbent material to waste in a container or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and 9.9b),12.2, and 12.3 are complied with.

Except as specifically authorized by the terms and conditions of a permit issued under these rules and regulations, the construction and operation of a facility to treat, store or dispose of hazardous wastes in violation of the standards established by this section shall be a violation of the LEQA enforceable pursuant to 1.4 of these regulations and La. R.S. 30:1073.

For purposes of reviewing this portion of the application, the State Regulatory Program Checklist included in this application provides the corresponding State and Federal regulatory citations.

**C. Consistent Program 3006(b)**

The Louisiana hazardous waste management program is consistent with both the Federal program and other authorized state hazardous waste management programs in terms of its authority and regulatory control over the management of hazardous waste.

Louisiana does not prohibit, in any way, interstate or intrastate movement of hazardous waste across its borders that is destined for treatment, storage or disposal at permitted facilities in states with approved hazardous waste programs, nor does it ban the importation of hazardous waste that is destined

for treatment, storage or disposal at State permitted facilities. The State statute and regulations do not set geographic standards of discrimination, treating out-of-state waste different from in-state wastes. Nor does Louisiana have any exclusive reciprocity agreement which would allow importation of wastes only from the States which might be parties to such agreements. Out-of-state generators who intend to import hazardous wastes in Louisiana are required to comply with the manifest system and must have an EPA identification number in order to dispose of the hazardous waste at permitted facilities in the State.

Louisiana does not have any prohibition against the siting or the operation of a permitted hazardous waste treatment, storage or disposal facility located within the State borders. In order to achieve and maintain uniform and comprehensive statewide regulation over the ultimate disposal of hazardous waste, the State has exclusive jurisdiction over the generation, transportation or disposal of hazardous wastes, and no subordinate political subdivision of the State can enact, pass or otherwise approve any ordinance or other regulatory measure regulating or purporting to regulate any activity pertaining to the generation, transportation, or disposal of hazardous wastes. The State may, however, deny a permit to a proposed hazardous waste management facility based on its determination that the facility is not technically or physically suitable, thereby prohibiting treatment storage or disposal of hazardous waste on a case-by-case basis. The determination as to the technical and site suitability of a proposed facility is based upon professional judgment following review of a permit application by the Department, and by the ability of the proposed facility to be located, constructed, maintained, operated and closed in a manner to prevent endangerment of public health and the environment.

The Louisiana manifest tracking system is designed to be consistent with the Federal Program. The state utilizes its own prenumbered manifest. The State manifest is consistent with the Federal Program for all generators, transporters and disposers of hazardous waste. The Louisiana manifest system requires that exception and discrepancy reports be filed with the Hazardous Waste Division. The use of EPA identification numbers and EPA waste identification numbers on the manifest is a mandatory provision of the State program. Manifests may be obtained by either writing or telephoning the State Office of the Hazardous Waste Division.

#### **D. More Stringent Program 3009**

Although the State program is equivalent and consistent with the Federal program pursuant to RCRA, Louisiana has chosen, in some instances to take a more stringent regulatory approach. The areas where the LHWR are more stringent are as follows:

##### **1. Universe of Waste**

The provisions set forth in the LHWR 24.3 provides for a more restrictive interpretation concerning the "waste mixture" and "de minimus losses" rules currently enforced under the federal system. In addition, the Administrative Authority may require analysis of a monthly grab sample indicative of the materials and hazardous degradation products for the materials covered in 24.3a) and 24.3b) if not covered in the water discharge permit.

## 2. Generators

Louisiana does not have an automatic small generator exemption. Persons who generate small quantities on an infrequent basis, which pose a minimum threat to human health or to the environment, may make a self declaration to Louisiana Department of Environmental Quality of their Small Quantity Generator (SQG) status. The Administrative Authority has reserved the right to make individual determinations based on SQG self declarations submitted by generators. In no case are self declarations acknowledged if the quantitative limits for consideration for exemption exceed the monthly generation rate of more than 100 kilograms of hazardous waste or if the generator generates acutely hazardous waste at a monthly rate greater than the levels stated in 21.6.

Although a generator is allowed to store hazardous waste on-site for less than ninety (90) days without requiring a permit, he is still subject to the technical standards governing containers and tanks, as set forth in Chapters 11 and 12 respectively.

The generator of hazardous waste destined for disposal is responsible for the ultimate disposition of the waste. The generator is responsible for filing his copy and mailing the final completed original to the Department no later than seven (7) days after receiving the completed manifest from the hazardous waste facility operator.

## 3. Transporters

The LHWR provide a more restrictive interpretation regarding transfer facilities. A transporter who stores manifested shipments of hazardous waste at a transfer facility is considered a storage facility and is required to obtain a permit in compliance with the LHWR. However, if the waste is stored in containers (meeting the requirements applicable to the LDPS regulations on packaging under parts 173, 178 and 179) at a transfer facility for a period of ten (10) days or less, it is exempt from the permitting requirements with approval of the Administrative Authority.

Under the LHWR, the transporter may deliver the waste shipment to an alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery and such action is approved by the Administrative Authority.

All transporters are required to retain at least four (4) copies of the manifest in their possession at all times while the hazardous waste shipment is in transit.

In addition to the requirements of 7.5a)1), more specific stipulations are placed on vehicles in 7.5 (pre-transport requirements) requiring dump type transport vehicles to have a continuous plastic lining with a minimum thickness of 6 mil, be bindered or bolted in order to prevent accidental leakage or escape of the material (trip binders are not acceptable), must be completely covered by a tarpaulin that is secured to insure no leakage during normal transportation and the material transported must be solidified with a medium to such consistency that the material will not shift, creep, crawl or splash during emergency braking from 20 m.p.h. or by other means acceptable to the Administrative

Authority; and portable tank or "sludge" containers must have fill, discharge, and similar openings of the container bindered or bolted to prevent discharge during transport, be secured to the transport vehicle to insure that the container will not shift laterally or longitudinally during transportation or meet these requirements by other means acceptable to the Administrative Authority.

Any container, including tank trucks, used to transport waste must be cleaned before leaving the disposal site. Such cleaning should be by a method which removes the hazardous constituents to a level which will not cause an incompatibility with any subsequent shipment and/or of itself render any future load hazardous. All material resulting from such cleaning is considered a hazardous waste unless otherwise approved by the Administrative Authority.

#### **4. Facilities**

Treatment, storage and disposal facilities are subject to the following procedural design and operational requirements which are more stringent than those of the Federal program.

- a) Landfills - the liners for such facilities, must consist of a synthetic liner laid on top of a permanent barrier at the bottom and along the sides of the landfill or burial site. The permanent barrier must be at least three feet of recompacted clay with a permeability of  $1 \times 10^7$  cm/sec or less and designed and operated to prevent endangering any fresh-water aquifer by migration of contaminants from the facility, or equivalent system acceptable to the Administrative Authority.
- b) Materials which can be landfilled - places specific criteria and concentration levels on materials which may be landfilled using clay encapsulation in compliance with the permit.
- c) Landfills - no exemptions from the groundwater protection requirements in Chapter 18.
- d) Landfills - unless the permittee demonstrates to the Administrative Authority that the first permeable zone in which groundwater monitoring would occur is not a potable water aquifer, a leachate detection system must be installed in addition to the design requirements for a synthetic liner, permanent clay barrier, leachate collection and removal system and groundwater monitoring system normally required.
- e) Land treatment - no produce or food-chain crops may be allowed to grow on a landfarm. Additionally, grasses and other cover plants may not be used for grazing or hay production for domestic livestock;
- f) Tanks - hazardous waste treatment and storage tanks shall not be located underground.
- g) Groundwater protection - the Administrative Authority may require the owner or operator to run specific indicator parameters on a more frequent schedule.

- h) Administrative procedures for treatment, storage, and disposal facility permits - in addition to the public hearing on the State's intent to issue or deny a permit, adjudicatory hearings shall be held for all commercial hazardous waste disposal facilities or in instances, for non-commercial facilities, where the Administrative Authority determines that equity and justice requires an adjudication.
- i) Interim Status - the Administrative Authority can require corrective action measures for protection of groundwater. Based on the groundwater quality assessment plan, that hazardous waste or hazardous waste constituents from the facility have entered the groundwater, the Administrative Authority can establish a groundwater protection standard, requiring corrective action measures to be instituted by the owner or operator which prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place.
- j) Financial requirements - owners or operators of facilities that treat, store or dispose by land treatment (i.e., surface impoundments, waste piles, landfarm, or landfill) any acute hazardous waste or any toxic waste (both listed in Chapter 24), must demonstrate liability coverage for sudden and non-sudden accidental occurrences respectively of at least \$5 million per occurrence with an annual aggregate of at least \$10 million, exclusive of legal defense costs.
- k) Water Supply Protection - Act 718 of 1983 or La. R.S 30:1138.1. directs the Secretary of DEQ to adopt and promulgate regulations to insure that drinking wells which provide public water supplies within a two-mile radius of all commercial hazardous waste disposal facilities shall be sampled and tested in a prescribed manner. The Secretary of DEQ can require that the cost of the sampling be done at the expense of the disposal facility.
- l) Utilization of salt domes and sulphur mine for treatment, storage or disposal moratorium - Act 680 of 1983 states that the Administrative Authority of DEQ cannot issue permits for the treatment, storage or disposal of hazardous waste in salt domes and sulphur mines for a period of two years (effective July 21, 1983).

## 5. Recycling

The LHWR defines "reusable material" as "any material defined in Chapter 24 which would be classified as a hazardous waste except that it will be beneficially used, reused, or legitimately recycled or reclaimed unless exempted in Chapter 22."

Chapter 24 sets forth the lists and characteristics of hazardous waste which is the universe of waste the State regulates. EPA designates only listed hazardous wastes as subject to their recycling regulations.

## E. Adequate Enforcement 3006(b)

The Louisiana hazardous waste management program provides for adequate compliance monitoring and enforcement of hazardous waste transporters, generators and treatment, storage and disposal facilities which correspond to applicable Federal Requirements.

The Department provides for compliance evaluation inspections and surveillance procedures to determine the extent to which the requirements of the LHWR are being met. The HWD conducts both routine and non-routine inspections of transporters, generators and treatment, storage and disposal facilities to: 1) determine compliance with permits and/or interim permit conditions regarding the design and operational standards, site conditions, security and recordkeeping; 2) verify the accuracy of information submitted by hazardous waste handlers in reporting forms, i.e. groundwater monitoring reports, manifests, annual reports, compliance schedule data, personnel training and safety, inspections, etc., and 3) verify the adequacy of sampling, monitoring, and other methods used by hazardous waste handlers, which have been approved by the Administrative Authority.

During the course of the compliance evaluation inspection or at any such time as the Department determines that a possible violation has or may occur, the HWD may obtain samples in order to determine compliance with the LHWR. The Department utilizes chain-of-custody procedures involving all samples taken during compliance evaluation inspections that can be used as evidence admissible in a enforcement proceeding or in court. The receipt describing the sample obtained and, if requested and if practical, a portion of each sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of the analysis is furnished to the agent in charge.

As mentioned earlier in this document, the LHWR pursuant to LEQA provides for reporting and recordkeeping requirements of generators, transporters and treatment, storage and disposal facilities. The HWD utilizes these reports and records in the investigative review process in order to determine compliance and the necessary level of enforcement action.

The HWD actively conducts a non-notifier program designed to identify transporters, generators and treatment, storage and disposal facilities subject to regulations under Louisiana's hazardous waste management program. These facilities come to the attention of this agency from several sources. This includes checks by our inspectors during routine inspection activities, referrals from other Divisions such as the Air, Water Quality and Solid Waste Divisions, and through investigations involving the Emergency Response Section.

When this agency receives notice of a possible non-notifier an Environmental Specialist visits the site and makes a thorough evaluation of the waste handling activities at that facility. If the inspector determines that the facility's activities include the generation, treatment, storage and/or disposal of hazardous waste he furnishes the responsible person with the necessary information to properly notify and establishes a time frame for this to be accomplished. The HWD forwards the notification information to the EPA Regional Office upon receipt, for assignment of an EPA identification number.

The DEQ has a system designed to track the receipt and subsequent response to all citizen complaints. A 24-hour toll free Environmental Hotline is maintained to receive all complaints and questions. Upon receipt by the DEQ, the HWD emergency response personnel respond to the complaint and based on an assessment of the situation, determine whether or not a violation has actually occurred. A follow-up report is then

transmitted to the original complainant. The Department is responsible for investigating a complaint within seven (7) days.

**1. Enforcement**

The Louisiana hazardous waste management program provides for the following remedies for violation of State requirements;

- a) Any civil action necessary to carry out the provisions of LEQA (La. R.S 30:1073) shall be brought by the Secretary. In such suits, the Secretary shall be represented by the Attorney General. The Secretary has the authority to institute a civil action to compel inspections and to obtain a permanent or temporary injunction, restraining order or any other appropriate order.
- b) The Department can bring civil action in the name of the State to recover any damages or penalties resulting from a violation of the LHWR or the LEQA. Represented by the Attorney General, on behalf of the Department, such suits are brought before the district court.
- c) Upon a determination that a violation is occurring or is about to occur as to require immediate action, the Secretary may issue an emergency cease and desist order. The issuance of an emergency cease and desist order is not subject to the limitations and formalities relating to notice and hearings under La. R.S 49:950 et seq., but is subject to all other applicable provisions of the law. The emergency cease and desist order remains in force until a hearing can be held concerning the situation which prompted the emergency order, but in no event can such an order remain in force longer than fifteen (15) days.
- d) Upon determining that a violation has occurred or is about to occur, notice is given either in person or by certified mail, return receipt requested, to the violator of his failure to comply. If the violation extends beyond the thirtieth (30) day after notification, the Administrative Authority either issues an order requiring compliance within a specified time period, or initiates civil action for appropriate relief, including a temporary or permanent injunction. Compliance orders are required to state the following:
  - 1) the nature of the violation;
  - 2) a time limit for compliance;
  - 3) that in the event of non-compliance, a civil penalty will be assessed.
  - 4) Persons in violation of the LHWR or the LEQA are liable for civil penalties of up to \$25,000 for each day in violation which can be assessed by the Administrative Authority or by a court and such persons also may be subject to revocation or suspension of their permits.

- f) Additionally, any person to whom a compliance order or a cease and desist order, has been issued who fails to take corrective action within the time frame specified in the order is liable for a civil penalty of up to \$50,000 for each day of continued non-compliance. This penalty can be assessed by the Administrative Authority or by a court.
- g) La. R.S 30:1073 E et seq. requires that in determining whether or not a civil penalty is to be assessed and in determining the amount of the penalty or an amount agreed upon and compromised, the following factors shall be considered:
- 1) the history of previous violations or repeated non-compliance;
  - 2) the nature and gravity of the violation;
  - 3) the gross revenues generated by the respondent;
  - 4) the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
  - 5) the monetary benefits realized through non-compliance;
  - 6) the degree of risk to human health or property caused by the violation;
  - 7) whether the non-compliance or violation and the surrounding circumstances were immediately reported to the Administrative Authority and whether the violation or non-compliance was concealed or there was an attempt to conceal by the person charged;
  - 8) whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his non-compliance or violation; and;
  - 9) the costs of bringing and prosecuting an enforcement action, including staff time, equipment use, hearing records, expert assistance and such other items as are found to be a cost of the action.
- h) These criteria may be supplemented by rule. In the event the order with which the person failed to comply was an emergency cease and desist order, no penalty may be assessed if it appears upon later hearing that such order was issued without reasonable cause.
- i) No penalties are assessed unless the person charged has been given notice and the opportunity for a hearing on the matter.

- j) The actual decision process in penalty assessment involves a consideration of not only the above factors but also the recommendations of the field personnel and public comment on the adequacy of the penalty.
- k) Any enforcement actions for which the administrative processes have been exhausted or for which, in the opinion of the Administrative Authority, it appears administrative processes would be futile, are referred by the Secretary to the Attorney General for enforcement actions in court.

The Attorney General's environmental staff includes eight attorneys plus support staff adequate to handle the foreseeable needs of casework generated by the Department.

Any enforcement action shall be effective upon issuance unless a later date is specified therein. Such action shall be final and shall not be subject to further review unless, no later than twenty (20) days after the notice of the action is served by certified mail or by hand upon the respondent, he files with the Secretary a request for hearing. Upon timely filing of the request, the Secretary shall either grant the relief requested or forward the request to the Court of Appeal.

If the Secretary finds that an emergency exists which requires that immediate action be taken, he shall issue such orders as necessary, which shall be effective immediately upon issuance, and any appeal or request for review shall not suspend the implementation of the action ordered.

Any person aggrieved by a final decision or order of the Secretary may appeal from the Court of Appeal, First Circuit if a motion for an appeal is filed with the Secretary within thirty (30) days after the final decision or order is served upon the respondent.

**F. Public Notice and Hearing Provision 7004(b)(2)**

The Louisiana hazardous waste management program provides for citizen involvement in the State's permitting process by providing public notice of its intention to issue or deny a permit and the availability of a draft permit or draft denial for review and public comment, as well as, the opportunity to request a public meeting on a draft permit or draft denial.

Upon certification that an application is complete, a tentative decision is made by the Department to prepare either a draft permit or draft denial. A public notice is issued either by the applicant or the Department of the availability of the draft permit or draft denial for review and comment for forty-five days and the opportunity to request that a public meeting be held on the draft permit or draft denial, unless a public meeting or public hearing has already been scheduled. The notice is published setting forth the required information, in a daily or weekly major local newspaper of general circulation within the area affected by the proposed facility and broadcast over local radio stations.

The notice is also provided to each appropriate unit of local government in the area in which the facility is proposed, including any agency which the Department knows has issued or is required to issue a permit for the same facility, federal or state agencies with jurisdiction over activities which may be affected and persons on the Department's mailing list.

V.

## **Processes of the Louisiana Hazardous Waste Management Program**

The State of Louisiana's application for final authorization has involved both legislative and regulatory development processes the purpose of which has been to develop a State hazardous waste management program equivalent and consistent with that of the Federal Program under Subtitle C of RCRA. Other major processes, including compliance monitoring, enforcement, permitting and public participation are also integral parts of the State's hazardous waste management program and are discussed in detail below.

### **A. Regulatory Development**

The Louisiana Hazardous Waste Regulations now provide the regulatory authority to implement a State hazardous waste management program equivalent to the Federal program. However, as necessary, the Department, on a continuous basis provides for a wide range of activities designed to educate and engage its citizens in the review of proposed regulations to educate and engage its citizens in the review of proposed regulations to the LHWR, the permitting and appellate review process, and the enforcement process.

Upon determination that regulatory amendments are necessary, the Division prepares draft regulations in cooperation with the various industry task forces and public interest groups prior to submitting them to the Secretary of DEQ. Although the Secretary has been empowered to adopt regulations relative to the management of hazardous waste, a number of procedures are required before he can approve such action.

The rules governing public participation during the adoption, amendemnt, or repeal of rules are contained in the Louisiana Administrative Procedure Act (La. R.S 49:950 et seq.) (See Appendix F). As a result of the 1983 Legislative Session, portions of the Administrative Procedure Act have been amended and are reflected in the process detailed below. The Department prepares the proposed regulatory changes and then forwards the draft regulations to the Louisiana Register and the Joint Committees on Natural Resources of the Louisiana Legislature. Prior to the adoption, amendment or repeal of any rule, the agency shall:

- 1) Give notice of its intended action at least fifty (50) days prior to taking action on the rule. The notice should include a statement of either the terms or sustance of the intended action or a description of the subjects and issues involved; a statement, approved by the Legislative Fiscal Office, or the fiscal and economic impact of the imtended action, if there is or isn't an impact; the name of the contact person within the agency who can answer inquiries about the parties may present their view. The Notice of Intent must be submitted to the Louisiana Register at least sixty (60) days prior to the date the agency intends to take action on the rule.
- 2) Forward the Notice of Intent and approved fiscal and economic impact statement to all persons on the mailing list who have requested notification.

- 3) All interested persons are given an opportunity to submit data, views, or arguments, orally or in writing at a public hearing held by the agency prior to adoption of any rule or regulation. This hearing must be held no later than fifteen (15) days following publication in the Louisiana Register in which the notice of intended action appears.
- 4) The Joint Natural Resources Oversight Subcommittees conduct hearings on all proposed rule changes, after any hearing on the same rule is conducted by the agency and no later than forty (40) days after the publication of notice of intended action on the rule in the Louisiana Register. Prior to the hearing, the agency forwards to the subcommittee: a) a summary of all testimony received at the agency hearing; b) a statement of any tentative or proposed action of the agency agreed upon at such hearing, and 3) if any tentative or proposed action results from such hearing, a revision of the proposed rule and a revision of the report required to be submitted to the subcommittees.
- 5) If the Joint Natural Resources Subcommittees object to the proposed amendments, they must do so in writing to the Governor. If the action of the Subcommittees is not disapproved by the Governor within five calendar days, from the day the committee report is delivered to him, the proposed rule change cannot be adopted by the Secretary until the proposed rule has been changed or modified and has been found acceptable by the Committees, or has been approved by the legislature by concurrent resolution. If however, the committees make no determination concerning the proposed rule change, or if the Governor disapproves the action by the Committee as stated above, the proposed rule change may be adopted.
- 6) Upon approval by the subcommittees and no sooner than fifty (50) days from the date of publication of the Notice of Intent in the Louisiana Register the regulations will be adopted by the Secretary and published as Rule in the Louisiana Register and are effective immediately upon date of publication.

In addition to the Louisiana Administrative Procedure Act, the Secretary, in exercising his rulemaking authority, must follow the procedures set forth in La. R.S.30:1061.

Under the authority of La. R.S 49:953 B and 49:954 B.(2), the Secretary may utilize the emergency rulemaking procedures set forth in the Louisiana Administrative Procedure Act. An Emergency Rule may be adopted with an effective date of no more than 120 days.

#### **B. Legislative Development**

The Louisiana Environmental Affairs Act effective on February 1, 1984, La. R.S 30:1051 et seq. and the enactment and repeal of portions of Title 36 consisting of R.S 36:231 through 36:239, and La. R.S 36:408 (G) and (H), R.S.49:191(I)(6) and R.S 49:968(B)(22) and the repeal of R.S 36:509(B)(4), Chapter 4 of Title 36 of the Louisiana Revised Statutes of 1950, comprised of R.S 36:151 through R.S 36:159 R.S 36:358 (E) and R.S 36:359(B)(2) and (F)(2), (3), and (4), (G), and (H) and R.S 49:191 provide the statutory authority specifically necessary to implement a State hazardous waste

management program, and in addition provide for the creation and necessary consolidation of State departments in the executive branch of State government. The State Statutes provide DEQ with authority to operate a State program equivalent to EPA in all areas.

The Louisiana Legislature meets annually and convenes on the third Monday in April. The regular session of the Legislature meets for not more than sixty (60) legislative days (a day when either or both houses are in session) during a continuing 85-calendar day period. Extra-ordinary (special) sessions may be called by either the governor or the Legislature for a period not to exceed thirty (30) days. Bills and resolutions can only be passed when the Legislature is in formal session - regular or special.

Only legislators may introduce bills and resolutions and the Legislative Council is generally responsible for drafting most legislative proposals. Legislators may file a bill at any time between sessions, except no bill may be prefiled between the end of the last legislative session before a general election for legislators, and the promulgation of the election returns. The presiding officer of each house refers bills prefiled with his house to a standing committee (Natural Resources), provided the bill is filed at least three weeks before a regular session.

Bills filed in the three-week period prior to a regular session are not referred to a committee until the session begins. Prefiling does not constitute introduction. Generally, all bills must be introduced within the first fifteen (15) calendar days of a regular session. After introduction, a bill is read a second time and referred to a standing committee (Natural Resources). A public committee hearing is required on all bills prior to its consideration for final passage. Members in either house can force a committee to report on a bill or send it to another committee.

A committee may report a bill in several ways; favorably; with amendments; without action; unfavorably; or recommend that the bill be recommitted to another committee. A committee report is advisory only. Amendments to a bill proposed by a committee must be adopted by the parent house; approval by a majority of those present is sufficient. If committee amendments are adopted, the bill is engrossed. Prior to a third reading and vote on final passage in each house, bills are referred to the Legislative Bureau for review. The bureau may recommend technical changes which are offered as floor amendments in the house of origin or as Legislative Bureau amendments in the second house.

At the time of the third reading and final passage, the bill is debated and any member can propose amendments, from the floor. A bill is reengrossed after final passage in the house of origin, to include all floor amendments adopted by that house. A majority of the elected members of each house is required to approved a bill.

If a bill passes the house in which it was introduced, it is then sent to the other house where substantially the same procedure as previously discussed is followed. If the second house also passes the bill but not in the same form as the original house, the bill is sent back to the first house for concurrence with amendments by a majority of the elected members. If the house in which the bill originates refuses to agree to amendments made by the second house, either the bill dies or a conference committee is appointed to reconcile differences. If the conference committee agrees to a compromise, the conference committee report is submitted to both

houses either for adoption or rejection. The bill dies if the conference committee fails to report or if either house rejects the conference committee version.

A bill approved by both houses must be signed by the presiding officers and delivered to the Governor within three days after passage. After delivery, the Governor has ten (10) days to sign or veto a bill if the Legislature is in session. If the Legislature has adjourned, the Governor has twenty (20) days from the time he receives a bill to take action. If a Governor fails to veto a bill within the stipulated deadline, it becomes law without his signature. Bills passed by the Legislature and approved by the Governor (or not vetoed) become effective on the 60th day after final adjournment of the Legislature, unless the measure specifies an earlier or later date.

### **C. Compliance Monitoring and Enforcement**

The HWD's compliance monitoring program is conducted by means of routine and non-routine inspections of generators, transporters, and treatment, storage and disposal facilities. Routine inspections are performed on a scheduled basis. These inspections are conducted in a manner designed to maximize and ensure compliance with permit conditions, operational standards, monitoring requirements, recordkeeping and overall performance under the State Hazardous Waste Management Program.

The number and the nature of the inspections that will be made, and the frequency which they will be conducted depends on several factors. These include, the designation as major or non-major handler, the results of previous inspections and the inspection commitments under the annual RCRA Federal assistance agreement. Violations of the LHWR are most often detected during routine field investigations. However, the Division frequently receives information of possible violations from sources such as citizen complaints, spills, and calls received on the Department's Hotline. Complaints, spills and "hot-line" calls are given priority and responded to as quickly as possible.

The Division's designation of major and non-major handlers is consistent with the EPA definition and terminology. The HWD list of major and non-major generators, transporters and TSD has undergone a significant modification as the result of a state-wide renotification program. This list will be periodically updated in the future on a quarterly basis.

At the beginning of each quarter, inspectors in the Enforcement Section are assigned specific handlers that they are responsible for inspection and evaluating to ensure compliance with the program and permit requirements. To assist and to document the details of each inspection, the inspectors utilize a compliance evaluation inspection checklist. Routine RCRA inspections are performed at least once each year at all major facilities. Non-major facilities are inspected at least once every two years. Commercial disposers, in addition to the yearly RCRA inspections, are subjected to surveillance inspections each quarter.

During each routine inspection of hazardous waste generators, transporters or TSD's, the inspector completes a RCRA inspection form. The Division has an inspection protocol to enhance the inspector's ability to identify violations on key pathways. The following procedures, which are

listed to the extent possible in chronological order, are utilized by the inspector during routine inspections.

1. To the extent practicable, especially on RCRA inspections, the inspector should review the file prior to an inspection and complete the proper portions of the inspection checklist. This review should include a briefing from the previous inspector, and personnel from permitting, groundwater monitoring, and etc.
2. If possible, an entrance interview should be conducted with the environmental coordinator and/or other responsible persons at the start of the on-site inspection. This interview should detail the purpose of the inspection, the method of conducting the inspection and the actions which will occur thereafter.
3. The inspection and on-site record review should be conducted, including all necessary measurements, sampling, photographs and record copying. Any information which will form the basis for an enforcement decision should be copied and made a permanent part of our file.
4. Following the inspection, an exit interview shall be conducted if possible, informing the responsible party of violations noted and the corrective action necessary. This will afford the facility personnel the opportunity to provide any additional information they feel might be appropriate to further explain any items noted and to make any necessary immediate corrective action. If the facility is given a copy of the inspection checklist at that time, the inspector should inform them and make a note on the checklist that it is a preliminary draft only and should date and initial it as being so. A note should be made that such copy was given to them.
5. Upon return to the office, the inspector should complete any necessary records reviews and discussions with Division Staff and complete the RCRA checklist. If necessary, a narrative report should be written detailing the extent and nature of each item on non-compliance and note any corrective action taken during the inspection. The checklist and report should be reviewed with the line supervisor and the appropriate enforcement action determined with sufficient information for the inspector to formulate a fact sheet on nature and degree of non-compliance and past history of non-compliance and all factors which might be helpful for the Division and Department to understand why the recommended enforcement instrument is proper and to determine the extent of penalties which should be assessed, or why such assessment is not appropriate.
6. The inspector should draft the enforcement instrument after finalizing the inspection report and fact sheet and submit it for review by the line supervisor, program manager and administrator. After the review, the instrument should be revised and re-reviewed as necessary, including assistance by the Legal Division. The inspector shall prepare all necessary forms for input into the Hazardous Waste Data Management System (HWDMS).
7. The enforcement instrument will then be issued in line with Department delegation and signature policy.

8. Follow-up inspections shall be conducted as necessary. Any non-compliance with the enforcement instrument shall be a cause for further enforcement action.

If, during any inspection, any problems which may be in the preview of another Section and/or Division is noted, this should be called to the attention of that unit.

In those cases where a facility is determined to be out of compliance, the type of action taken by the State depends upon the severity of the violations. If the violations are of procedural or reporting requirements, which, are classified as minor violations and do not pose direct threats to the public health or environment, the facility would be issued either a Letter of Warning or Notice of Violation. The Letter of Warning or Notice of Violation will specify those sections of the LHWR that were violated and will establish a specified time for compliance (usually thirty (30) days). If the violations are considered major and could pose direct and immediate harm to public health and the environment, the Administrative Authority will issue a Compliance Order or a Cease and Desist Order. If no violations were noted during the inspection a standard letter of compliance is prepared and mailed to the facility.

The Criteria utilized by the Division to determine the appropriate type of enforcement action for a particular violation is based on the following:

#### **Major Violations:**

Violations that pose a direct and continuing threat to human health and the environment.

1. any violations that result in a discharge;
2. failure to use manifest system;
3. shipping waste to a nonpermitted disposal site;
4. container in poor condition;
5. violation of container requirements for less than 90 days storage;
6. violation of discharge clean-up requirements;
7. violation of closure requirements;
8. violations of requirements for ignitable, reactive or incompatible wastes;
9. violations of open burning requirements;
10. violations of security requirements;
11. failure to notify;
12. violations of criteria necessary for obtaining interim status;
13. violations of permitting requirements;

#### **Minor Violations**

1. violations of reporting requirements;
2. failure to follow a personnel training program;
3. failure to maintain inspection schedules;
4. violations of labeling, marking or placarding requirements;
5. failure to consult with local authorities
6. failure to observe I.D. number requirements;
7. failure to furnish proper number of manifests for transporters/disposers;
8. failure to appoint an on-site emergency coordinator;

- f) Status: ownership status of existing site or land for proposed site;
- g) Site description;
- h) List existing environmental permits for the site, if any;
- i) Signatories to permit applications and reports.

In addition, the person signing the document must certify that the information provided in the application states that he is aware of the penalties for submitting false information.

A certification is also required by the owner who is not the operator, stating that he and the facility operator are jointly and severally responsible for compliance with both the regulations in the LHWR, and any other permit issued pursuant to those regulations.

**NOTE:** The State's Part I is analogous to EPA's Part A.

At the time that the entire application is found to be complete, Part I's are distributed for review and comment to the public (filed with local libraries or other public facility), Water Pollution Division, Air Quality Division, and availability is published in "Environmental Action", and an ad in local newspapers. In addition, Part I's are forwarded to the Bureau of Health and Environmental Services of the Department of Health and Human Resources; Department of Wildlife and Fisheries; Office of Public Works of the Department of Transportation and Development; and to local governing authorities of any municipality and parish within whose territorial jurisdiction the facility or activity is located.

2) **Part II**

Part II of the application requires information necessary to determine compliance with the LHWR. Certain technical data, such as design drawings and specifications and engineering studies must be certified by a registered professional engineer. The information needed in the Part II portion of the application can be found in Chapter 4, 4.9 thru 4.16. Part II's should include the following types of information:

- a) General description of the facility;
- b) Chemical and physical analyses of the hazardous wastes to be handled;
- c) Waste analysis plan;
- d) Security procedures;
- e) Inspection schedule;
- f) Contingency plan;
- g) Site geology, hydrology;
- h) Closure and post-closure plans;
- i) Financial responsibility.

The inspector will work closely with the handler to resolve the violations within the compliance date. The inspector may assist the handler by providing technical assistance via telephone conferences or formal meetings. A re-inspection is performed no later than forty-five (45) days following notification from the facility that corrective action has been taken, or sooner, if no response has been received from the facility. If deficiencies are still noted when the follow-up inspection is performed, the Administrator either prepares a second Notice of Violation for signature by the Secretary, or recommends that the Secretary of DEQ issue a Compliance Order, depending on the seriousness of the violation(s) and whether the facility has made a good-faith effort to comply. The Secretary has retained the authority to sign Letters of Warning, Notices of Violation, Compliance Orders and Cease and Desist Orders.

If, during the follow-up inspection performed approximately thirty (30) days following issuance of the second Notice of Violation, no action has been taken, the Secretary, upon recommendation by the Administrator, issues a Compliance Order or schedules an administrative hearing with the owner/operator to discuss the violations before taking additional enforcement action.

A Compliance Order lists specific action with time frames for compliance, and sets fines of up to fifty thousand dollars (\$50,000) per day for each day of continues non-compliance after the expiration date of the Order. If the facility does not comply within the time specified, the Administrator recommends that the Secretary issue an Assessment of Penalty.

All of the above enforcement actions, i.e., Letter of Warning, Notice of Violation, Compliance Order, etc. are subject to appeal to the Secretary. The respondent must file a request for hearing with the Secretary no later than twenty (20) days after the notice of action is served. Upon timely filing of the request, the Secretary shall either grant the relief requested or forward the request to the First Circuit Court of Appeal. In case of appeal, the legal staff for DEQ assumes control of the case and is responsible for the preparation of evidence for the State.

As previously noted, when a violation is occurring, or is about to occur, and is of such magnitude as to require immediate action, the Secretary pursuant to La. R.S 30:1072 B. shall issue such permits, variances, or other orders as necessary which shall be effective immediately upon issuance, and any appeal or request for review shall not suspend the implementation of the action ordered. Additionally, La. R.S. 30:1136 A.2. provides that permits may be revoked, superceded or modified in accordance with Section 3.12 of the LHWR. The Secretary can make an emergency Cease and Desist Order permanent during the permit termination proceedings, if so warranted.

Compliance sampling inspections are performed annually at approximately 10% of all major and non-major generators, transporter TSD's. Members of the Permit Staff which includes Engineers, Geologists and Environmental Specialists have been assigned full-time to review groundwater monitoring data and perform on-site investigations to determine compliance with groundwater protection standards. This effort is augmented by the routine review of groundwater systems performed by the Enforcement Staff

during all of their scheduled inspections. Non-routine inspections are conducted in instances of citizen complaints, emergency incidents and follow-ups to previous inspections. Citizen complaints are afforded the highest investigative priority by the HWD. Investigations are performed as soon as possible, but no later than seven (7) days following receipt of the complaint. A complaint form is initiated at the time of receipt and completed after the investigation. Based on the report, the Administrator determines whether enforcement action is required, and if so, what degree, i.e., Letter of Warning, Notice of Violation, Compliance Order, Cease and Desist Order, etc. The complainant receives written notification of the results upon completion of the investigation.

The Division currently uses commercial laboratories for sample analysis. Any commercial laboratory proposing to perform analytical services for the HWD must, at a minimum, comply with all EPA established guidelines. EPA surveillance and analysis personnel visited the HWD's two contract laboratories to determine whether they had the equipment and capability to conduct an analytical program by the methods of EPA-SW 846 and in accord with the approved State QA/QC Plan. The laboratories were found to be acceptable for performing hazardous waste sample analyses.

All inspectors have attended an EPA School and have been trained in the proper sampling techniques, chain-of-custody procedures, field quality assurance checks, documentation, etc. to ensure sample integrity. The Program Manager for the Enforcement Section contacts the laboratory for detailed instructions prior to each sampling inspection where non-routine sampling will be performed, to ensure that samples collected will be adequate and yield valid results.

In summary, the Division's compliance monitoring and enforcement program is a comprehensive one with fifteen (15) of the forty-three (43) position allocated to the Division, dedicated full-time to enforcing the Louisiana Hazardous Waste Regulations. In addition, five (5) emergency response field inspectors and three (3) field inspectors assigned to the groundwater monitoring program in the Permit Section devote a large percentage of their time to investigation of citizen complaints and inspection of transporters and non-major generators. The HWD's five(5) regional offices are staffed with personnel capable of responding to emergencies and complaints in a timely manner.

#### **D. Public Participation**

The DEQ provides for public participation in all areas of Louisiana's hazardous waste management program including the development of rules and regulations, the permitting and appellate review process, the enforcement process and general public education and information regarding the State hazardous waste management.

The rules governing public participation during the adoption, amendment or repeal of rules are contained in the Louisiana Administrative Procedure Act (La. R.S. 49:950 et seq.) and La. R.S. 30:1136.1.

In addition to the Louisiana Administrative Procedure Act, the Secretary in exercising his rulemaking authority, must follow the procedures set forth in La. R.S. 30:1061 D.

The Department publishes "Environmental Insights", a quarterly newsletter dealing with policy issues and indepth articles on the regulation of the environment, and "Environmental Action", a monthly newsletter detailing the type of enforcement and compliance activities engaged in by the Divisions within DEQ. Both publications are sent to approximately 2800 persons on DEQ's mailing list and any person may request that his name be placed on the DEQ mailing list. The HWD furnishes monthly data on RCRA inspections, permitting activities, emergency response and enforcement actions. The Department utilizes these newsletters to inform the public of proposed regulatory changes and the availability of training and/or information courses. The Department's Information Officer issues news releases and public service announcements on adjudicatory hearings, permit applications or enforcement actions hearings held before the Administrative Law Judge and on-going investigations and/or clean-up activities.

The Administrator, Program Managers and other specialists in the Division are available as lecturers at universities, civic organizations, local governmental organizations and other State/Federal workshops.

The public participation requirements during the permit process can be found in Chapter 5 - 5.5 and 5.6. Public comments and request for public hearing and Hearings and notice respectively of the LHWR and are equivalent to the Federal System. In addition, adjudicatory hearings are required to be held before the Secretary for all commercial hazardous waste treatment, storage or disposal facilities and may be held for on-site disposal (non-commercial). At such hearings any person may appear and testify before the Secretary.

#### **E. Permitting and Appellate Review**

##### **1. Phase I**

In order to achieve Phase I "substantial equivalence" interim permits were issued to all non-commercial treatment, storage or disposal (TSD) facilities, and compliance schedules and performance guidelines were the interim status standards. This action, therefore, brought all existing TSD facilities under the requirements of the interim status standards for Phase I.

##### **2. Phase II**

###### **a. Existing Facilities**

Ninety (90) days after the promulgation of the July 20, 1983 amendments to the HWMP (which removes the Category II "special wastes"), all generators and transporters of hazardous waste and all owners or operators of hazardous waste treatment, storage or disposal facilities were required to file a new notification of that activity. Following this re-notification, the Division cross checked its new listing of waste handlers, in order to assure that it corresponded to EPA's base in the Hazardous Waste Data Management System (HWDMS). In the past, there were some discrepancies between the State's and EPA's listing of waste handlers.

Six (6) months following the promulgation of the HWMP amendments, any person who had not applied for or received an interim or standard permit to treat, store or dispose of hazardous waste must have ceased operations of any TSD facilities until and unless a permit is issued as required by the HWMP. For existing TSD facilities, the requirement to submit an application was satisfied by submitting only Part I of the application until the date the Administrative Authority sets for the Part II call-in. Thus, the timely submission of proper renotification and Part I qualifies owners and operators of existing TSD facilities for interim status under Phase II, provided the facility has been granted interim status by EPA. The Administrative Authority upon setting a submittal date, fines the applicant six (6) months notice for submission of Part II of the application. The State has prioritized the Part II call-ins in coordination with EPA Region VI permit staff.

**NOTE:** The State's Part I and II are analogous to EPA's Part A and B, respectively.

**b. New Facilities**

Owners or operators of new TSD facilities must submit Part I and II of the application at least 180 days before physical construction is expected to commence and construction cannot begin until a permit is issued by the Administrative Authority, except as specifically provided in the LHWR.

**c. Short Term Permits**

In accordance with the provisions set forth in 5.2, should the Administrative Authority find an imminent and substantial endangerment to the human health or the environment, he may issue a temporary emergency permit to a non-permitted facility to allow treatment, storage or disposal of hazardous waste or to a permitted facility to allow treatment, storage or disposal of a hazardous waste not covered by an effective permit. Emergency permits of this type will incorporate to the extent possible, and not inconsistent with the emergency situation, all applicable and appropriate requirements of the LHWR.

**d. Permits By Rule**

The Department's regulations provide for "permit by rule" for hazardous waste management facilities which have valid permits under other State or Federal programs. the following types of facilities shall be judged to have a permit if specific conditions, as stated in 3.3c) are met:

- 1) has a valid Federal permit for ocean dumping.
- 2) has a permit for underground injection and is in compliance with such permit, and associated facilities are permitted under the LHWR.

- 3) has a Federal National Pollution Discharge Elimination System (NPDES) permit to accept hazardous waste for treatment.

**e. Interagency Coordination for Permits Processing**

The Division will continue to concurrently review permit applications with other divisions and obtain input from other agencies as described in Chapter 5 of the LHWR.

One example of this joint processing is concurrent review of incinerators by the HWD and the Air Quality Division. Although each Division drafts its permits separately, consistency in application content and non-conflicting conditions are assured. To the degree practicable, trial burn for the hazardous waste permit and stack testing as required for the air permit will be consolidated.

**f. Permit Procedures**

The Division began a new notification process in October of 1983. This second notification process was designed to ensure that only those facilities dealing with characteristic or listed wastes under the federal program will be regulated by the State's hazardous waste program.

Facility owners or operators who have received interim status based on preliminary notification and subsequent submittal of Part I of the application (See 23.1 of the LHWR) have been issued an interim permit. All interim status facilities must comply with the interim status standards set forth in the LHWR, in particular, Chapter 23 (Interim Status) and specific conditions until a Part I application is requested for a standard permit and the permit is issued or denied.

**g. Permit Application Review**

The permit application is preceded by the HWD notification form requiring specific information concerning the site, disposal method and the specific waste streams to be treated, stored or disposed. At the time of notification, a request is made by the operator for application forms. Within thirty (30) days of receipt of notification, the Administration Authority issues to each operator requesting information, a copy of the procedures governing permits, application forms, and applicable regulations and standards.

A pre-application conference with the applicant is held in almost every instance. The pre-application conferences are designed to educate the applicants on State requirements and procedures which must be addressed in a complete permit application. In general, the exchange between the larger companies and the HWD staff regarding information to be included in the application is minimal. Smaller companies require a greater need for guidance and considerable time is

spent advising these applicants on various items to be included in the permit application.

The Administrative Authority shall not issue a permit before receiving a complete application except for permits by rule, or emergency permits. An application is judged complete only when all data in the application form and supplemental information furnished by the applicant is reviewed by the HWD staff to ensure the applicable technical standards under Chapters 9, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 have been addressed and formatted properly. (See Figure 4 - Permitting Process).

All applicants for hazardous waste permits must provide the information stated in Chapter 4, Section 4.8, using the application form provided by the HWD, and any additional information required of applicants as set forth in 4.9 thru 4.16 and other formatting requirements specified by the Administrative Authority.

The HWD has developed a checklist to evaluate all data and information which must be addressed in the permit application, under Chapter 4 (specifically the contents of Parts I and II under 4.8 thru 4.16, respectively in order to establish the completeness of the application.

Based on the results of this evaluation, the following actions could take place:

- 1) If an application lacks the information necessary for proper evaluation a list of deficiencies, time frames from submission of the required information and a Letter of Warning will be prepared and mailed within sixty (60) days of receipt of the application. Failure to submit the required application information within the time frame specified will result in the issuance of a Compliance Order to correct the deficiencies with administrative penalties specified by the Secretary.
- 2) Applications which are complete will be accepted for review. Operators will be notified of the HWD's acceptance for review within sixty (60) days of receipt of applications.

**h. Complete Permit Application**

**1) Part I**

Part I of hazardous waste permit application must include the information specified in 4.8 of the LHWR which includes the following types of data:

- a) Date of application;
- b) Company name;
- c) Company address;
- d) Name of operator and owner;
- e) Type of operation;

**NOTE:** The State's Part II is analogous to EPA's Part B.

**i. Technical Evaluation**

The Department's technical evaluation considers:

- 1) Purpose and use of facilities;
- 2) Operation and use of facilities
- 3) Capacity;
- 4) Closure;
- 5) Site suitability;
- 6) Financial responsibility;
- 7) Legal considerations;
- 8) Specific considerations deemed necessary on a site specific basis; and
- 9) Local zoning ordinances.

**j. Draft Permit and Fact Sheet**

A draft permit will be prepared, by the Division, with all necessary compliance conditions.

The Administrative Authority shall prepare a fact sheet on the application and draft permit which will be available prior to the scheduled public hearing. The fact sheet will include, when applicable:

- 1) A brief description of the type of facility or activity which is the subject of the draft permit.
- 2) The type and quantity of wastes, fluids or pollutants which are proposed to be or, are being treated, stored, disposed of, injected, emitted or discharged;
- 3) A brief summary of the basis for the draft permit conditions;
- 4) Reasons why any requested variances or alternatives to required standards do, or do not, appear justified;
- 5) A description of the procedures for reaching a final decision on the draft permit.

A copy of this fact sheet will be mailed to the applicant and all interested parties. In the case of a draft denial, the Administrative Authority shall prepare a fact sheet according to the same procedures utilized for the draft permit.

**k. Public Notice to Issue or Deny the Permit**

After the permit application is deemed technically complete, provisions will be made to give the public adequate opportunity to respond to all aspects of the application (See 5.5 of the LHWR). The Public notice must contain the information stated in 5.6c) of the LHWR and provide a forty-five (45) day comment period.

Copies of the Part I and II, as well as, copies of the draft permit will be made available through the local libraries. Availability of the application and draft permit for review will be published in area newspapers and related bulletins. For standard permits or major modifications, the Division will insure that broadcasts will be made over local radio station of the notice of the State's intent, procedures for requesting a hearing and availability of the related documents.

The procedures stated above are also followed in the case of the Administrative Authority's intent to deny the permit.

The Administrative Authority's intent to issue a permit should not be construed as an endorsement of the project, although it seems to imply such, but rather a statement that upon the completeness and technical reviews, sufficient information is provided to make a tentative decision. The public participation procedures provide the public or the applicant with a forum to present additional information before the Administrative Authority prior to a final decision.

#### **1. Hearings**

The Administrative Authority will hold a public hearing on all hazardous waste TSD facility draft permits if a written notice of opposition to a draft permit and a request for a hearing is received during the forty-five (45) day comment period. The Administrative Authority may elect to notice the draft permit and automatically schedule a hearing especially in cases of major facilities or facilities where significant interest already exists.

If a public hearing has been requested, whenever practicable, it will be scheduled at a location convenient to the nearest population center to the proposed facility. The Administrative Authority designates a Presiding Officer responsible for the scheduling and orderly conduct of the hearing.

Written material submitted and received during the public comment and public meeting periods that pertain to the technical and physical suitability of the site and related facilities, or compliance with the regulations and draft permit conditions will be introduced at the hearing and shall be considered in making final decisions.

Only comments and information pertinent to these related facts and concerning site suitability, compliance with the regulations or draft permit conditions may be considered at any hearings. Substantial evidence and expert testimony shall be considered above unsubstantiated comments received during public hearings or any subsequent written comments. The public is encouraged to supplement their comments with information the Administrative Authority can verify in order to give credence equally with expert testimony or information submitted in the public hearings on the draft permit.

Also, the Administrative Authority may conduct a public hearing (prior to the adjudicatory hearing for a commercial facility) for the purpose of fact-finding, receiving public comments, and conducting inquiries and investigations of the draft permits for commercial hazardous waste TSD facilities. The hearings are held in the locale where the applicant seeks to dispose of, treat or store hazardous waste. The presiding Officer conducting the meeting on behalf of the DEQ shall prepare a report of the proceedings which becomes a part of the record. This hearing is in addition to the hearing required under the RCRA regulations.

Adjudicatory or adjudicative hearings shall be conducted in accordance with the Louisiana Administrative Procedure Act (L.R.S. 49:950 et seq.) for the following:

- 1) All permit applications for commercial hazardous waste disposal facilities; and in instances where the Administrative Authority determines that equity and justice requires and adjudication.
- 2) Any person possessing a real interest that might be adversely affected by action of the Administrative Authority, in writing to hold an adjudicative hearing. The Administrative Authority shall accept or deny the petition, in writing, giving reasons for the decision, prior to taking the action for which a complaint has been made.
- 3) The holding of an adjudicative hearing shall not limit or prevent the holding of non-adjudicatory, fact-finding hearings on the same subject matter.

A commercial hazardous waste disposal facility is subject to two types of hearings, a public hearing on the draft permit and an adjudicatory hearing. Adjudicatory hearings take expert testimony concerning questions of technical fact and points of law in which witnesses are sworn. They may be subject to both direct and cross examination of their testimony. Opportunity is afforded to all parties to an adjudication to allow the presentation of evidence and to timely respond on all issues of fact concerning the draft permit or denial.

Opportunity is afforded at Adjudicatory Hearings for additional public comment without the necessity of a person being a party to the adjudication. Findings of fact are based exclusively on the evidence and on matters officially noticed, all in accordance with the Louisiana Administrative Procedure Act and other applicable laws. Transcripts of the proceedings are maintained and are available for by the public.

A tape recording or written transcript of the public hearing, on the draft permit, is available to the public. If after reviewing comments both oral and written, the Administrative Authority determines that its decision was incorrect, it will withdraw the draft permit and prepare a draft denial or vice versa and reinstate the process.

At the time that any final permit decision is issued, the Administrative Authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision.

Any person aggrieved by final decision of the Secretary may seek relief by applying directly to the First Circuit, Court of Appeal if a motion for an appeal is filed with the Secretary within Thirty (30) days after the final decision or order is served upon the respondent. They must demonstrate that the Administrative Authority and HWD acted outside its jurisdiction procedurally or substantially in issuing the permit or that it overlooked or did not consider serious and obvious deficiencies in the application.

Any permit issued or denied by the Secretary will be considered final unless the person or persons apply in writing within twenty (20) days after the issuance or denial, asking the Secretary to review his action, prior to an appeal in court.

All information brought out during the comment period, public hearing, or adjudicatory hearing will be considered in providing additional conditions to the draft permit. Any comments brought out which are incorporated in the final permit conditions and reasons for their inclusion will be made available to all concerned parties (See 5.4 of the LHWR).

**m. New and Existing Facilities**

The previous sections have discussed the permitting procedures as they apply to a permit application for new facilities. This procedure would cover all aspects of the application from proposed concept construction, and subsequent operation.

Interim status sites and facilities are required to apply for a permit to continue operating existing facilities. The owner of a facility which stores, treats and/or disposes of hazardous waste is required to submit a complete application to the Administrative Authority within six (6) months of written request by the HWD. They may be voluntarily submitted prior to such request.

**n. Permit Modification and Revocation**

Proposals may be made by the applicant to modify existing facilities. Any changes or modifications require amendment of the permit. To do this, provision must be made for public notice, public review and comment and any subsequent public meetings. For any modifications (major or minor) intended, provisions must be made for a draft permit, public notice, review comment and public hearing. When a permit is modified (major or minor), only the conditions subject to modification are reopened. A major modification includes change of ownership, alterations to the physical processes, significant changes in waste characteristics or quantities, or any other change in the site, facility, or operations which materially deviates from the

permit. Minor modifications such as increased monitoring, revised contingency plans, closure, and etc. will not require a draft permit.

The Administrative Authority may institute proceedings to revoke or terminate an existing permit, if information received indicates a need for such enforcement action. Such enforcement action may include temporary suspension of a permit or irreversible revocation of the permit. Information maybe in the form of an inspection, complaint reports (site verification) or other information concerning non-compliance.

Under the provisions of 3.12) of the LHWR, the State can suspend the permittee's right to accept additional hazardous waste for treatment, storage or disposal if the permittee has been found in violation of the permit or Act. If the violation is determined to be one which would cause or increase endangerment of public health or the environment, the State will immediately suspend the permit, subject to the right of appeal by the permittee. Such suspension will remain in effect until the violation has been corrected so that the endangerment no longer exists. A suspension order will contain specific conditions on corrections required and the corrections will be verified by an inspection prior to lifting of the suspension. The suspension order may be included in, or separate from, the other enforcement action on the violation.

**FUNDING & RESOURCE REQUIREMENT**

## **VI. FUNDING AND RESOURCE REQUIREMENTS**

### **A. Resource Requirements**

The HWD is staffed with personnel who have the administrative expertise, technical background and experience necessary to effectively administer the hazardous waste management program pursuant to the LEQA.

The HWD is divided into three major sections - 1) Emergency Response Section; 2) Enforcement Section; 3) Technical Services. Administrative support to all Sections is provided by the Hazardous Waste Division Administrator and the Assistant Administrator. The HWD presently consists of fifty-five (55) employees each of whom devote a full man-year to the program. The classification of each employee can be found in Table I.

Support service to the HWD is provided by the Secretary of DEQ and the Assistant Secretary of the OSHW on administrative matters, such as legislation development, budget preparation, development of policy and procedures and general oversight of the hazardous waste program. Legal support is provided by the Department's staff of attorney's on matters such as the issuance of compliance and administrative orders, the preparation and presentation of civil suits or assistance on criminal actions against violators.

Support service is also provided by the Department of Agriculture, Office of Agricultural and Environmental Affairs and the Department of Public Safety, Hazardous Materials Unit.

The following describes the major duties and responsibilities of the HWD staff within the various sections. All positions described below are budgeted and approved at the present time.

#### **1. Administration**

The overall coordination and administration of the HWD falls under the direction of the Administrator. The Administrator is responsible for providing supervision and guidance to Division personnel on all aspects of the program. He is responsible for establishing policy and criteria for determining compliance with State laws and rules and regulations. The Administrator is actively involved in the permitting process and in the initiation of enforcement action. He closely monitors the compliance monitoring, surveillance and emergency response activities within the Division. The Administrator is also responsible for providing assistance in the preparation of the annual budget request, he must approve all requisitions for equipment and supplies, as well as approve expenditures for travel and training. Additionally, the Administrator is responsible for ensuring that commitments made by the Division under the annual RCRA federal assistance agreement are achieved. Finally, the Administrator is responsible for informing the Assistant Secretary of the OSHW of all program activities, including changes to the federal regulations which could impact the program and the effect of proposed legislation on the program.

The Administrator is assisted in the management and administration of the Division by the Assistant Administrator and the Program Managers for Emergency Response, Enforcement, Permit and Technical Service Sections, each of whom is directly responsible for direct management of his particular section.

Seventeen clerical positions are allocated full-time to the HWD and divided among the various Sections. The clerical positions are classified as Administrative Secretary, Secretary, Clerk IV, and Typist Clerk III. The clerical staff performs a variety of duties such as scheduling meetings and hearings, taking and transcribing minutes of meetings, arranging travel, maintaining office files, composing memorandum and typing reports, budget, grant application, correspondence and other forms and reports.

## **2. Permitting**

The Division currently has a Permitting Staff comprised of fourteen (14) individuals with diverse expertise. The members of the staff have experience in a wide range of technical fields including engineering, geology, toxicology and finance. It should also be noted that both the HWD Administrator and the Assistant Administrator devote a significant percentage of time to permitting activities. In addition to the staff assigned to the Permit Section, the HWD has in place contracts with EPA, contractors to provide technical support to supplement the State's effort in the review of closure/post-closure plans, groundwater assessment plans and etc. The Division has also contracted with a Senior Engineer to provide technical assistance in the review of permit applications on a full-time basis.

The Manifest Unit of this Section is operated by one (1) Hazardous Waste Analyst under the supervision of the Environmental Program Manager of the Permit Section. The duties of the analyst include review of all incoming manifests and annual reports, preparing letters of deficiency, follow-ups to those letters, orderly filing of manifest on microfilm, and the maintenance of annual report information on computer.

### **ENVIRONMENT SPECIALIST**

The Environmental Program Manager for the Permit Section is responsible for planning, coordinating, organizing and directing the review of hazardous waste facility comprised of environmental specialists, engineers and geologists. Additionally, the Environmental Program Manager is responsible for making recommendations to the Administrator based on findings of the permit review team.

Environmental specialists review permit applications submitted by industry for compliance with the technical requirements of the State's regulations. The specialists performs technical site visits in concert with the geologists and engineers to determine the accuracy of data contained in facility permit applications. Also, they are responsible for preparing a list of deficiencies from his inspection.

Environmental Specialists are responsible for all closure/post-closure plans for both facilities undergoing active closure as well as those who are in the permitting mode. Responsibilities include insuring that all facilities meet

the technical, legal, and financial requirements of the regulations and statutes. Members of the Permit Staff have the lead role in the review and approval of all complex plans (e.g. waste analysis, closure/post-closure, groundwater quality assessment financial instruments, etc.) associated with the operation of a hazardous waste facility.

Environmental Specialists assigned to the groundwater monitoring unit are responsible for performing field investigations to verify that the monitoring system is located according to the facility's groundwater monitoring plan. Conducts verification analysis and determines the adequacy of the operators monitoring well maintenance program. Additionally, the inspector is responsible for inspecting remedial pumping systems for operability and other work progress in regard to groundwater mitigation.

As part of their duties, the Environmental Specialists provide technical assistance to industry representatives, Enforcement Section, general public and the Air Quality, Water Pollution Control and Solid Waste Divisions within DEQ.

#### **ENVIRONMENTAL ENGINEERS**

Reviews permit applications from hazardous waste treatment, storage and disposal facilities for compliance with the technical requirements of the LHWR, and prepares deficiency lists with respect to waste characterization plans, process and mechanical designs, waste compatibility procedures, contingency plans, closure/post-closure plans, etc. Reviews plans for immediate closures in detail for completeness and adequacy and makes recommendations on acceptability of plans.

Provide technical assistance to Enforcement Section personnel and accompanies inspectors on field inspection, when necessary, to evaluate processes and operations at facilities to assure compliance with applicable regulations. Provide technical assistance to other Division personnel as required.

Reviews petitions and requests for delisting and declassifying facilities based on de minimus rules, non-hazardous nature of operation, and other considerations.

Stays updated on latest regulations, technology and standards related to the management of hazardous waste by attending meetings, seminars, training sessions and by reading publications, industry periodicals, and other related papers and literature. Serve and participate on committees, such as EPA's Office of Solid Waste Land Treatment Coordination Committee when requested.

Provides technical assistance to industry representatives regarding the application of the State's regulations and practices.

## **GEOLOGIST**

The geologist's responsibilities include review of permit applications for technical completeness related to geological, geohydrological and geotechnical considerations. Information supplied by the applicant, such as topographical descriptions levee construction and maintenance plans, ground and surface water flow, drainage information, types of wastes to be stored and detailed soil samples is subjected to a variety of scientific analyses to determine the geological suitability of a site for waste storage. The geologist reviews the permit application and if found deficient, directs the work which must be accomplished by the facility to fulfill application requirements. The geologist accompanies environmental specialists and engineers on technical site inspections to verify the accuracy of information and data submitted.

Geologists also review and approve facility groundwater monitoring plans, and if necessary initiate enforcement action to insure continued protection of groundwater. In addition geologist review groundwater monitoring data supplied the Division on a semi-annual basis.

### **3. Enforcement Section**

The Enforcement Section is staffed with twelve (12) Environmental Specialists classed as Environmental Quality Specialists Entry, 1, 2, and coordinators. In addition to the twelve (12) full-time employees, five (5) Environmental Specialists assigned to the Emergency Response Section devote a percentage of their time to compliance monitoring and enforcement. Technical assistance is provided by Engineers and Geologists on matters such as the evaluation of chemical processes, groundwater monitoring and enforcement. The duties and responsibilities on an Environmental Specialist in this section are described below:

#### **ENVIRONMENTAL SPECIALIST**

Environmental Specialists in the Enforcement Section conduct both routine and non-routine compliance evaluation inspections of all hazardous waste generators, transporters, and treatment, storage and disposal facilities to evaluate compliance with rules and regulations. Specifically, the environmental specialist determines compliance with permit conditions, design and operational standards, monitoring requirements, security and safety requirements, recordkeeping and overall site condition and performance. While performing inspections the specialist may collect representative groundwater samples of representative hazardous waste stream samples to further determine compliance with State requirements. Upon completion of the investigation, the environmental specialist completes the necessary reports, drafts a letter of compliance, warning letter or notice of violation for review by the HWD Administrator, who then forwards it to the Secretary for signature. If major violations are discovered which could pose a threat to health or the environment, the specialist is responsible for recommending whether a compliance order, administrative order, or possibly, a cease and desist order should be issued. In addition to the above, the staff of this Section is required to respond to hazardous waste emergencies when the employees of the Emergency Response Section are unavailable. The professional staff of the Enforcement Section is also required to present testimony in cases of litigation involving facilities which they inspect.

Inspectors who perform RCRA inspection on major facilities are Environmental Program Specialist IV's and are the senior non-supervisory personnel. These inspectors possess at least three years experience at completing RCRA inspections and are supervised by senior line supervisors with five (5) years or more experience with the Division. All present line supervisors have lengthy experience in the fields of geology, agriculture, pesticides and industry gained prior to working for the Division.

Non-major facilities, generators and transporters are inspected by Environmental Program Specialist III's or lower and serve as a training tool for schooling before inspecting major facilities.

#### **4. Emergency Response**

The Emergency Response Section is staffed with five (5) Environmental Specialists stationed at four regional offices throughout the State. The primary duty of a specialist assigned to the Section is the supervision of containment and clean-up operations at the site of a hazardous waste incident. As part of his duties, the specialist is responsible for educating and training local fire departments and law enforcement officials in the proper emergency response procedures. A specialist in this section is also responsible for performing compliance monitoring inspections on a routine basis. The duties of a specialist in the Emergency Response Section differ from a specialist assigned to the Enforcement Section only by the primary responsibility for emergency response.

#### **B. Funding**

The LEQA provides for the hazardous waste program to be financed from self-generated funds. These funds are generated through one-time permit application fees and annual maintenance fees charged to TSD Facilities

TABLE I

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
HAZARDOUS WASTE DIVISION

PERSONNEL RESOURCES FY 1988

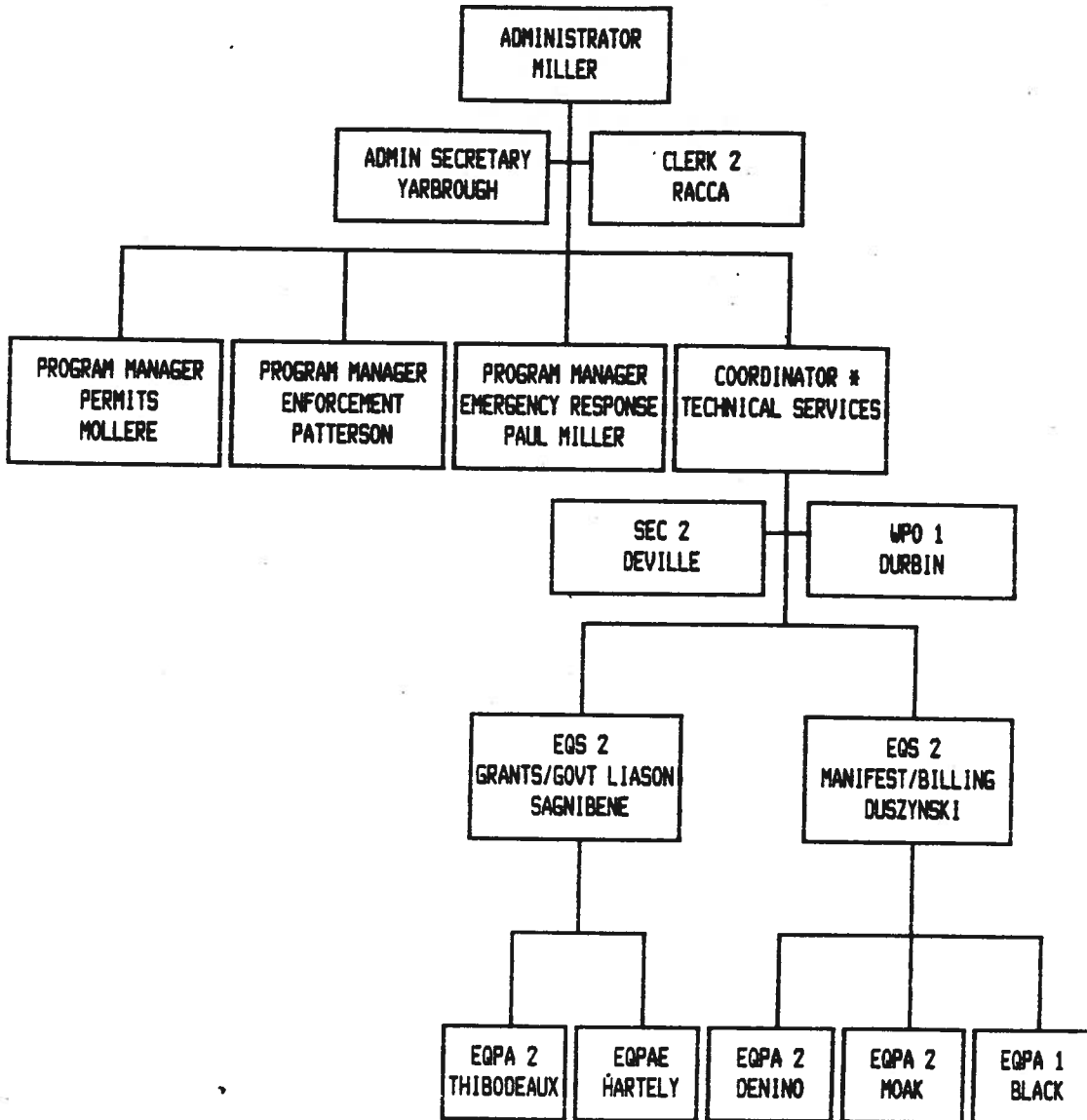
POSITION TITLE

Env Quality Specialist 1  
Env Quality Specialist 1  
EQ Program Analyst 1  
Env Quality Coordinator  
Env Quality Specialist 2  
Env Quality Specialist 1  
Secretary 2  
Env Quality Coordinator  
Env Quality Coordinator  
Env Quality Specialist 2  
Env Quality Coordinator  
EQ Program Analyst 2  
Word Processor Operator 1  
Word Processor Operator 2  
Env Quality Specialist 2  
Env Quality Coordinator  
Env Quality Coordinator  
Env Quality Specialist 2  
I/S Appl Programmer 1  
Env Quality Specialist 2  
Env Quality Specialist 1  
Env Quality Specialist 1  
HWD Engineer/ADV  
Word Processor Operator 2  
Secretary 2  
Env Quality Specialist 1  
Secretary 2  
Env Quality Specialist 1  
Engineer in Training 2  
Env Quality Division Admin  
Env Quality Program Manager  
EQ Program Analyst 1  
Env Quality Program Manager  
Env Quality Coordinator.  
Geologist 1  
Env Quality Program Manager  
Engineer in Training 1  
Env Quality Coordinator  
EQ Program Analyst/ENTRY  
Env Quality Specialist 2  
Clerk 2  
Env Quality Specialist 2  
Env Quality Specialist 2

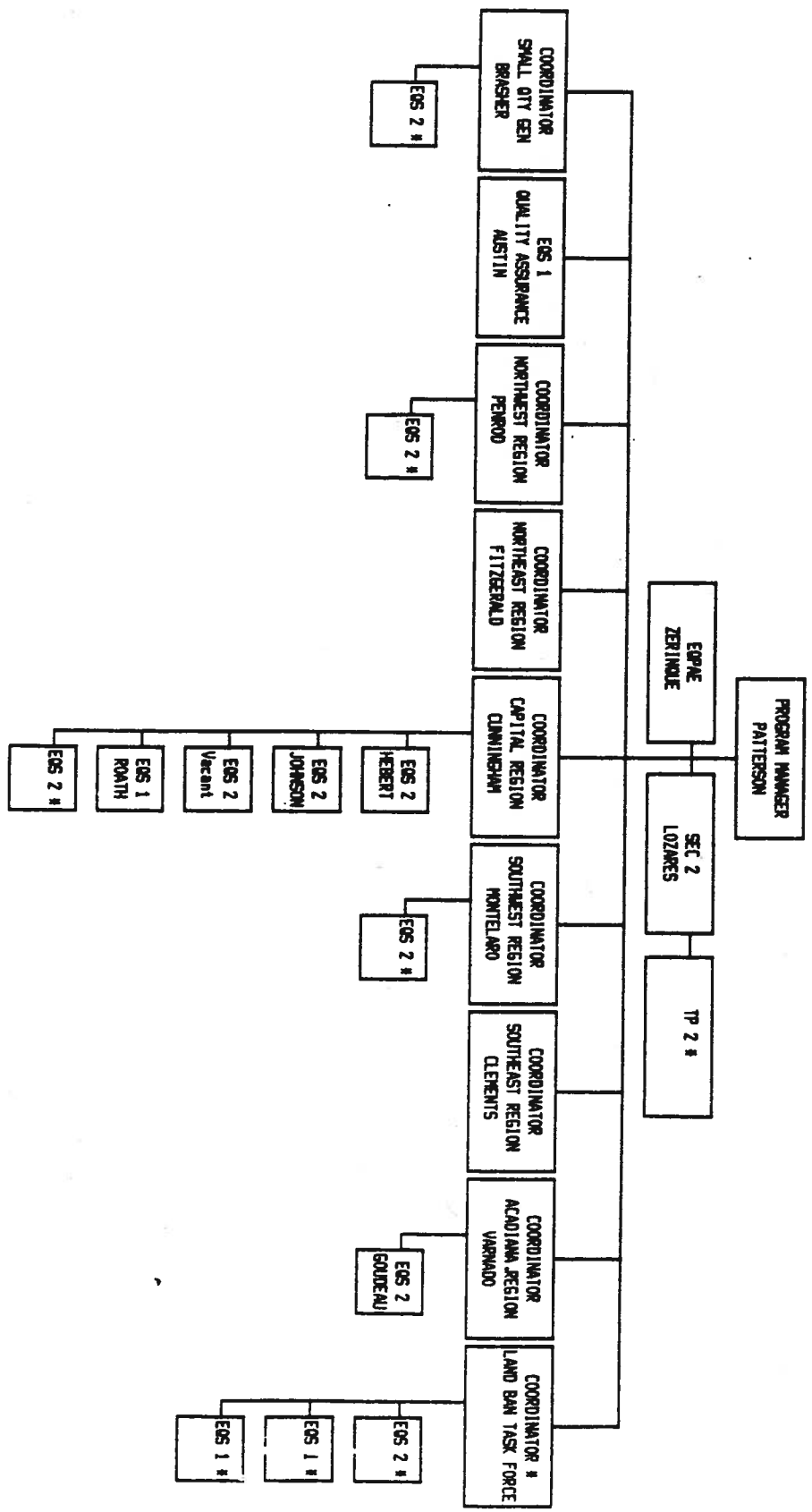
**Personnel Resources cont.**

Env Quality Specialist 2  
Env Quality Specialist 2  
EQ Program Analyst 2  
Env Quality Coordinator  
EQ Program Analyst 1  
Administrative Secretary  
EQ Program Analyst/ENTRY  
Env Quality Specialist 1  
Env Quality Specialist 1  
Env Quality Specialist 1  
Env Quality Specialist 2  
Clerk  
Env Quality Specialist 1  
Env Quality Specialist 1  
Env Quality Specialist 2  
Env Quality Specialist 1  
Env Quality Specialist 2  
Receptionist  
Env Quality Coordinator  
Env Quality Specialist 1  
Typist Clerk 2  
Env Quality Coordinator

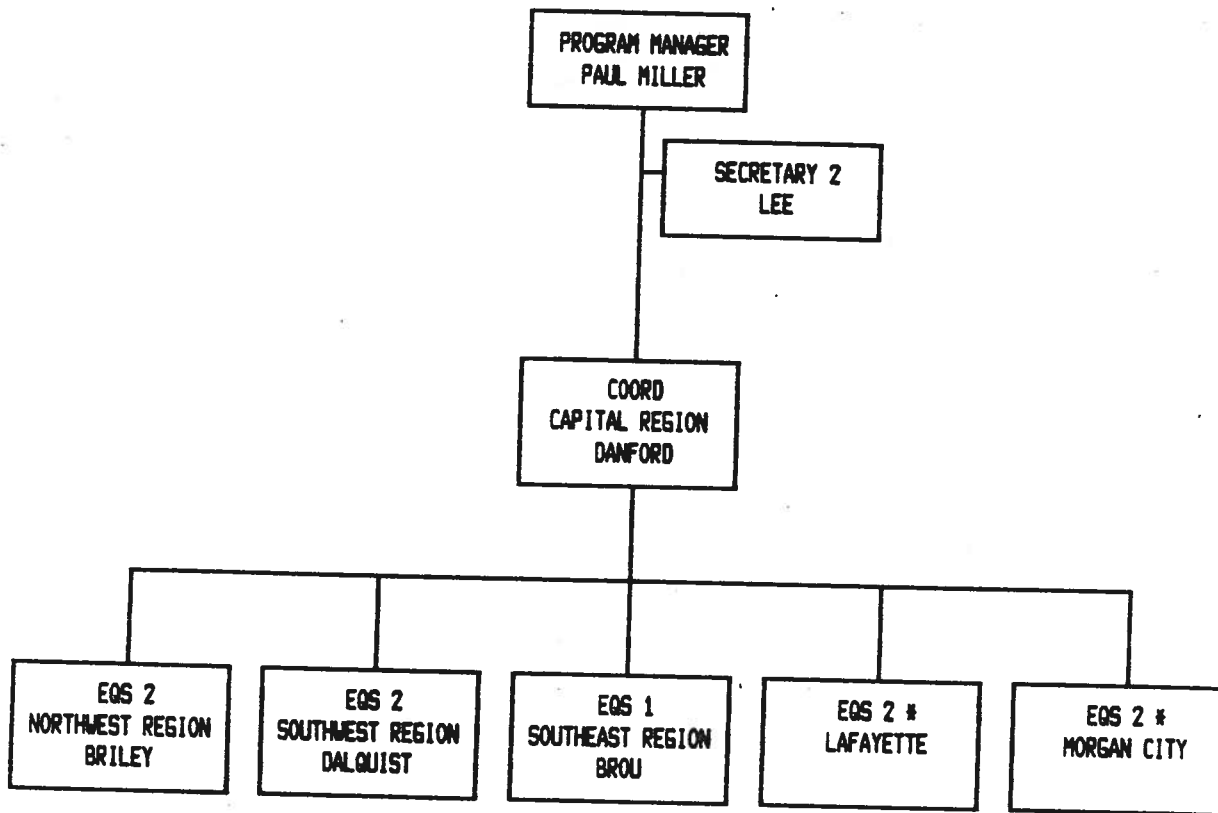
DEPARTMENT OF ENVIRONMENTAL QUALITY  
HAZARDOUS WASTE DIVISION  
ADMINISTRATIVE



DEPARTMENT OF ENVIRONMENTAL QUALITY  
 HAZARDOUS WASTE DIVISION  
 ENFORCEMENT SECTION



DEPARTMENT OF ENVIRONMENTAL QUALITY  
HAZAROUS WASTE DIVISION  
EMERGENCY RESPONSE SECTION



DEPARTMENT OF ENVIRONMENTAL QUALITY  
 HAZARDOUS WASTE DIVISION  
 PERMITS SECTION

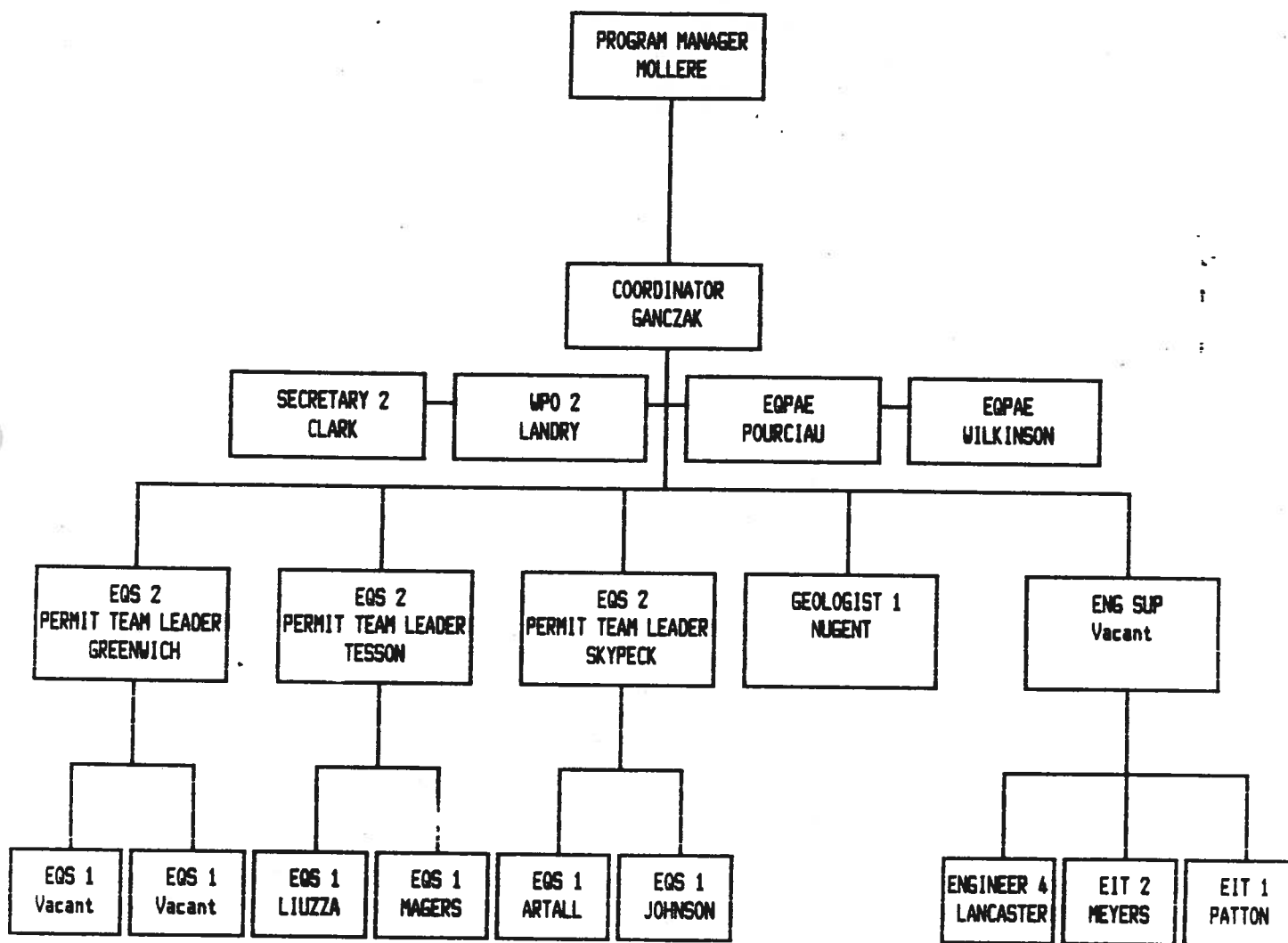
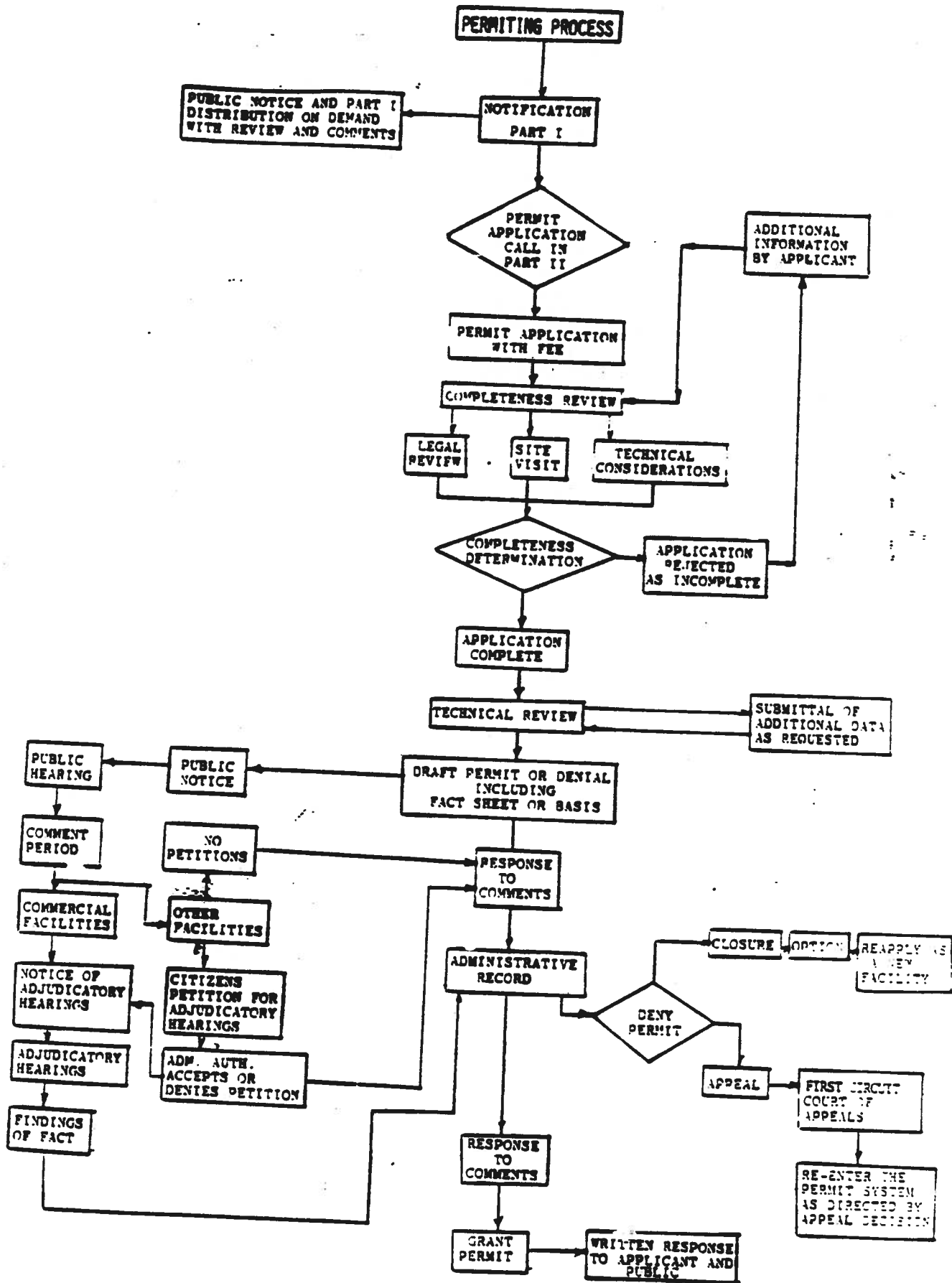


FIGURE 4



## ADDENDUM

### VI.

- B.1** The State agrees to monitor degrees of compliance for facilities seeking, or seeking to maintain, interim status. Failure to qualify for interim status will result in State's action(s) as established by Louisiana Hazardous Waste Regulations (LHWR). The State agrees to continue tracking interim status applicability standards and interim status standards for landfills, as described in LHWR Chapters 14 and 23. (Checklists 6, 10, & 15)

The State agrees to accept submittals and further developments pertaining to "Financial Responsibility: Settlement Agreement," as addressed in LHWR Chapters 2,3,4,19,20, & 23. (Checklist 6)

- B.2** The State agrees to incorporate listings of Warfarin and Zinc Phosphide, as described in LHWR Chapter 24. (Checklist 7)
- B.3** The State agrees to refine the definition of Household Waste by including the broader scope found in LHWR Chapter 1. (Checklist 9)
- B.4** The State agrees to make appropriate changes to reference test methods manual SW-846; Definitive references may be found in LHWR Chapters 1 and 2. (Checklist 13)

The State agrees to continue incorporating and developing Used Oil/Reuse Recycle Regulations as addressed in LHWR Chapters 1,2,17,21,22,23, & 24.

- B.5** The State agrees to incorporate "point of generation" standards, as found in LHWR Chapter 7. (Checklist 12)
- B.6** The State agrees to complete incorporation of E.P.A's January 4, 1985 definition of Solid Waste. Referenced standards bear chiefly on LHWR Chapters 1,2,21, & 24. (Checklist 13 and technical references)
- B.7** The State agrees to incorporation of Financial Responsibility: Settlement Agreement standards, as developed in LHWR Chapters 2,3,4,19,20 &23. (Checklist 24)
- B.8** The State agrees to the listing of Spent Pickle Liquor (K062), as set forth in LHWR Chapter 24. (Checklist 26)
- B.9** The State agrees to incorporation of Availability of Information standards in LHWR Chapter 3 and this MOA.

### **VII.B.1. Ground Water Protection Division**

**The Ground Water Protection Division will conduct all RCRA Facility Assessments (RFA) and Compliance Monitoring Evaluation (CME). The Ground Water Protection Division will receive all ground water actions and geotechnical data concerning ground water and take corrective action. In addition, the Ground Water Protection Division will be responsible for the minimum technological requirements for liners.**

TECHNICAL AMENDMENTS

ORIGINAL MOA

P. 6

E. Emergency Situations

Delete: (504) 342-1234

Add: (504) 295-8900

Delete: Lt. Al Goudeau

Add: Captain Louis Cook

Delete: (214) 767-2666

Add: (214) 655-2222

IV. APPROVAL

DATE: \_\_\_\_\_

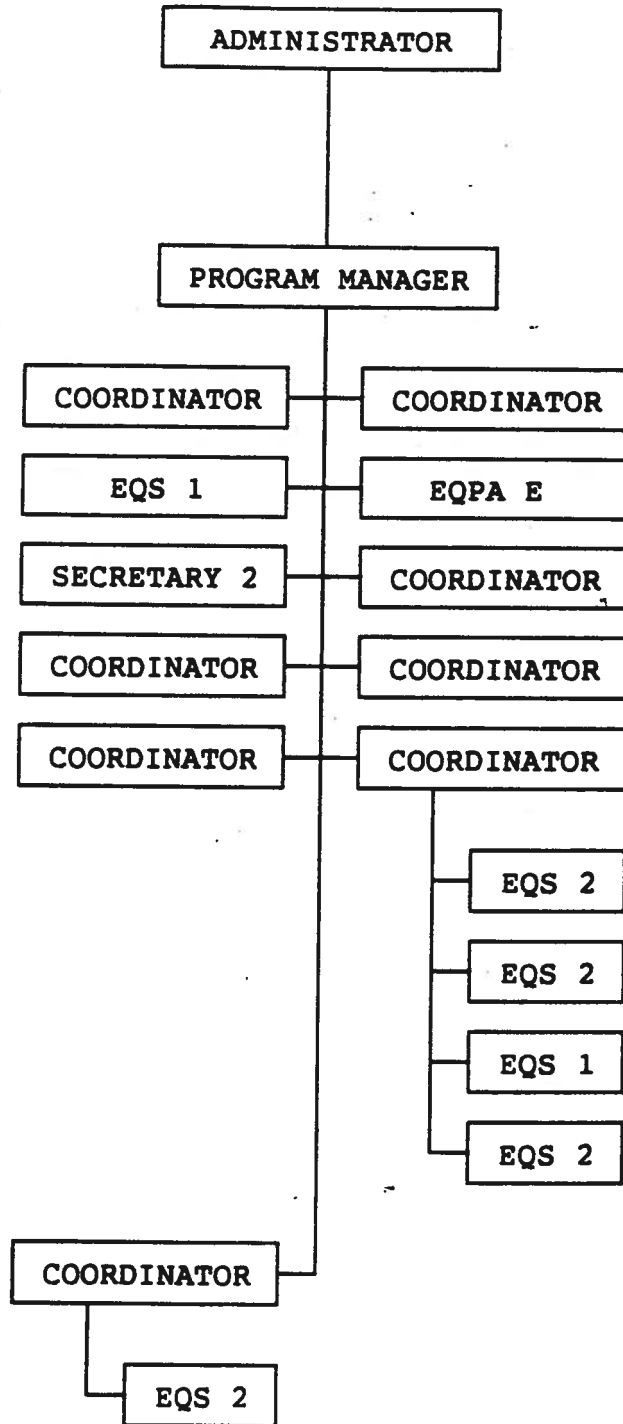
by \_\_\_\_\_  
Paul H. Templet, PH.D.  
Secretary  
Department of  
Environmental Quality

DATE: \_\_\_\_\_

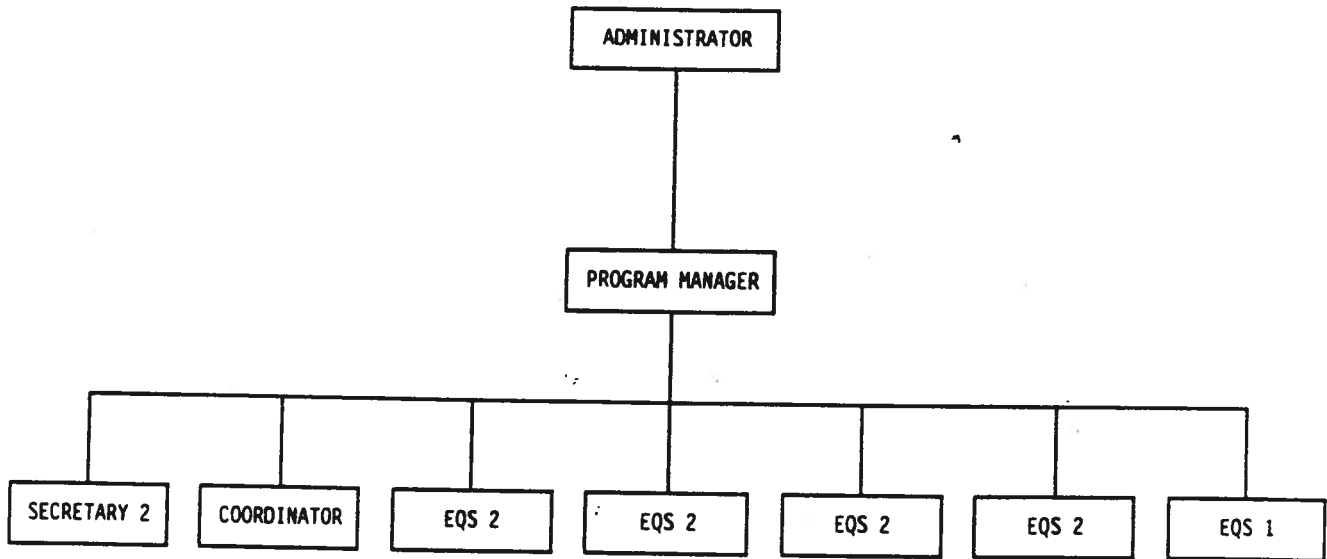
by \_\_\_\_\_  
Regional Administrator  
U. S. Environmental  
Protection Agency,  
Region VI



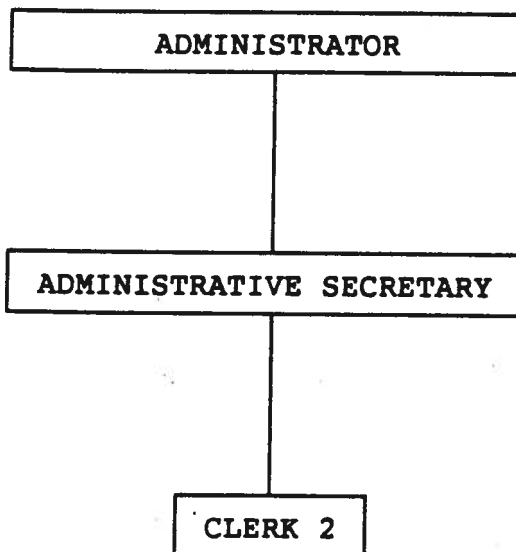
HAZARDOUS WASTE DIVISION  
ENFORCEMENT SECTION  
ORGANIZATIONAL CHART



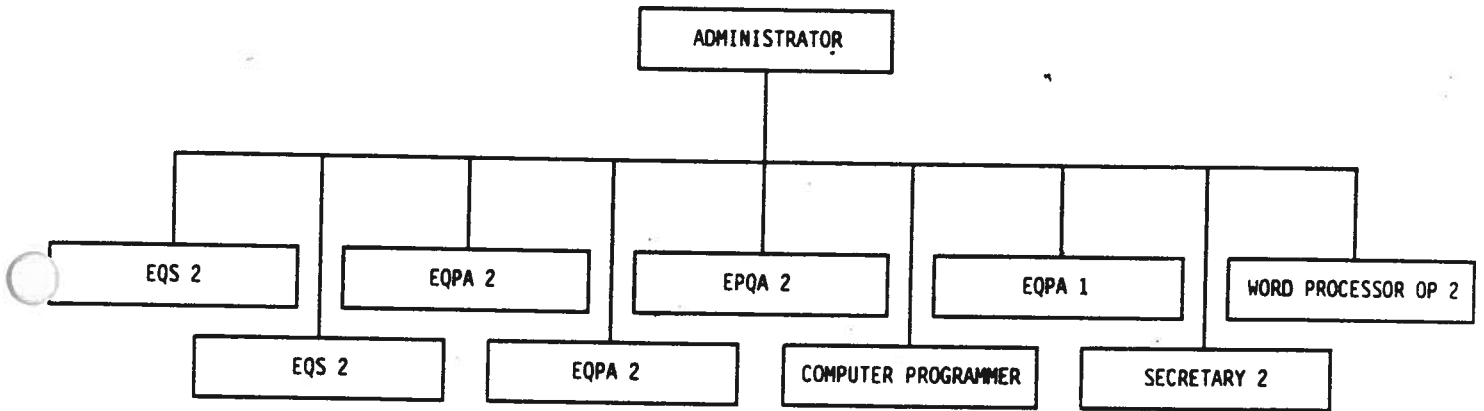
HAZARDOUS WASTE DIVISION  
EMERGENCY RESPONSE SECTION  
ORGANIZATIONAL CHART



HAZARDOUS WASTE DIVISION  
ADMINISTRATIVE SECTION  
ORGANIZATIONAL CHART

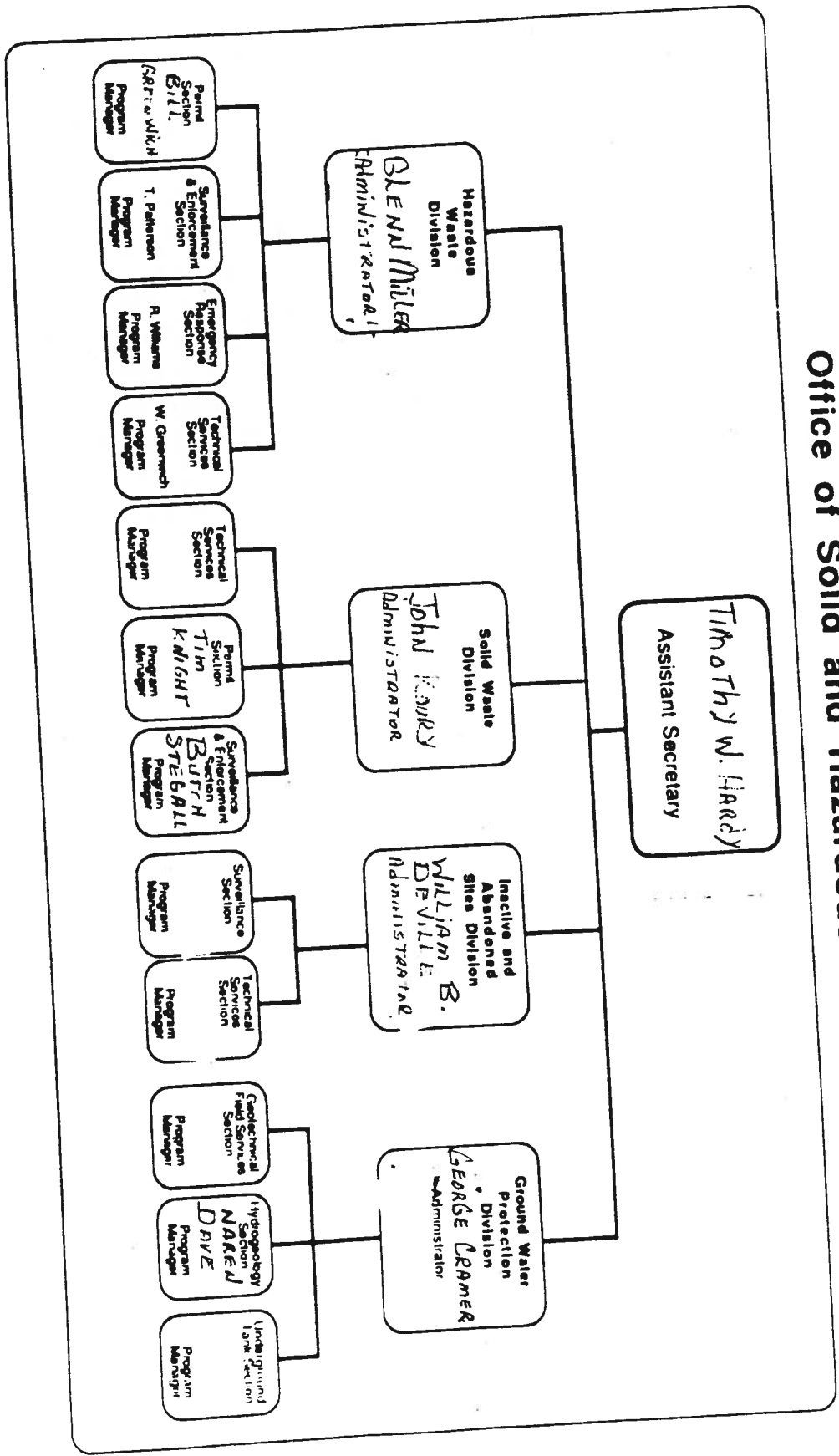


HAZARDOUS WASTE DIVISION  
TECHNICAL SERVICES SECTION  
ORGANIZATIONAL CHART

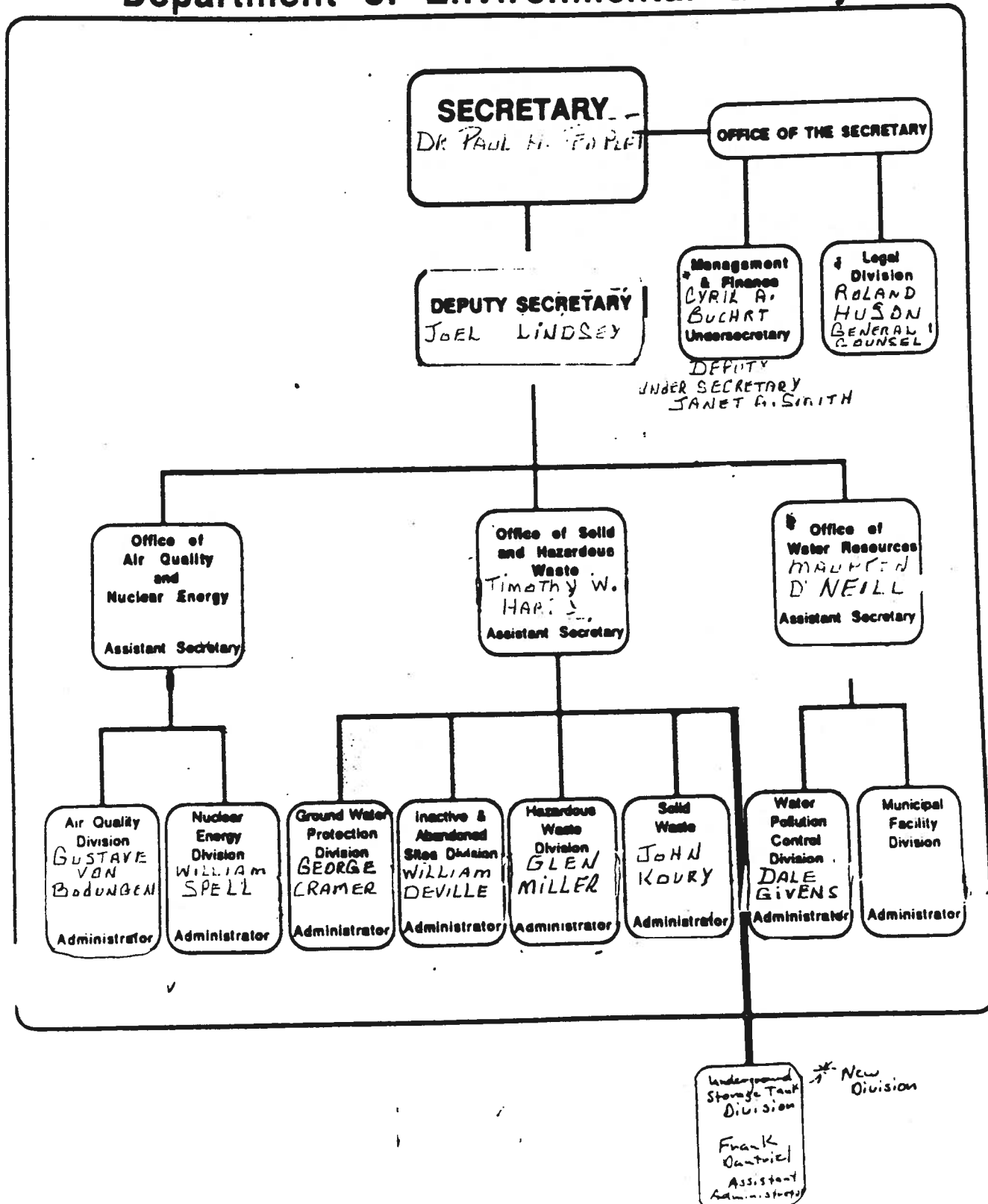


REVISED PAGES TO PROGRAM DESCRIPTION

# Office of Solid and Hazardous Waste



# Department of Environmental Quality



[Delete items struck through, and add items underlined, unless otherwise noted. Instructions will appear in brackets.]

[Chapter III, Sub-chapter E, last paragraph; ~~Delete three~~ and add four (4). Phrase will now read .... composed of four (4) sections ...]

[CHAPTER III, Sub-chapter E, Section 1, (new section 4), replace with the following:

The Technical Services Section is responsible for ensuring that the system, procedures and forms used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during transportation from the point of origin to the point of treatment, storage or disposal are adhered to. To accomplish this task, the Technical Services Section reviews both the actual manifests, as well as annual reports submitted by the regulated community, that document tonnage generated, transported and disposed of, as well as the method of disposal. All intrastate and interstate shipments of hazardous waste are subject to this system. Also included among duties of the Technical Services Section are preparation of annual budget requests, invoicing for collection of annual maintenance fees, requisitioning all equipment and supplies, preparing the annual grant application, compiling monthly and quarterly statistical reports to the EPA, and preparation of various reports for use by the Administrator and other Department officials.]

[CHAPTER III, Sub-chapter E;

Alphabetically re-order and re-number paragraphs in this section, as follows:

1. Emergency Response Section ("Section" added)
2. Enforcement Section
3. Permit Section
4. Technical Services Section ]

[CHAPTER III, Sub-chapter E, Section 2, final paragraph, final sentence;

Add letter "y" to end of word "an", and ~~delete~~ letter "s" from end of word "investigations". Sentence will now read: All facts developed in any investigation ...]

[CHAPTER IV, Second paragraph, second sentence; ~~delete~~ comma (,) between words "to" and "provide". Sentence fragment will now read .... the divisions to provide ...]

[CHAPTER IV, Fifth paragraph, first sentence; add "es" to word "process". Sentence fragment will now read .... Phase III processes, ...]

[CHAPTER IV. Fifth paragraph, last sentence; ~~Delete~~ the word ~~prove~~, and replace with/add word improve. Phrase will now read ... language to improve consistency ...]

[Sub-chapter B, Section 2, paragraph 4, sub-paragraph a. ;  
~~Delete~~ "ed" from word "exempted".  
Phrase will now read ... is exempt from ...]

[Sub-chapter B, Section 2, paragraph 4, sub-paragraph a., sub-sub-paragraph 2;  
Add letters "ous" to word "hazard".

Word will now read "hazardous"]

[Sub-chapter B, Section 2, paragraph 5, third sentence; add letter "s" to word  
"consist". Word will now read "consists"]

[Sub-chapter B, Section 3, paragraph 3, third sentence, third word; add letter "s" to  
word "reference". Word will now read "references"]

[Sub-chapter B, Section 3, paragraph 5, first sentence, seventeenth word ("are");  
Between words "containers" and "properly", delete word "are" and replace with/add  
word "is". Sentence fragment will now read ...waste in containers is properly ...]

[Sub-chapter B, Section 4, paragraph 2, sub-paragraph h), first sentence;  
Between second and third words ("requirements" and "including"), add comma (,).  
Phrase will now read: ....financial requirements, including ...]

[Sub-chapter C., second paragraph, second sentence, seventeenth word (Note: "out-of-  
state" was counted as one word.); Delete word "than", and replace with/add word  
"from". Phrase will now read .... waste differently from in-state wastes.]

[Sub-chapter D., Section 2, first paragraph, second sentence, after comma (,); delete  
remainder of sentence, and replace with/add the following:]  
...may make a self-declaration to LDEQ of their Small Quantity Generator (SQG)  
status.]

[Sub-chapter D., Section 2, first paragraph, third sentence, between words "on" and  
"submitted", delete word petitions and replace with/add the following: SQG self-  
declarations. Phrase will now read ... based on SQG self-declarations submitted by  
generators.]

[Sub-chapter D., Section 2, first paragraph fourth sentence, between words  
"consideration" and "exemption"; delete word "of", and replace with/add the word  
"for". Further, between words "are" and "if"; delete words "exemption granted", and  
replace with/add the following: self-declarations acknowledged. Between words  
"than" and "kilograms", finally delete figure "1000", and replace with/add figure "100".  
Sentence, in part, will now read: In no case are self-declarations acknowledged if the  
quantitative limits for consideration for exemption exceed the monthly generation  
rate of more than 100 kilograms ...]

[Sub-chapter E., first paragraph, between words "correspond" and "applicable"; delete  
word "with", and replace with/add the word "to". Sentence will now terminate: ....  
facilities which correspond to applicable federal requirements.]

[CHAPTER VI, Sub-chapter A., second paragraph, first sentence; delete and replace  
with the following: The HWD is divided into three major sections - Emergency

Response Section, Enforcement Section, Permit Section and Technical Services Section.]

[CHAPTER VI, Sub-chapter A., third paragraph, third sentence; ~~delete forty-three (43)~~ and replace with/add fifty-five (55).]

[CHAPTER VI, Sub-chapter A., third paragraph; ~~delete~~ entire paragraph.]

[CHAPTER VI, Sub-chapter A., fourth paragraph (new third paragraph); first sentence; between words "as" and "legislation", ~~delete~~ comma (,).]

[CHAPTER VI, Sub-chapter A, Section 1, third paragraph; after the words "Assistant Administrator" ~~delete~~ remainder of sentence. Replace with/add the following: ... and the Program Managers for Emergency Response, Enforcement, Permit and Technical Services Sections, each of whom is directly responsible for direct management of his particular section. Also, ~~delete~~ remainder of paragraph.]

[CHAPTER VI, Sub-chapter A, Section 1, fourth paragraph, first sentence, first word. ~~Delete~~ word "eight" and replace with/add word "seventeen". Sentence now leads: Seventeen clerical ...]

[CHAPTER VI, Sub-chapter A, Section 2, first paragraph; ~~delete~~ seventeen (17) replace with/add fourteen (14).]

[CHAPTER VI, Sub-chapter A, Section 2, first paragraph, last sentence; ~~delete~~ last sentence in its entirety.]

[CHAPTER VI, Sub-chapter A, Section 2, second paragraph, second sentence; between words "incoming" and "and" annual reports, add letter "s" to word "manifest". Word will now read "manifests".]

[CHAPTER VI, Sub-chapter A, Section 2, all remaining text; in all references to Environmental Specialist(s), change to Environmental Quality Specialists(s).]

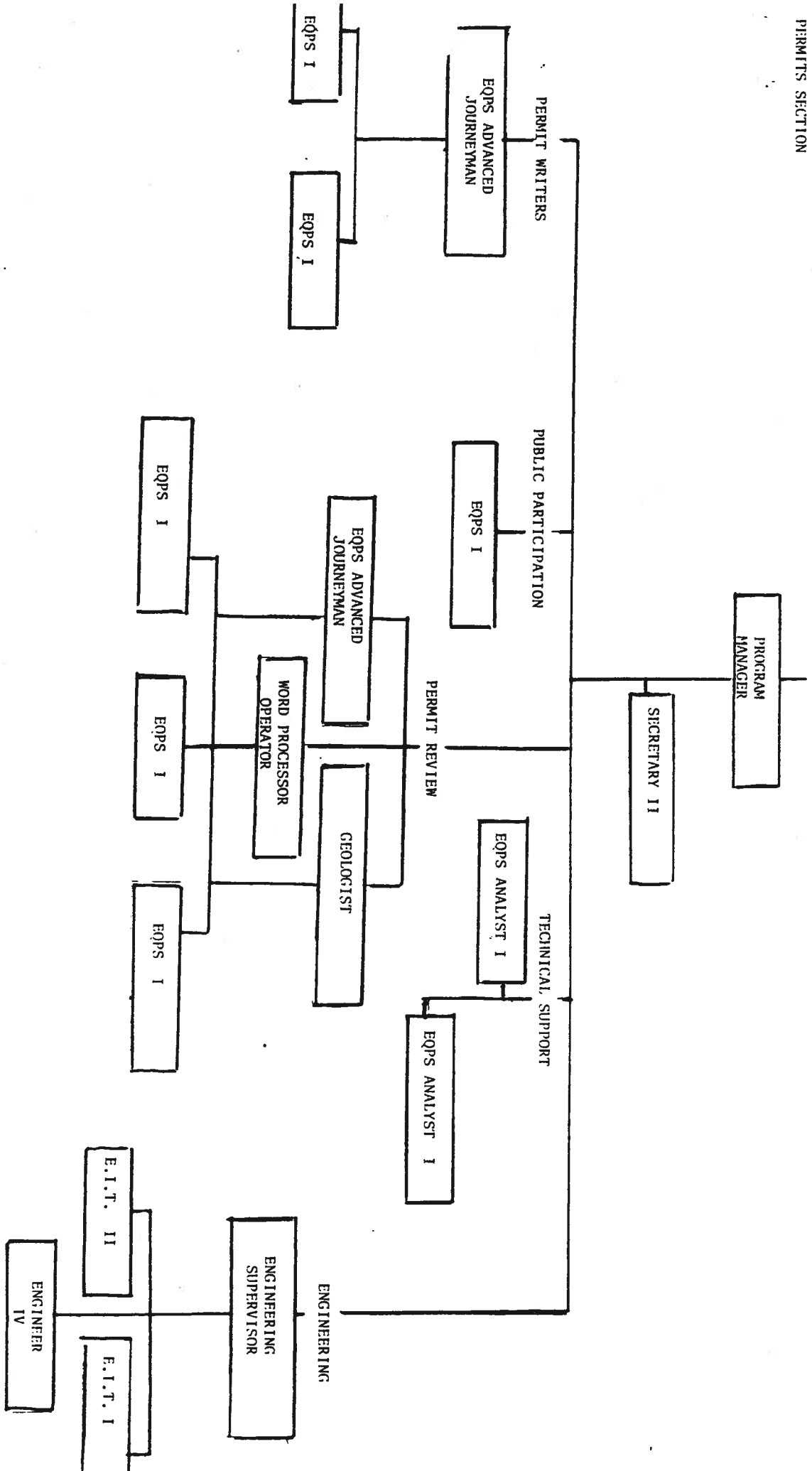
[CHAPTER VI, Sub-chapter A, Section 3; ~~Delete~~ section title "Compliance Monitoring and Enforcement Section". Replace with "Enforcement Section".]

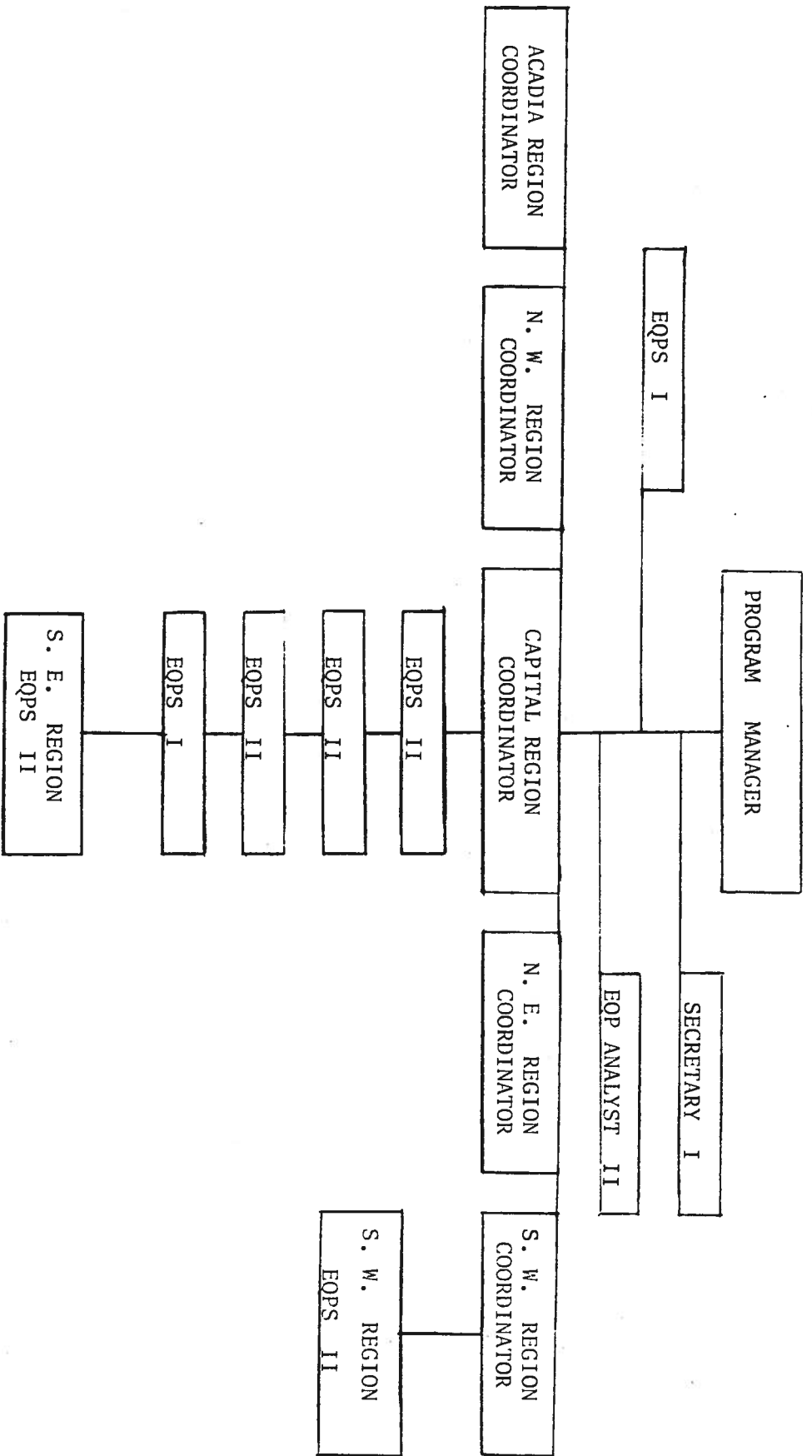
[CHAPTER VI, Sub-chapter A, Section 3, both paragraphs; ~~Delete~~ entire paragraph, and replace with the following: The Enforcement Section is staffed with twelve (12) Environmental Specialists classed as Environmental Quality Specialists Entry, 1, 2, and Coordinators. In addition to the twelve (12) full-time employees, five (5) Environmental Specialists assigned to the Emergency Response Section devote a percentage of their time to compliance monitoring and enforcement. Technical

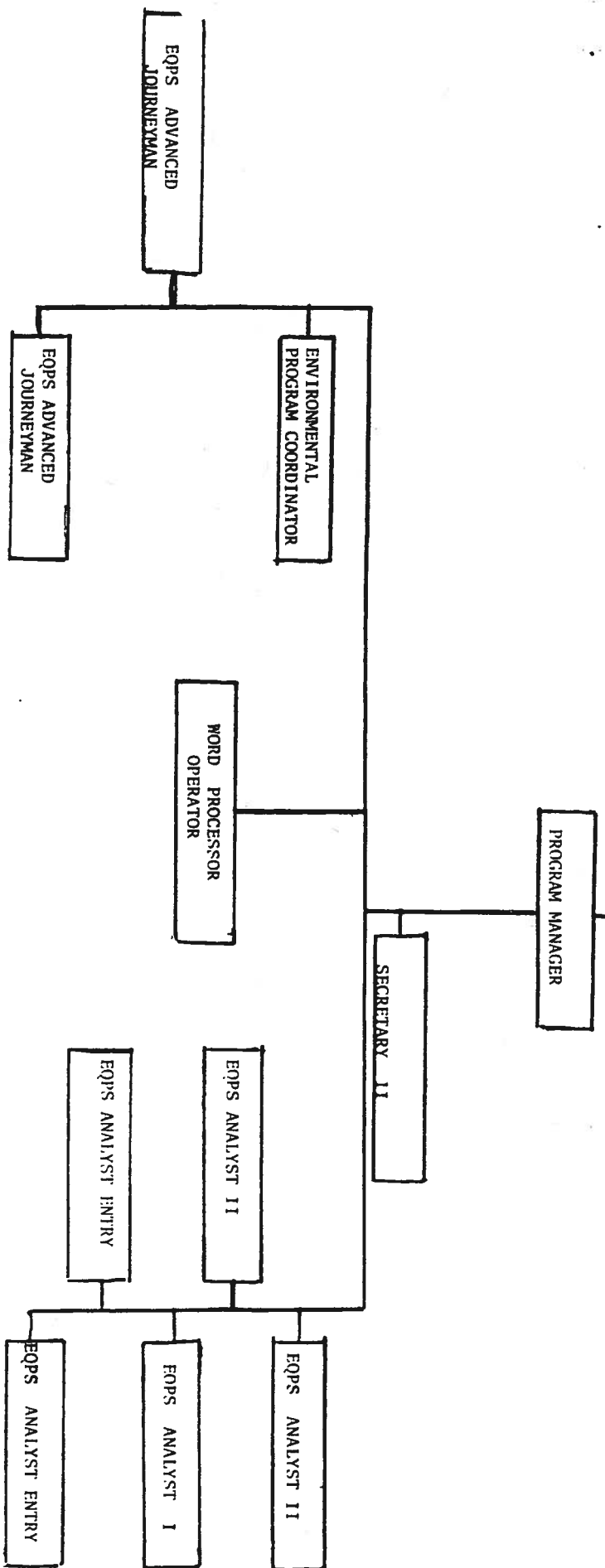
assistance is provided by Engineers and Geologists on matters such as the evaluation of chemical processes, ground water monitoring review, etc. The duties and responsibilities of an Environmental Specialist in this section are described below.]

[CHAPTER VI, Sub-chapter A, Section 4, (only) paragraph, first sentence;  
Five (5) EQS throughout the State]

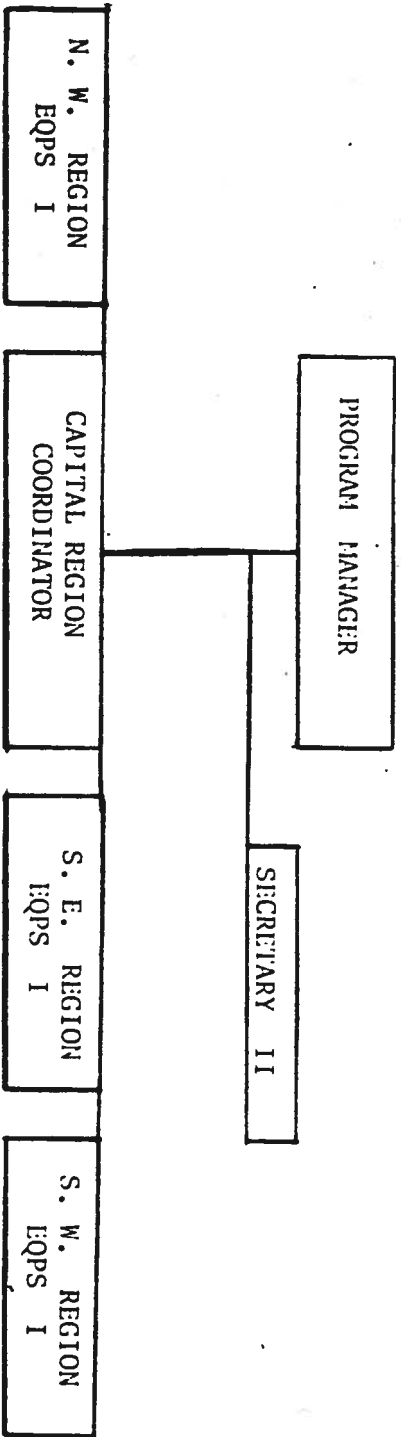
[CHAPTER VI, Sub-chapter B; ~~Delete~~ last two sentences (p. 49)]



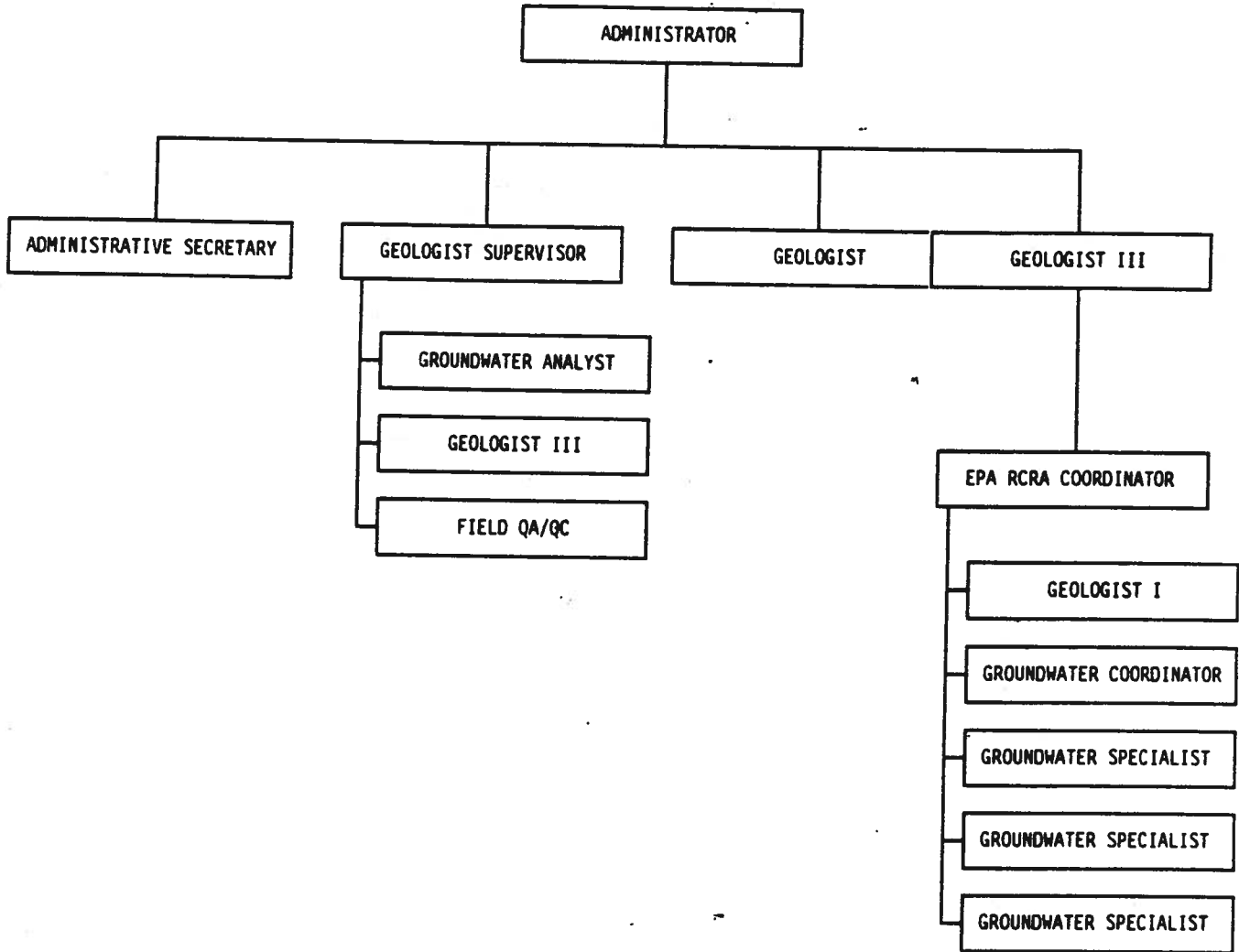




Emergency Response Section



GROUND WATER DIVISION  
ORGANIZATIONAL CHART



STATE OF LOUISIANA  
 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 HAZARDOUS WASTE DIVISION  
 P.O. BOX 44307  
 BATON ROUGE, LOUISIANA 70804

PLEASE PRINT OR TYPE (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2050-0039. Expires 9-30-91

**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  
**LA A 3012450**

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.

Additional Descriptions for Materials Listed Above

K. Handling Codes for Wastes Listed Above

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 minimize 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

GENERATOR

TRANSPORTER

COPY 1

0211-1

The Department of Environmental Quality requires proper completion of all information on a Manifest. Omissions or false coding is considered a violation. Generators are responsible under DEQ and Federal Law for the proper identification, labeling, manifesting and ultimate disposal of all hazardous waste they generate.

### DISTRIBUTION

The hazardous waste manifest consists of eight (8) copies. As the Manifest is completed the copies are removed from back to front.

- Copy 1 Facility to Destination State
- Copy 2 Facility to Generator
- Copy 3 Facility Retains
- Copy 4 Transporter 2
- Copy 5 Transporter 1
- Copy 6 Out of State Generator / Out of State Facility to LDEQ
- Copy 7 Generator to Generator State
- Copy 8 Generator Retains

### GENERATOR SECTION

- Item 1** - Enter the generator's U.S. EPA twelve digit identification number and the unique five number assigned to this manifest (e.g. 00001) by the generator.
- Item 2** - Enter the total number of pages used to complete this Manifest, the first page (EPA Form 8700-22) plus the number.
- Item 3** - Enter the company name and mailing address.
- Item 4** - Provide a phone number where an authorized agent of your firm may be reached in the event of an emergency.
- Item 5 & 6** - Enter the company name and U.S. EPA ID number of the first transporter.
- Item 7 & 8** - If applicable, enter the company name and the U.S. EPA ID number of the second transporter.
- Item 9 & 10** - Enter the company name, site address, and U.S. EPA ID number of the facility designated to receive the waste listed on this manifest.
- Item 11** - Enter U.S. DOT proper Shipping Name, Hazardous Class, and ID Number (UN/NA) for each waste identified.
- Item 12** - Enter the indicate number and type of containers (use whole numbers) for each waste and the appropriate abbreviation from Table 1 (below).
- Item 13** - Enter the total quantity of hazardous waste, described on each line.

### TABLE 1 TYPES OF CONTAINERS

DM - metal drums, barrels, kegs	DW - Wooden drums, barrels, kegs
DF - Fiberboard or plastic drums, barrels, kegs	TP - Tanks portable
TT - Cargo Tanks (tank trucks)	TC - Tank Cars
DT - Dump truck	CY - Cylinders
CM - Metal boxes, cartons, cases (including rolloffs)	CW - Wooden boxes, cartons, cases
BA - Burlap, cloth, paper or plastic bags	CF - Fiber or plastic boxes, cartons, cases

**Item 14** - Enter the appropriate abbreviation from Table 2 (below) for the unit of measure.

### TABLE 2 - UNITS OF MEASURE

G - gallons (liquids only) P - pounds T - tons (2000 lbs) Y - cubic yards

- Item 15** - Generators should use this space to indicate special transportation, treatment, storage, or disposal information or Bill of lading information.
- Item 16** - The generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriated mode (e.g. and rail) inserted in the space below. DEQ requires this additional information - shaded areas.
- Items B, C, E, G** Not required
- Item A** - State manifest document number must be obtained from the Department of Environmental Quality and must appear on all manifests for shipments coming into the state of Louisiana.
- Item D** - Enter the first transporter's phone number (area code + seven digit number).
- Item F** - If applicable, enter second transporter's phone number (area code + seven digit number).
- Item H** - Enter facility's phone number (area code + seven digit number).
- Item I** - Enter EPA waste code number (one alpha and three numeric characters as found in Chapter 49 of Louisiana Hazardous Waste Regulations). To indicate a hazardous reusable material add the letter "R" to the end of the EPA waste code number. (EX: "F001R" indicates spent halogenated solvents such as chlorinated fluorocarbons sent for recycle.)
- Item J** - If description in item 11 (a, b, c, d) contains NOS or other general term the major hazardous constituents must be listed for each waste type.
- Item K** - Enter the handling code for treatment, storage, and disposal methods for each of the wastes described in item 11.

### TRANSPORTER SECTION

- Item 17** - Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.
- Item 18** - Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

### TSDF SECTION

- Item 19** - The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on Manifest and the waste actually received at the facility.
- Item 20** - Enter the name of the person accepting the waste on behalf of the owner or operator of the facility. The date is the date of signature and receipts of shipment.

Public reporting burden for this collection of information is estimated to average: 37 minutes for generators, 15 minutes for transporters, and 10 minutes for treatment, storage and disposal facilities. This includes time for reviewing instructions, gathering data, and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and