

US EPA ARCHIVE DOCUMENT



N M HSWA III
PR II
Signed not dated

State of Louisiana
Department of Environmental Quality



BUDDY ROEMER
Governor

PAUL TEMPLET
Secretary

May 13, 1991

Dr. Allyn M. Davis, Director
Hazardous Waste Management Division
United States Environmental Protection Agency
Region VI
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: Revised Attorney General's Statement
(Non-HSWA III)

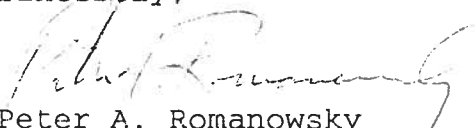
Dear Dr. Davis:

The Louisiana Department of Environmental Quality - Hazardous Waste Division is in receipt of your memorandum of May 1, 1991, referencing items of concern in the non-HSWA cluster III Attorney General's statement. The Department has addressed all concerns, as outlined in the above memorandum.

With the submission of this revised Attorney General's Statement, EPA should have a complete package for non-HSWA cluster III requirements for which Louisiana is seeking authorization.

If you should have any questions concerning this matter, please contact Mr. Vince Sagnibene of my staff at (504)765-0335.

Sincerely,


Peter A. Romanowsky
Acting Administrator

PAR/VS/pb

c: Mr. Timothy W. Hardy
Mr. Vince Sagnibene
Ms. Kathryn Liuzza
Ms. Glynda Harrington
Ms. Janie Hernandez
United States Environmental Protection Agency
Region VI

OFFICE OF SOLID AND HAZARDOUS WASTE P.O. BOX 44307 BATON ROUGE, LOUISIANA 70804

AN EQUAL OPPORTUNITY EMPLOYER

MODEL REVISION ATTORNEY GENERAL'S STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES TO THE FEDERAL
RCRA PROGRAM FROM JANUARY 1983 THROUGH
JUNE 1987

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Louisiana provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Louisiana Department of Environmental Quality. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now, as specified below. These authorities and this certification supplement the previously certified authorities described in my certification of May 10, 1989.

This Revision Attorney General's Statement is for Non-HSWA Cluster III and as such, adds to and supplements our authorized base program and already authorized Non-HSWA Clusters I and II. In those instances where technical corrections are being made to previously authorized provisions, then the present technical corrections supersede.

I. IDENTIFICATION AND LISTING

7. Listing of spent pickle liquor from steel finishing operations, 40 CFR 261.32, as amended May 28, 1986 [51 FR 19320] and September 22, 1986 [51 FR 33612], Revision Checklist 26.

Citation of Laws and Regulations; Date of Enactment and Adoption
LHWR 4901 as amended February 1987, August 1987, July 1988, November 1988, March 1989, January 1990, March 1990, July 1990, effective August 1990.

Remarks of the Attorney General

Not applicable, the State provisions are equivalent to the Federal Program.

8. Listing of commercial chemical products and Appendix VIII constituents, 40 CFR 261.33 and Appendix VIII, as amended August 6, 1986 [51 FR 28296], Revision Checklist 29; as amended July 10, 1987 [52 FR 26012], Revision Checklist 41; as amended April 22, 1988 [53 FR 13382], Revision Checklist 46

Citations of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2180 A (1).
LHWR Sec. 4901.E, as amended August 1987, July 1988, November 1988,

March 1989, January 1990, March 1990, effective July 20, 1990.
LHWR Sec. 3105, as amended August 1987, July 1988, September 1989,
effective May 20, 1990.

Remarks of the Attorney General

LHWR Sec. 3105 is more stringent than the Federal Program whereas
more compounds are listed.

F. State statutes and regulations incorporate the most recent
edition and updates to "Test Methods for Evaluating Solid Waste,
Physical/Chemical Methods" (SW-846) as indicated in Revision
Checklists 11 and 35.

[Federal Authority: RCRA §§2002, 3001; 40 CFR 260.11, 260.21 and
270.6(a) as amended December 4, 1984 (49 FR 47390) and March 16,
1987 (52 FR 8072).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2180 A (1)

Louisiana Hazardous Waste Regulations, hereinafter "LHWR", Sec. 105
I.1. as amended through August 20, 1987.

Remarks of the Attorney General

Not applicable, the State provisions are equivalent to the Federal
Program.

G. State statutes and regulations define solid wastes to
include the hazardous components of radioactive mixed waste
regardless of the classification of the radioactive component as
low-level, high-level, transuranic, or other, July 3, 1986 [51 FR
24504].

[Federal Authority: RCRA §§1004(27) and 3001(b).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2153 (1);
Louisiana Administrative Code 33:V.109

Remarks of the Attorney General

Not applicable, the State provisions are equivalent to the Federal
Program.

II. DEFINITION OF SOLID WASTE

A. State statutes and regulations define hazardous waste and
impose management standards so as to control all the hazardous
waste controlled under 40 CFR 261, 264, 265 and 266 as indicated
in Revision Checklists 13 and 37.

[Federal Authority: RCRA §§3001, 3004; 40 CFR 260, 261, 264, 265,

and 266 as amended January 4, 1985 (50 FR 614), April 11, 1985 (50 FR 14216), August 20, 1985 (50 FR 33541) and June 5, 1987 (52 FR 21306).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2153 (1);
Louisiana Administrative Code 33:V.109

LHWR Sec. 4901.D, as amended November 20, 1987, July 30, 1988, November 1988, March 20, 1990 and May 20, 1990, effective June 20, 1990.

LHWR 4139 A.1.(c) as amended May 20, 1989, effective June 20, 1989.

Remarks of the Attorney General

Not Applicable, the State provisions are equivalent to the Federal Program.

XIII. CORRECTIVE ACTION

B. State statutes and regulations provide for additional information and engineering feasibility plan requirements regarding groundwater contamination detected at the time of Part B permit application as indicated in Checklist 38.

[Federal Authority: RCRA §§3004, 3005; 40 CFR 270.14 as amended June 22, 1987 (52 FR 23447) and September 9, 1987 (52 FR 33936).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2180 A (1)

LHWR Sec. 517 T.4. (e) and (f) as amended March 20, 1984, April 20, 1984, and August 20, 1987 effective September 20, 1987.

Remarks of the Attorney General

State regulation 517.T.4.e requires that the owner or operator of a facility where hazardous waste constituents have been detected in the ground water always submit an engineering feasibility plan for a corrective action program. The Federal regulations allow some variance of this requirement through 40 CFR 264.98(h)(5), and an owner or operator may instead submit a proposed permit schedule for submittal of the plan. Thus, the State regulation is more stringent than the Federal requirement.

The Federal regulations allow the permit to contain a schedule for future submittal of corrective action plans and ground water monitoring program description (as required in 40 CFR 270.14(c)(8)(iii) and (iv) in lieu of actually providing the documents at that time. State regulation 517.T.4.f does not provide for the inclusion of such a schedule for future submittal of the required documents in the permit. Thus, the State regulation is more stringent than the Federal requirement.

XV. STANDARDS FOR FACILITIES*

G. State statutes and regulations require compliance with closure/post-closure and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklists 24, 36, and 45.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 260, 264, 265, and 270 as amended May 2, 1986 (51 FR 16422), March 19, 1987 (52 FR 8704) and December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2180 A (1)

LHWR Secs. 4457 A. (1) and (2) and 4457 B as amended November 20, 1987 and June 20, 1989, effective July 20, 1989.

Remarks of the Attorney General

Not applicable, the State provisions are equivalent to the Federal program.

H. State statutes and regulations allow qualified companies that treat, store or dispose of hazardous waste to use a corporate guarantee to satisfy liability assurance requirements as indicated in Revision Checklists 27 and 43.

[Federal Authority: RCRA §§2002, 3004, and 3005; 40 CFR 264.147, 264.151, and 265.147 as amended July 11, 1986 (51 FR 25350) and November 18, 1987 (52 FR 44314).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2180 A (1)

LHWR Secs. 3715 A, B, G as amended May 20, 1990 effective June 20, 1990;

3719 G, H as amended May 20, 1990 effective June 20, 1990;

4411 A, B as amended November 20, 1987, effective December 20, 1987 and G as amended May 20, 1990, effective June 20, 1990.

Remarks of the Attorney General

State regulation 3719.G includes a paragraph requiring a listing of facilities outside Louisiana. The Federal regulations do not require this paragraph. Thus, the State regulation is more stringent than the Federal requirement.

I. State statutes and regulations require companies that generate, treat or store hazardous waste in tanks to comply with tank standards equivalent to those indicated in Revision Checklists 28 and 52.

[Federal Authority: RCRA §§1006, 2002, 3001 - 3007, 3010, 3014, 3017 - 3019 and 7004; 40 CFR 260, 261, 262, 264, 265, and 270 as amended July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430) and September 2, 1988 (53 FR 34079).]

Citation of Laws and Regulations; Date of Enactment and Adoption
Louisiana Revised Statutes 30: 2180 A (1)

LHWR Secs. 109 as amended November 20, 1987, May 20, 1988, November 20, 1988, May 20, 1989, September 20, 1989, March 20, 1990 and May 20, 1990, effective June 20, 1990;

517 as amended August 1987, November 1988, March 1989, May 1989, March 1990, May 1990, July 1990, effective August 20, 1990;

523 as amended August 1987, March 1990, effective July 1990;

1109 E.1. as amended November 20, 1987 and March 20, 1990 effective April 20, 1990;

1109 E.7.b.-c. as amended November 20, 1987 and March 20, 1990, effective April 20, 1990;

1509 B. as amended November 20, 1987 effective December 20, 1987;

1529 C.2. as amended November 20, 1987 effective December 20, 1987;

1901 as amended November 20, 1987 effective December 20, 1987;

1903 A.- D. effective December 20, 1987;

1905 A.- G. as amended November 20, 1987 effective December 20, 1987;

1907 A.- G. as amended November 20, 1987 and November 20, 1988 effective December 20, 1988;

1907 H. and I. effective December 20, 1987;

1909 A.- C. as amended November 20, 1987 effective December 20, 1987;

1911 A.- D. effective December 20, 1987;

1913 A.- F. effective December 20, 1987;

1915 A.- C. effective December 20, 1987;

1917 A. and B. effective December 20, 1987;

1919 A. and B. effective December 20, 1987;

3105. Table 1 as amended December 20, 1985, August 20, 1987, July 20, 1988, September 20, 1989 and May 20, 1990, effective June 20, 1990;

3501 C. as amended November 20, 1987, effective December 20, 1987;

3701 B. effective March 20, 1984;

4303 as amended November 20, 1987, May 20, 1989, and March 20, 1990 effective April 20, 1990;

4313 effective December 20, 1987;

4317 as amended November 20, 1987 effective December 20, 1987;

4357 as amended November 20, 1987, May 20, 1989, March 20, 1990 effective April 20, 1990;

4377 as amended August 1987, March 1990, effective July 20, 1990;

4397 as amended August 1987, effective November 20, 1987;

4431 effective March 20, 1984;

4431 A. 1. and 2. effective December 20, 1987;

4433 A.- D. as amended November 20, 1987 and effective December 20, 1987;

4435 A.- G. as amended November 20, 1987 and effective December 20, 1987;

4437 A.- I. as amended November 20, 1987 and effective December 20, 1987;

4439 A. and B. as amended November 20, 1987 and effective December 20, 1987;

4440 A.- C. effective December 20, 1987;

4441 A.- F. effective December 20, 1987;

4442 as amended November 20, 1987 and March 20, 1989 effective April 20, 1989;

4443 as amended November 20, 1987 effective December 20, 1987;

4444 as amended November 20, 1987 and March 20, 1989 effective April 20, 1989;

4445 effective March 20, 1984;

4901 E. as amended November 20, 1987, March 20, 1989, and May 20, 1990, effective June 20, 1990;

Remarks of the Attorney General

The reason 1109 E.7.b-c is broader in scope than RCRA sites 263.34 d(2)-(3) is because the Louisiana Hazardous Waste regulations have no special provisions for operators who generate in excess of 100 kilograms but less than 1000 kilograms. The LHWR state that if a generator generates less than equal to 100 kilograms, he or she is classified as a small quantity generator and subject to Chapter 39 of the LHWR. Any generator who generates in excess of 100 kilograms is classified as a large quantity generator and subject to all applicable hazardous waste regulations. (Title 33)

State regulation 1905.F requires that, in considering the potential adverse effects of a release on groundwater quality for the granting of a variance based on a demonstration of no substantial present or potential hazard, the patterns of rainfall in the region (among other factors) be taken into account. The Federal regulations do not include a requirement which accounts for rainfall patterns. Thus, the State regulation is more stringent than the Federal requirements.

The reason 3105 is broader in scope than RCRA sites Appendix VIII is that the LHWR has more compounds listed than the code of federal regulations.

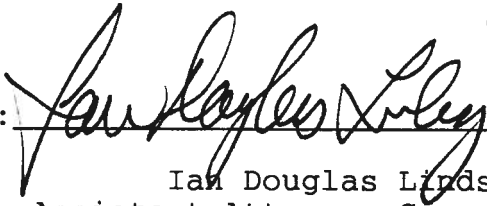
XXII. MEMORANDUM OF AGREEMENT (MOA)

I hereby certify that:

- (1) The State has the authority to enter into the Memorandum of Agreement,
- (2) The State has the authority to carry out the Memorandum of Agreement, and
- (3) No applicable State statute (including the State Administrative Procedure Act) requires that the procedure be promulgated as a rule in order to be binding.

William J. Guste, Jr.
Attorney General
State of Louisiana

BY: _____



Ian Douglas Lindsey
Assistant Attorney General