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Louisiana Department of Environmental Quality
Hazardous Waste Division
NON-HSWA V - Program Description

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 Louisiana Department of Environmental Quality (LDEQ), 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. LDEQ has lead agency jurisdictional authority for administering the Subtitle C program in Louisiana. Also, the LDEQ is designated to facilitate communication between the United States Environmental Protection Agency (EPA) and the State.

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. The State's program is equivalent to the Federal program as outlined in Revision Checklists 49, 52, 55, 58, 59, 60, 71, 72, and 76. The State chooses to be more stringent in its program as outlined in Revision Checklists 52.

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;
- F. Provides adequate enforcement in accordance with RCRA Section 3006.
- G. Provides for the availability of information in accordance with RCRA Section 3006(f).

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. In August, 1979, the LDEQ Hazardous Waste Division (LDEQ-HWD) began implementing the Hazardous Waste Management Plan (HWMP), which was designed to ensure 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 ensure that the State has funds to replace any decrease in federal environmental funds.

Louisiana has demonstrated to EPA that it's 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 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. The LDEQ was granted HSWA I Authorization on January 23, 1995, and Non-HSWA IV on March 8, 1995.

With this application the LDEQ is applying for authorization for checklists 49, 52, 55, 56, 58, 59, and 60 of Non-HSWA Cluster V, and checklists 71, 72, and 76 of Non-HSWA VI. Included in this application package are exclusion for certain wastewater treatment sludge from the F019 hazardous waste listing, removal of five conditionally retained mineral processing wastes from the exemption from hazardous waste regulations, exemptions (with certain limitations) from subtitle C for waste samples used in small scale treatability studies, manifest requirements, methods and procedures for groundwater monitoring at permitted hazardous waste facilities, tank standard requirements and miscellaneous unit application and information requirements for companies that treat, store, or generate hazardous waste, and trial burn and information requirements for existing incinerator facilities. With the exception of the definition of wastewater treatment unit and inspection requirements for generators generating between 100 and 1000 kg/mo, the LDEQ is equivalent to the EPA and has in place procedures to adequately manage these programs. The LDEQ has a more stringent definition of wastewater treatment unit because the state defines the residues from these treatment units. The state is more stringent concerning the inspection requirements for generators generating between 100 and 1000kg/mo because the state does not recognize this class of generator. According to the state regulations, any generator generating over 100kg/mo is considered a large quantity generator and must comply with those applicable requirements. The LDEQ has in place procedures to adequately manage these more stringent programs.

III. PROGRAM STRUCTURE - DEPARTMENT OF ENVIRONMENTAL QUALITY

A. Secretary

The Office of Solid and Hazardous Waste (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 the LDEQ, the Secretary is responsible 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 the LDEQ 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 the LDEQ throughout this document.

B. Deputy Secretary

The Deputy Secretary of the LDEQ 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 the LDEQ 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 LDEQ. 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 and Radiation Protection 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. The Office of Legal Affairs and Enforcement is responsible for criminal investigations and the legal representation of the Department. The Office of Management and Finance is responsible for the administration of fiscal services, general services, and human resources. The Office of the Secretary is the Office under which fall the duties of the Secretary. Each Office is under the immediate supervision and direction of an Assistant Secretary. 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 state's solid and hazardous waste control laws, to ensure 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 the LDEQ 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 six (6) sections responsible for different aspects of hazardous waste management. A description of these sections is located in Section VI -Funding and Resource Requirements.

IV. PROGRAM COVERAGE

The State law governing the generation, transportation, treatment, storage and disposal of hazardous waste can be found in La. R.S. 30:2171 - 2205. 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 the 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 the LDEQ 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 assessments 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 the LDEQ during the permit review process and enforcement actions.

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 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 brine, salt water, waste oils and other such materials resulting from the production of, or used in conjunction with, the exploration for or productions 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.

2. Department of Public Safety

The LDEQ 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 (LDAg) 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 pesticide waste rest solely with the LDEQ. As the recognized lead agency, the LDEQ is the EPA grantee with the DPS as a subgrantee. Through interagency agreement with DPS, the LDEQ in conjunction with EPA negotiates grant activities assigning those milestones and outputs applicable to the subgrantees' respective jurisdiction.

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.

1. Universe of Hazardous Waste

The universe of waste regulated by the State program is equivalent to those wastes 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, VIII, and X. 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 LDEQ for an EPA identification number in accordance with LAC 33:V.1105. 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 by first determining whether or not he has generated a solid waste, and subsequently determining whether that solid waste is a hazardous waste.

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 LAC 33:V.105.D. Prior to the shipment of any hazardous waste for off-site disposal, the generator must designate the name of the permitted disposal facility, obtain the handwritten signature of the transporter along with the date the waste was accepted for transport and retain one copy.

The pre-transport requirements outlined in LAC 33:V.1109 ensure 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. Large quantity generators are required to file a biannual report of his hazardous waste activities in even numbered years. All generators who ship hazardous waste off-site must submit an annual report to the Department by March 1 of each year. This information requirement corresponds to 40 CFR 262.41

and to LAC 33:V.Chapter 11. 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.

All the requirements of Chapter 11 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 LAC 33:V.1113.A 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 21 of the LHWR, or the waste is placed in tanks and the generator complies with Chapter 19 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 words "Hazardous Waste".

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 Department for an EPA identification number in accordance with 40 CFR 263.11 and LAC 33:V.1303.

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 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 13 of LHWR.

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 CFR 264 and 265, Subparts A respectively; (See Chapters 15 and 43)
- 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 15 and 43)
- 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 15 and 43)
- 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 15 and 43)

- 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 15 and 43)
- 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 33 and 43)
- 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 35 and 43);
- 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 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 37 and 43)
- i) technical facility standards for containers, tanks, surface impoundments, waste piles, land treatment facilities, landfills, incinerators, thermal treatment facilities, chemical and biological treatment facilities, injection wells, boilers and industrial furnaces and wood preserving units in accordance with

40 CFR 264, Subparts I through O and 40 CFR 265, Subparts I through R. (See Chapters 19, 21, 23, 27, 28, 29, 30, 31 and 43)

NOTE: Chapter 43 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.

Pursuant to 3006(g)(a), and in accordance with the Hazardous and Solid Waste Amendments (HSWA) of 1984, EPA has the authority to issue or deny permits or those portions of permits to facilities in Louisiana for the requirements and prohibitions in or stemming from the HSWA until the State's program is amended to reflect those requirements and prohibitions and authorization is received for the program or portions of the program.

EPA and Louisiana hereby establish this joint permitting process for the issuance of RCRA permits in Louisiana. This joint permitting process is established in accordance with Section 3006(c)(3) of RCRA. The details of the joint permitting process shall be incorporated into the multi-year State Grant Work Program. The duties and responsibilities of EPA and the State for joint permitting shall also be specified in the Multi-year State Grant Work Program.

The details of the joint permitting process as contained in the State Grant Work Program shall be reviewed and revised as often as necessary, but no less often than annually to assure its continued appropriateness.

Upon authorization of Louisiana for any of the provisions of the HSWA, the specifics of the Joint Permitting Agreement as set out in the Multi-year State Work Grant Program shall be amended to reflect the authorization. Amendment of this Memorandum of Agreement or the execution of separate Memorandum of Agreement may be required for authorization of any of the provisions of the HSWA.

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 LAC 33:V.303.H.

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 LHWMP (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 LAC 33:V.Chapter 43, and are now applicable to all interim status facilities.

The requirements of LAC 33:V.Chapter 15 - 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 LAC 33:V.Chapter 109);
- c) a farmer disposing of waste pesticides from his own use as provided in LAC 33:V.105.D.5;
- d) treatment facilities which are totally enclosed (See LAC 33:V.109);
- e) elementary neutralization units (See LAC 33:V.109);
- 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;
- 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 LAC 33:V.1517.B, 2103, and 2105 are

complied with; and

- i) facilities which treat or store material which would otherwise be a hazardous waste which is being beneficially used or re-used, or legitimately being recycled or reclaimed as defined in LAC 33:V.Chapter 41.

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 LAC 33:V.107 of these regulations and La. R.S. 30:2025.

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. Louisiana also does not 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 sighting 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.

As previously stated the Louisiana Department of Environmental Quality has all powers necessary to monitor and regulate all hazardous waste activities (components) undertaken in the State of Louisiana, which includes but is not limited to all Non-HSWA provisions the State is currently pursuing adoption of these rules under the Hazardous Waste Division.

The Hazardous Waste Division has negotiated a Memorandum of Understanding (MOU) with the Radiation Protection Division of the LDEQ. This memorandum will set forth the roles and responsibilities of each division over components of radioactive mixed waste that are to be regulated. The function of the Radiation Protection Division will be described in the MOU. "Radioactive mixed waste" is defined in the MOU as waste that contains radioactive waste as defined by the federal Atomic Energy Act (AEA), as amended (source, special nuclear or by-product material) and hazardous waste as defined by the Federal Resource Conservation and Recovery Act (RCRA), as amended. In addition the Radiation Protection Division will consult with the Hazardous Waste Division with regard to regulation and management of radioactive mixed waste and may not adopt any rules or engage in any management activities that are in conflict with State or Federal laws and rules relating to regulation of radioactive waste.

The LDEQ-HWD has all the powers and components necessary to administer Non-HSWA Clusters I-VI, HSWA Clusters I and II, and RCRA Clusters I, II, and III to regulate all hazardous waste activities undertaken in the State of Louisiana. The Department has identified both the complexity and extremity of the permitting process. Also, in order that Land Disposal Restrictions are properly addressed the initiation of a separate Land Ban Section has been accomplished. Louisiana has mirrored the Land Disposal Reductions after that of the EPA but has tailored their regulations for Louisiana. In some areas Louisiana is more stringent than the regulations formally adopted by the EPA. At a minimum, Louisiana is as stringent as the EPA in both the HSWA and Non-HSWA regulations or has exceeded the stringency of EPA regulations.

Having identified both the complexity and impact of the above

additional clusters, the Department has installed new sections within the Hazardous Waste Division. These sections are identified as Land Ban, Engineering and Geotechnical. The installation of these sections ensures an adequate and timely review of all incoming permit applications and better allows the Department to track and regulate (in consideration of the above clusters) all hazardous waste activities within the State. With the inception of this program, the division identified both the complexity and fiscal impact of the above cluster on the Department and the regulated community. Due to the increased responsibility, resulting from the implementation of the RCRA I package, which includes the added duties of boilers and industrial furnaces and wood preserving units, the Division has attempted to increase its personnel resources in the Permitting, Enforcement, and Geotechnical Sections. The expansions of these Sections will ensure the adequate and timely review of incoming permit applications, therefore, allowing the Department to better regulate (in consideration of the above clusters) all and any aspects of hazardous waste activities undertaken within the State. Louisiana does exercise the option to be more stringent in many aspects of the regulations than the EPA, in order to ensure the citizens of Louisiana a clean and healthy environment. At a minimum, Louisiana is as stringent as the EPA in all aspects of HSWA and Non-HSWA regulations or has exceeded the stringency of the EPA regulations.

The Louisiana manifest tracking system is designed to be consistent with the Federal Program. The state utilizes its own prenumbered manifest (See Figure 5). 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. An example of the manifest is found in the Notification of Hazardous Waste Activity (Form HW-1), which may be obtained from the LDEQ-HWD. An example of this form is found in Figures 6-A through 6-B. 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 primarily equivalent and consistent with the Federal program pursuant to RCRA, Louisiana has chosen, in some instances to take a more stringent regulatory approach.

1. Universe of Waste

The provisions set forth in the LAC 33:V.4905 provide for a more restrictive interpretation concerning the "waste mixture" and "de minimis 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 LAC 33:V.4905 if not covered in the water discharge permit.

2. Generators

Louisiana does not have a conditionally exempt small generator. Generators who generate less than an average of 100 kg of hazardous waste per month are fully regulated as small quantity generators. Generators of greater than an average of 100 kg of hazardous waste per month are regulated as large quantity generators. There are approximately six thousand five hundred (6,500) small quantity generators registered in the State of Louisiana and three thousand one hundred (3,100) generators who generate greater than 100 kg of waste per month.

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 LAC 33:V.Chapters 19 and 21 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 or tanks (meeting all applicable requirements under LAC 33:V.Chapters 19 and 21) 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, if the hazardous waste can not be delivered to the designated facility due to an emergency preventing delivery, the transporter may deliver the waste shipment to an alternate designated facility, provided 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. There are approximately seven hundred (700) registered transporters in the State of Louisiana.

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. See Figure 2 for a summary of the amounts of facilities in Louisiana.

- 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 re-compacted clay with a permeability of 1×10^7 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 LAC 33:V.Chapter 33.
- 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 landform. 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 noncommercial 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. This requires 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, landform, or landfill) any acute hazardous waste or any toxic waste (both listed in LAC 33:V.Chapter 49), 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. 30:2186 directs the Secretary of the LDEQ to adopt and promulgate regulations to ensure 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 the LDEQ can require that the cost of the sampling be done at the expense of the disposal facility.

- 1) Utilization of salt domes and sulphur mines for treatment, storage or disposal moratorium - Act 680 of 1983 states that the Administrative Authority 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 LAC 33:V.Chapter 49 which would be classified as a hazardous waste except that it will be beneficially used, reused, or legitimately recycled or reclaimed unless exempted in LAC 33:V.Chapter 41".

LAC 33:V.Chapter 49 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 in order 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, notifications, compliance schedule data, personnel training and safety, inspections, etc.;
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 occurred 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 an 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.

The HWD actively pursues the identification of non-notifiers, such as, 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 citizen complaints, and Emergency Response Section.

When this Agency receives notice of a possible non-notifier an Environmental Quality 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 LDEQ 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. 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. 30:2025) shall be brought by the Secretary. 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 OHWR or the LEQA. 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 noncompliance, 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.
- e) 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 noncompliance. This penalty can be assessed by Administrative Authority or by a court.
- f) La. R.S. 30:2025 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 noncompliance;
 - (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 noncompliance;
 - (6) the degree of risk to human health or property caused by the violation;
 - (7) whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Administrative Authority and whether the violation or noncompliance 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 noncompliance or violation;
 - (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.
- g) 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.
- h) No penalties are assessed unless the person charged has been given notice and the opportunity for a hearing on the matter.
- i) The actual decision process in penalty assessment involves a consideration of not only the above factors but also the recommendations of the field personnel.
- j) 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 for enforcement actions in court.

- k) In order to satisfy the requirements of 40 CFR §271.16.d.2.iii, the LDEQ shall continue a long-standing policy (adopted in 1985 and continued to date) of public noticing all settlement agreements arising out of enforcement actions, and continue to solicit public comment on all such settlement agreements.

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 up 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.

The de novo review of the record upon which the Secretary based his decision is available only to a respondent in an enforcement or permitting action. 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 (45) 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. PROCESS 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. 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 with 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 (Treatment, Storage or Disposal) facilities 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 every Federal Fiscal year, inspectors in the Enforcement Section are assigned specific handlers that they are

responsible for inspecting 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 and twice a year on commercial facilities. Non-major facilities are inspected at least once every two years.

During each routine inspection of hazardous waste generators, transporters or TSD, 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 reviews 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. An entrance interview is conducted with the environmental coordinator and/or other responsible persons at the start of the on-site inspection. This interview details 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 is conducted, including all necessary measurements, sampling, photographs and record copying. Any information which will form the basis for an enforcement decision is copied and made a permanent part of our file.
4. Following the inspection, an exit interview is conducted, 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. A narrative report is 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 is reviewed with the line supervisor and a recommendation for enforcement action is made. Sufficient information is provided by the inspector to formulate a fact sheet on the 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 completed inspection report with recommendations is reviewed by the Enforcement Section Quality Review staff for completeness. The Quality Review staff drafts the enforcement instrument with concurrence from the inspector. The entire package (inspection report, attachments, and enforcement instrument) is presented for review to the Peer Review Board by the inspector. The Peer Review Board, consisting of experienced enforcement personnel plus attorneys, reviews the instrument and revises as necessary. The inspector prepares all necessary forms for input into the Resource Conservation and Recovery Information System (RCRIS).
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.

Any problems which may be noted in the preview of another Section and/or Division during any inspection, 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 a Notice of Violation. The Notice of Violation will specify those sections of 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.

Major Violations:

- 1) any violations that result in a discharge;
- 2) failure to use manifest system;
- 3) shipping waste to a non-permitted disposal site;
- 4) container in poor condition;
- 5) violation of container requirements for less than ninety (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 Identification number requirements;
- 7) failure to furnish proper number of manifests for transporters/disposers;
- 8) failure to appoint an on-site emergency coordinator;

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 recommends that the Secretary of the LDEQ 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 Notices of Violation, Compliance Orders and Cease and Desist Orders.

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 continued 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 are subject to appeal to the Secretary. The respondent must file a request for hearing with the Secretary no later than thirty (30) days after the notice of action is served. Upon timely filing of the request, the Secretary shall either grant or deny the request within thirty days. If the request for hearing is granted, the issues raised in the request shall be resolved by an adjudicatory hearing before a hearing officer. If the Secretary does not grant the hearing within thirty days of the request, the respondent shall, within thirty days thereafter, be entitled to file an application for de novo review of the Secretary's action in the Nineteenth Judicial District Court for the Parish of East Baton Rouge. The de novo review of the record upon which the Secretary based his decision is available only to a respondent in an enforcement or permitting action. Any person aggrieved by a final decision or order of the Secretary may appeal therefrom to the Court of Appeals, First Circuit, if a motion for an appeal is filed with the Secretary within thirty days after the final decision or order is served upon the respondent. In case of appeal, the legal staff for the LDEQ 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, superseded or modified in accordance with LAC 33:V.323. 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 Groundwater Division, which includes Engineers, Geologists and Environmental Quality 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, to what degree (i.e., Notice of Violation, Compliance Order, Cease and Desist Order, etc.). The complainant receives written notification of the results upon completion of the

investigation.

The HWD currently uses commercial laboratories for sample analyses. Any commercial laboratory proposing to perform analytical services for the HWD must, at a minimum, comply with all EPA established guidelines. LDEQ's surveillance and analysis personnel visited the HWD's contract laboratory to determine whether it has the equipment and capability to conduct an analytical program by the methods of EPA-SW 846 and in accordance with the approved State QA/QC Plan. The laboratory are 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 HWD's compliance monitoring and enforcement program is a comprehensive one with twenty four (24) of the one hundred (100) positions allocated to the Division, dedicated full-time to enforcing the Louisiana Hazardous Waste Regulations. The HWD's seven (7) regional offices are staffed with personnel capable of responding to emergencies and complaints in a timely manner.

B. Public Participation

The LDEQ 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 30:2181.

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. 30:2011.

The Department publishes *Louisiana Environmentalist*, which is a bi-monthly magazine dealing with policy issues and in-depth articles on the regulation of the environment. This publication is sent to approximately five thousand two hundred (5,200) people on the LDEQ's mailing list and any person may request that his/her name be placed on the LDEQ mailing list. The HWD furnishes monthly data on permitting activities, enforcement actions, and compliance information. The Department utilizes this magazine to inform the public of current

departmental activities as well as an education tool. The Department's Information Officer issues news releases and public service announcements on major permit decisions, program activities, and policy initiatives.

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 701, 707, and 709. Public comments and requests 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.

C. 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 renotification, the Division cross checked its new listing of waste handlers in order to assure that it corresponded to EPA's database 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 operation of any TSD facility 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 Parts I and II are analogous to EPA's Parts A and B, respectively.

b) New Facilities

Owners or operators of new TSD facilities subject to HSWA must submit Part I and II of the application at least one hundred and eighty (180) days before physical construction is expected to commence. 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 LAC 33:V.701, 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 LAC 33:V.305.D 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 LAC 33:V.Chapter 7.

One example of this joint processing is concurrent review of incinerators by the Hazardous Waste and the Air Quality Divisions. 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 LAC 33:V.4301) have been issued an interim permit. All interim status facilities must comply with the interim status standards set forth in the LHWR, particularly, LAC 33:V.Chapter 43 (Interim Status) and specific conditions, until a Part II 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 Administrative 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 regulatory requirements and 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 are reviewed by the HWD staff to ensure the applicable technical standards under LAC 33:V.Chapters 15, 19, 21, 23, 25, 27, 29, 31, 33, 35, and 37 have been addressed and formatted properly. (See Figure 3 - Permitting Process)

All applicants for hazardous waste permits must provide the information stated in LAC 33:V.515.A, using the application form provided by the HWD, and any additional information required of applicants as set forth in LAC 33:V.517-531 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 LAC 33:V.Chapter 5 (specifically the contents of Parts I and II under LAC 33:V.515.A-531, 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 LAC 33:V.515.A which includes the following types of data:

- (a) date of application;
- (b) company name;
- (c) company address;
- (d) name of operator/owner;
- (e) type of operation;
- (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 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 applications 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 applications 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 LAC 33:V.517-531. Part II applications 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.

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;
- (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 LAC 33:V.707). The Public Notice must contain the information stated in LAC 33:V.713 and provide a forty five (45) day comment period.

Copies of Parts 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 ensure that broadcasts will be made over the 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 LDEQ 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 (La. 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 require an adjudication;
- (2) any person possessing a real interest that might be adversely affected by actions of the Administrative Authority, in writing to hold and 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 (2) 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 in an adjudication to allow the presentation of evidence and to respond timely 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 to 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 re-initiate 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.

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 thirty (30) days after the issuance or denial, asking the Secretary to review his action, prior to an appeal in court. If the request for hearing is granted, the issues raised in the request shall be resolved by an adjudicatory hearing before a hearing officer. If the Secretary does not grant the hearing within thirty days of the request, the

respondent shall, within thirty days thereafter, be entitled to file an application for de novo review of the Secretary's action in the Nineteenth Judicial District Court for the Parish of East Baton Rouge. The de novo review of the record upon which the Secretary based his decision is available only to a respondent in an enforcement or permitting action. Any person aggrieved by a final decision or order of the Secretary may appeal therefrom to the Court of Appeals, First Circuit, if a motion for an appeal is filed with the Secretary within thirty days after the final decision or order is served upon the respondent. 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 LAC 33:V.705).

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 treats, stores or disposes of hazardous waste is required to submit a complete application to the Administrative Authority with 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 permittee to modify existing facilities or permit conditions. These changes will require an amendment to the permit. Three classes of permit modifications are set forth in the regulations. Class 1 permit modifications are relatively minor changes to a facility and/or the operating conditions of a permit. Class 2 permit modifications involve more extensive changes to a permit or facility. Class 3 permit modifications involve major modifications to a permit or facility. The three classes of permit modifications each have different public notice, public participation, and

Agency review requirements. Class 2 and Class 3 modification procedures include considerable opportunity for public participation. The various types of permit modifications and the classes into which they fit are outlined in the hazardous waste regulations at LAC 33:V.322. During the modification application review process, only those provisions subject to modification are opened for review.

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 may be in the form of an inspection, complaint report (site verification) or other information concerning non-compliance.

Under the provisions of LAC 33:V.323, 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.

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 six (6) major sections - 1) Enforcement; 2) Permits; 3) Authorization, Revenue/Information Management; 4) Land Ban; 5) Engineering; and 6) Geotechnical. Administrative support to all sections is provided by the HWD Administrator, Assistant Administrators, and the Program Managers. The HWD presently consists of one hundred (100) full-time employees each of whom devote a full

man year to the program. These sections and the classification of each employee can be found in Figures 4-A through 4-F.

Support service to the HWD is provided by the Secretary of the LDEQ 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 management program. Legal support is provided by the Department's staff of attorneys 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 and surveillance 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 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 Program Manager for each Section, i.e. Enforcement, Permits, Authorization, Revenue/Information Management, Land Ban, Engineering, and Geotechnical. Each Program Manager is directly responsible for the direct management of his/her particular Section.

Seventeen (17) clerical positions are allocated full-time to the HWD and divided among the various Sections. The clerical positions are classified as Administrative Secretary, Secretary II, Clerk II, Typist Clerk II, Word Processor I and II, and I/S Data Entry I and II. 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 applications, correspondence, and other forms and reports. The Administrative Secretary and the Secretary II positions are also responsible for timekeeping/payroll for their individual divisions.

2. Permitting

The Division currently has a Permitting Staff comprised of nineteen (19) 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 the HWD Administrator devotes 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, 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.

ENVIRONMENTAL QUALITY SPECIALIST

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

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

Environmental Quality 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 ensuring 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 Quality 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. The inspector 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 the LDEQ.

3. Enforcement Section

The Enforcement Section is staffed with twenty-three (23) Environmental Specialists classed as Environmental Quality Specialists Entry, I, II, III, and Coordinators. Technical assistance is provided by Engineers and Geologists on matters such as the evaluation of chemical processes, groundwater monitoring and enforcement. 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 permits and interim status permits;
- c. citizen complaints;
- d. referrals from other Divisions, Departments or local governing bodies;

- e. companies which have failed to notify the HWD of possible hazardous waste activities; and
- f. routine compliance monitoring of hazardous waste generators and transporters.

The duties and responsibilities of 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. All facts developed in any investigations are fully documented through the use of field investigations, reports, photographs, sampling, laboratory analysis, and other appropriate techniques. Upon completion of the investigation, the environmental quality specialist completes the necessary reports, drafts a letter of compliance, 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 of this 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 inspections on major facilities are Environmental Quality Specialist IIs and are the senior non-supervisory personnel. These inspectors possess at least three (3) years experience at completing RCRA inspections and are supervised by senior line supervisors with five (5) years or more experience with the Division.

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

4. Program Management Support Section

The Program Management Support Section is staffed with eleven (11) professional and paraprofessional level people. These employees range from Program Manager, Environmental Quality Coordinators to Analyst I. The Program Management Support 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. All intrastate and interstate shipments of hazardous waste are subject to this system. To accomplish this task, the Program Management Support Section reviews the notification forms, actual manifests, as well as annual reports submitted by the regulated community. These forms document types of waste, 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. Also included among duties of the Program Management Support 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. Also, one of the most important functions of the subject section is to monitor (ensure) an "authorized" program which is at a minimum equivalent to that of EPA. This must be maintained in order to ensure grant support funds and to provide the necessary regulatory guidelines for the permitting process and enforcement activities.

5. Engineering

The Engineering Section is staffed with five (5) professional positions. These engineers review 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. The Engineer reviews design and operational requirements for tanks, container storage areas, incinerators, BIFs, any

ancillary equipment, etc., and may prepare applicable permit conditions. The Engineer reviews plans for immediate closures in detail for completeness and adequacy and makes recommendations on acceptability of plans.

He/she provides technical assistance to Enforcement Section personnel and accompanies inspectors on field inspections necessary to evaluate process and operations at facilities to assure compliance with applicable regulations. He/she provides technical assistance to other Division personnel as required.

The Environmental Engineer reviews petitions and requests for delisting and declassifying facilities based on de minimis rules, non-hazardous nature of operation, and other considerations. He/she 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. He/she serves and participates on committees, such as EPA's Office of Solid Waste Land Treatment Coordination Committee when requested.

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

6. Geotechnical Section

The Geotechnical Section is staffed with six (6) professional level people. The Geotechnical section applies specialized expertise in the fields of geotechnical engineering, geology, geohydrology, and soil mechanics. This expertise is utilized in the permit application review, corrective action document review, approval\specification of design, operating conditions, construction oversight, and inspection of hazardous waste land disposal facilities and monitoring systems associated with these facilities. Geologists, of this section review, approve, all design requirements for double composite liners and final cap systems. All landfill construction work associated with new facilities as well as closure and post-closure of hazardous waste land disposal facilities regulated the LHWRs is monitored by field inspections. In addition to the above duties and responsibilities, the geologists provide technical support to the Land Ban Section. Responsibilities include review of permit applications for technical completeness related to geological, hydrogeological and geotechnical considerations and if found deficient, directs

the work which must be accomplished by the facility to fulfill application requirements. Information supplied by the applicant, such as topographical descriptions, protective containment levee construction and maintenance plans, ground and surface water flow, drainage information, soil samples are subjected to a variety of scientific analyses to determine the geological suitability of a site for waste storage and disposal. The geologists perform site inspections to verify the accuracy of information and data submitted. In addition, geologists review groundwater monitoring data supplied to the Division on a semi-annual basis. Geologists also review and approve facility groundwater monitoring plans and, if necessary, initiate enforcement action to ensure continued protection of groundwater or to require remediation or corrective actions to be implemented.

7. Land Ban

The Land Ban Section is staffed with seven (7) professional personnel that perform the duties of four (4) programs: LDR, Waste Minimization, Alternate Treatment Technology, and Mixed Waste. The primary duties of these professionals are to review exemption petitions for Underground Injection Wells, variances, Land Ban permitting issues, and to perform Land Ban inspections consisting of any of the four (4) programs within the section. This section administers the land disposal prohibition rule and the proposed waste minimization\source reduction rule which provide the necessary framework to reduce the amount of waste that is land disposed in Louisiana.

B. Funding

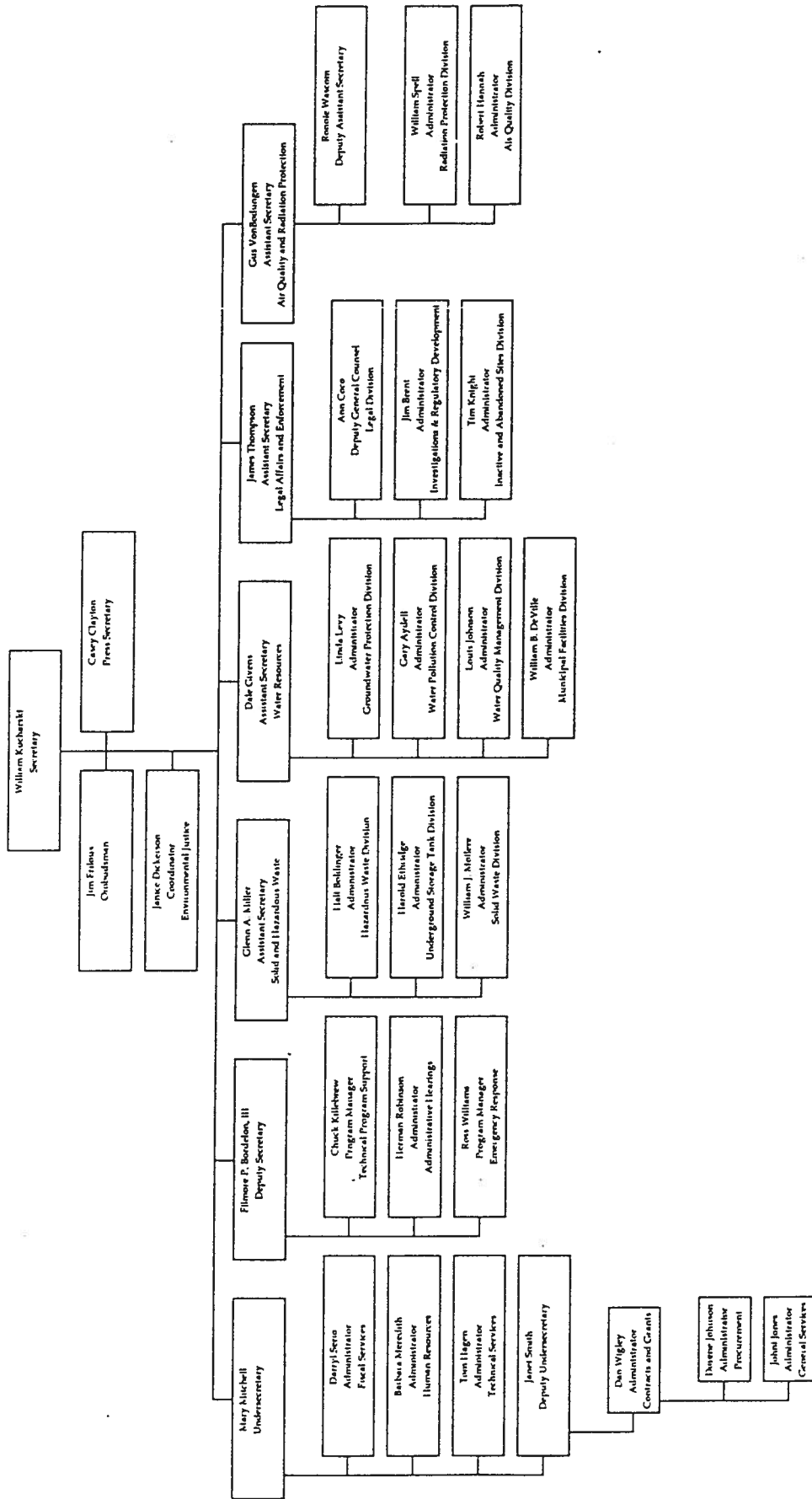
The LEQA provides for the hazardous waste program to be financed from self-generated funds. These funds are generated through one-time permit application fees and annual maintenance fees charged to the TSD Facilities. Presently the cost incurred to operate the Hazardous Waste Division effectively is on the order of five million (\$5,000,000) dollars, of which EPA contributes approximately two million (\$2,000,000) dollars, with the balance being generated from self-generated funds as discussed herein. At a minimum, continued funding level would have to be realized by the HWD with an additional two to five hundred thousand (\$2 - 500,000) of incremental funds for upcoming years to accommodate all necessary expansions. The state of Louisiana has been delegated (authorized) the Hazardous and Solid Waste Amendments (HSWA) authority, which is increasing the workload of the HWD dramatically. At present, the EPA and the LDEQ sharing responsibilities of the HSWA I authority through a joint permitting process. The details of this program can be found in the Memorandum

of Agreement and the State grant work program. As the state of Louisiana accepts more of the responsibilities for the HSWA I authority, additional costs will be incurred. These costs will be on the order of two million, two hundred thousand dollars (\$2,200,000) for fiscal year 1994-95 and approximately two million dollars (\$2,000,000) for fiscal year 1995-96. These funds will have to be acquired, in addition to the above mentioned five million dollars (\$5,000,000), to adequately carry out the provisions of HSWA. A breakdown of salary and personnel costs for fiscal years 1993-97 is found in Figure 7. (These costs do not include pro rata shares of administrative area personnel or other direct and indirect costs associated with the operation of the division.) Funds received from the EPA will be allocated in accordance with all applicable provisions of 40 CFR Chapter I, Subchapter B, including but not limited to the provisions of Appendix A to 40 CFR Part 30, and any special conditions set forth in this assistance agreement or any assistance amendment pursuant to 40 CFR 30.425.

FIGURES

Louisiana Department of Environmental Quality

Figure 1

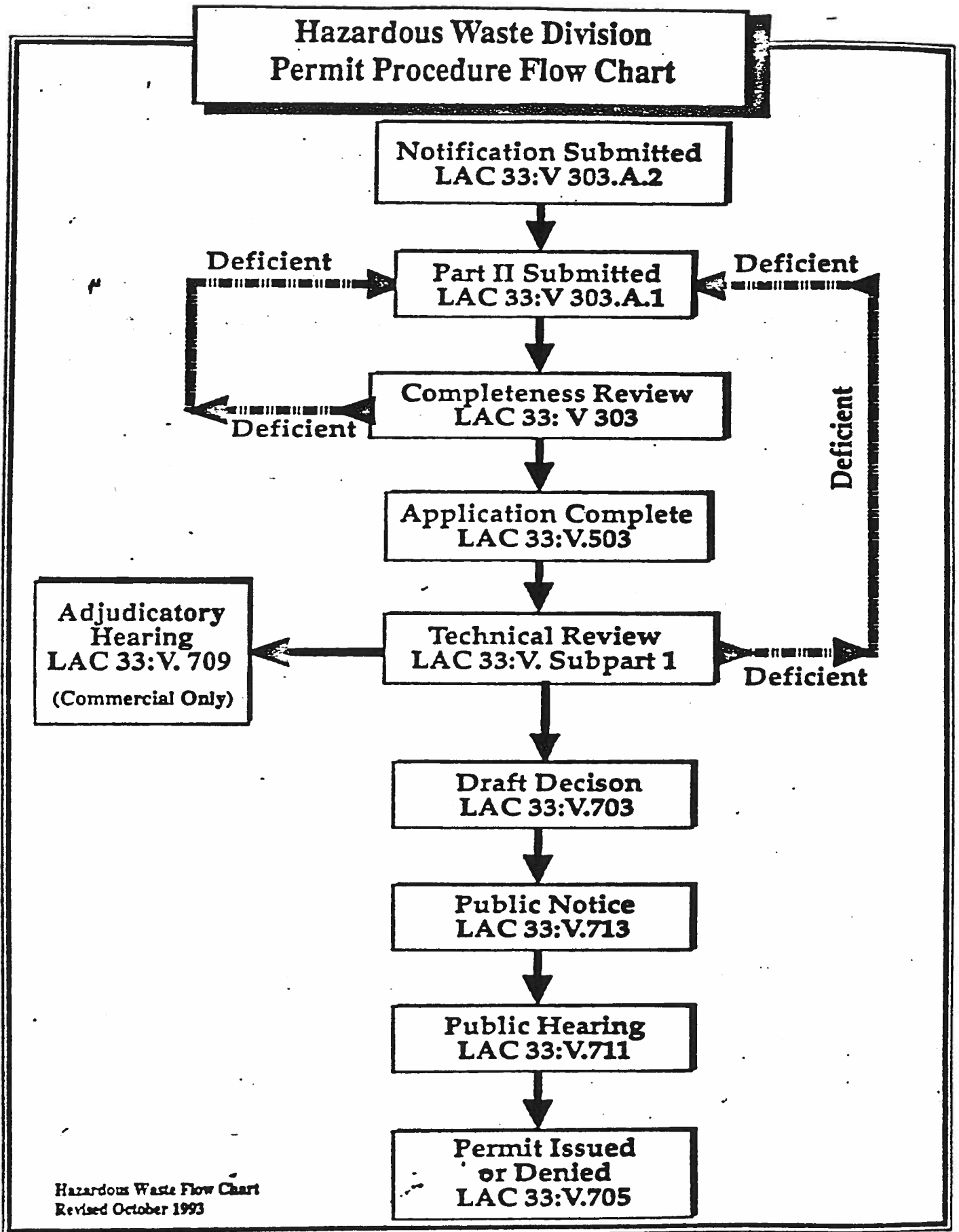


**Figure 2
Hazardous Waste Summary**

Hazardous Waste	Tons per Year
Generated within Louisiana	28,084,896
Transported into Louisiana	336,877
Transported out of Louisiana	159,847
Treated on-site within Louisiana	23,813,882
Treated off-site within Louisiana	5,813
Disposed of on-site within Louisiana	3,645,033
Disposed off-site within Louisiana	490,419

Type within Louisiana	Approximate Total
Generators	9,552
Transporters	720
On-site Treatment Facilities	26
Off-site Treatment Facilities	15
On-site Disposal Facilities	7
Off-site Disposal Facilities	5
On-site Storage Facilities	22
Off-site Storage Facilities	17

Figure 3



Hazardous Waste Flow Chart
Revised October 1993

Land Ban Section

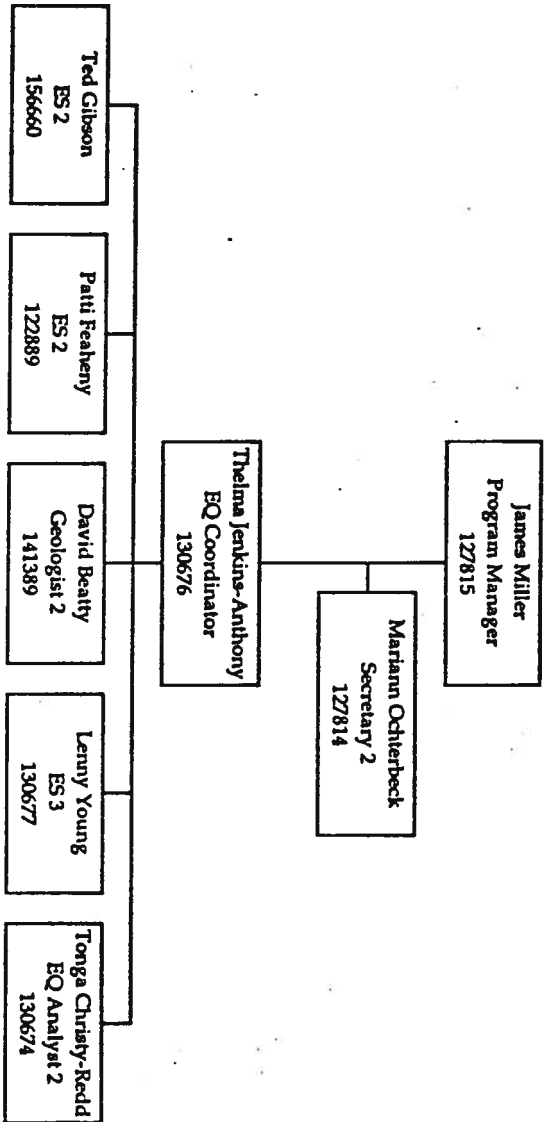


Figure 4-A

Program Management Support Section

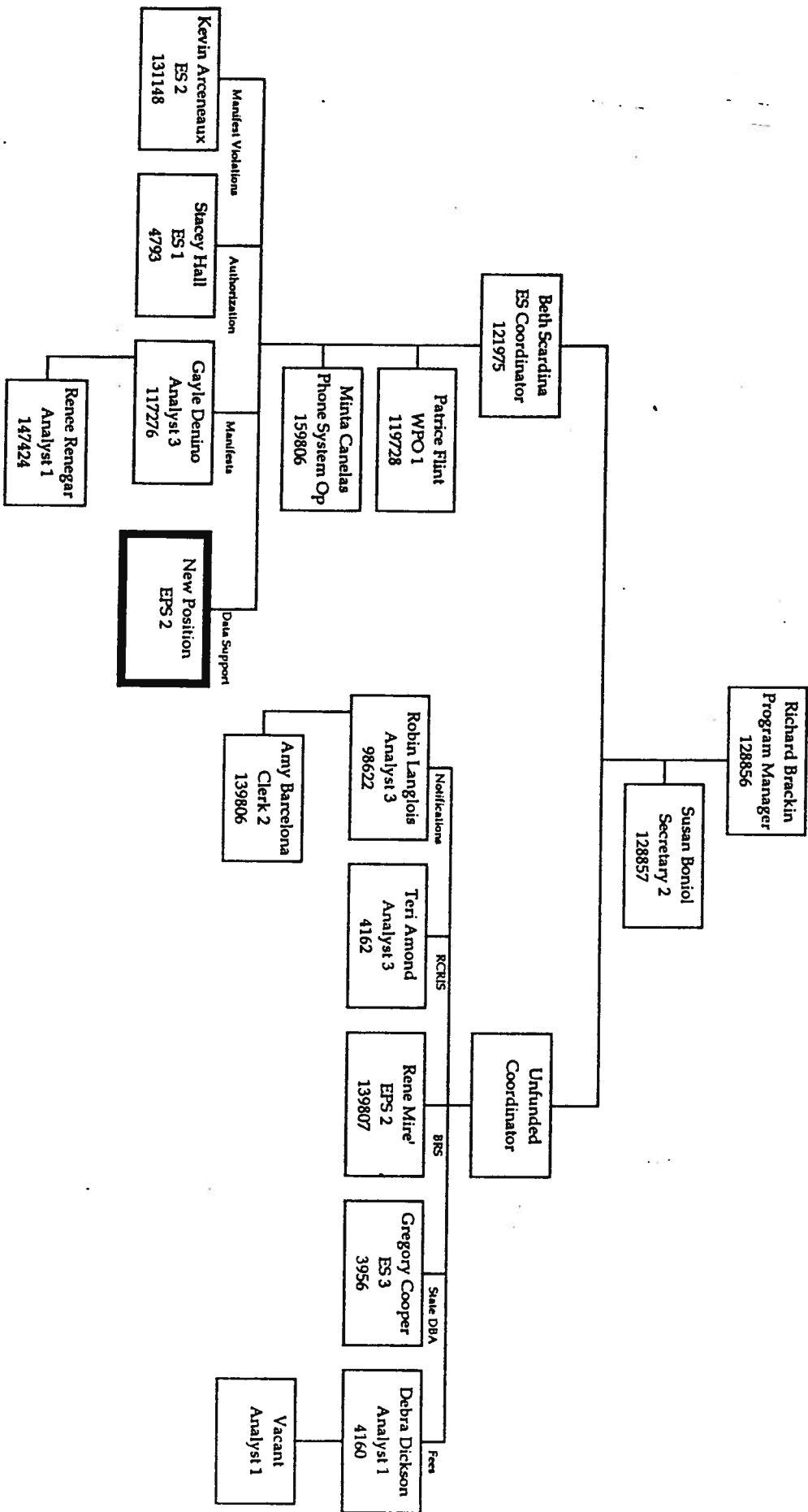


Figure 4-B

Geotechnical Section

Figure 4-C



Engineering Section

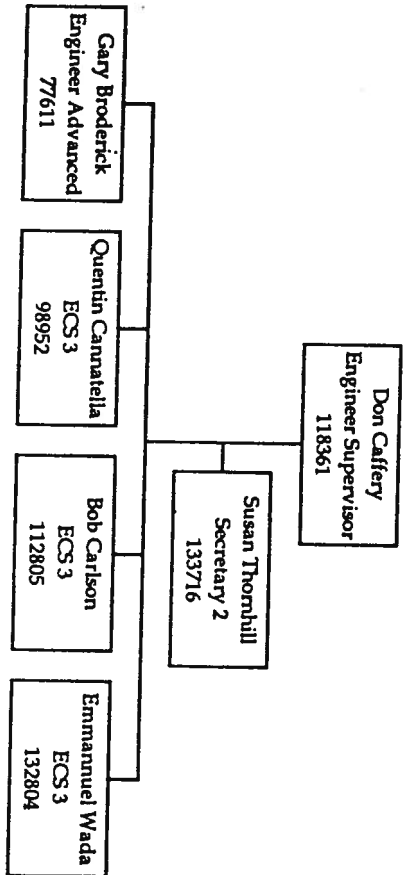
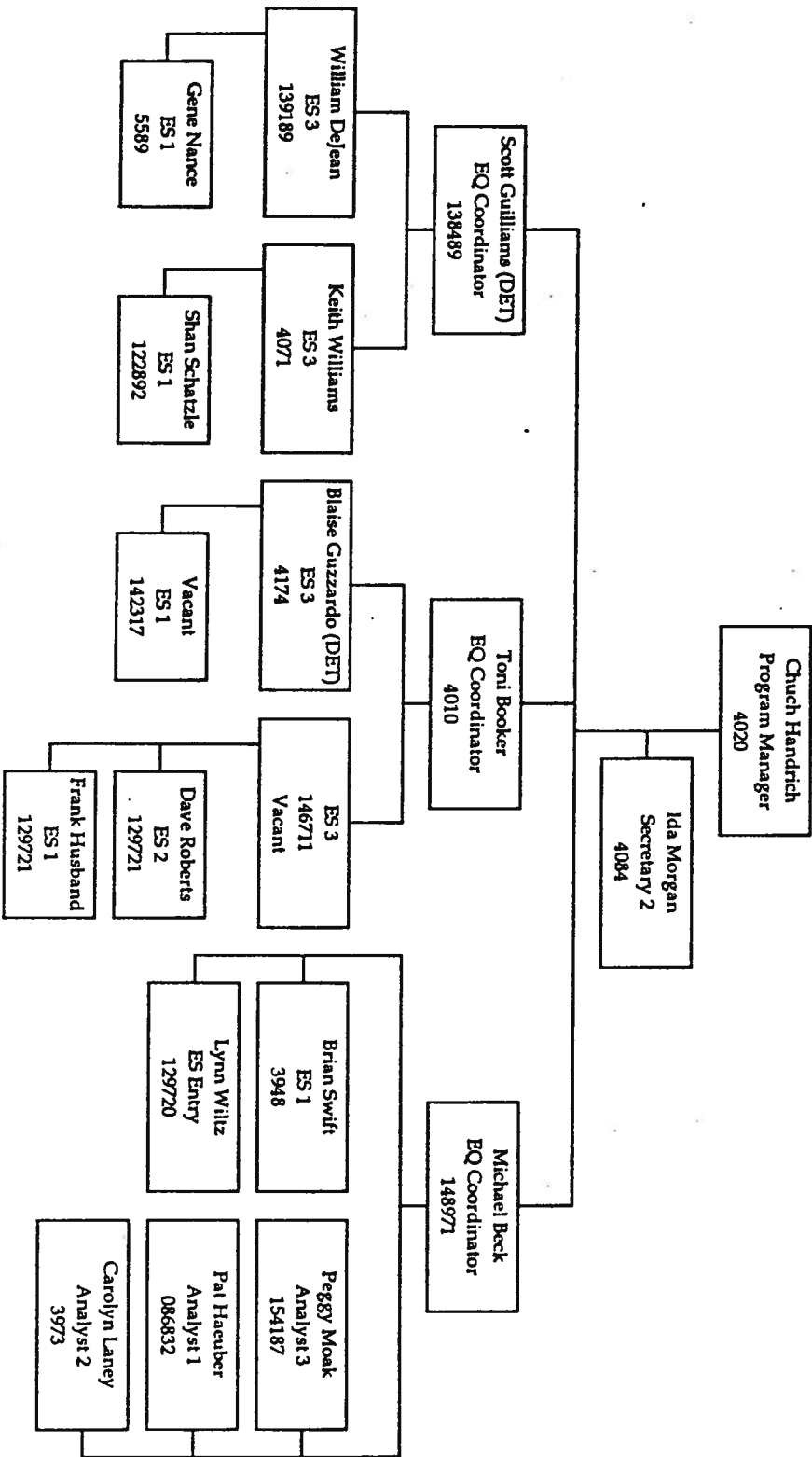
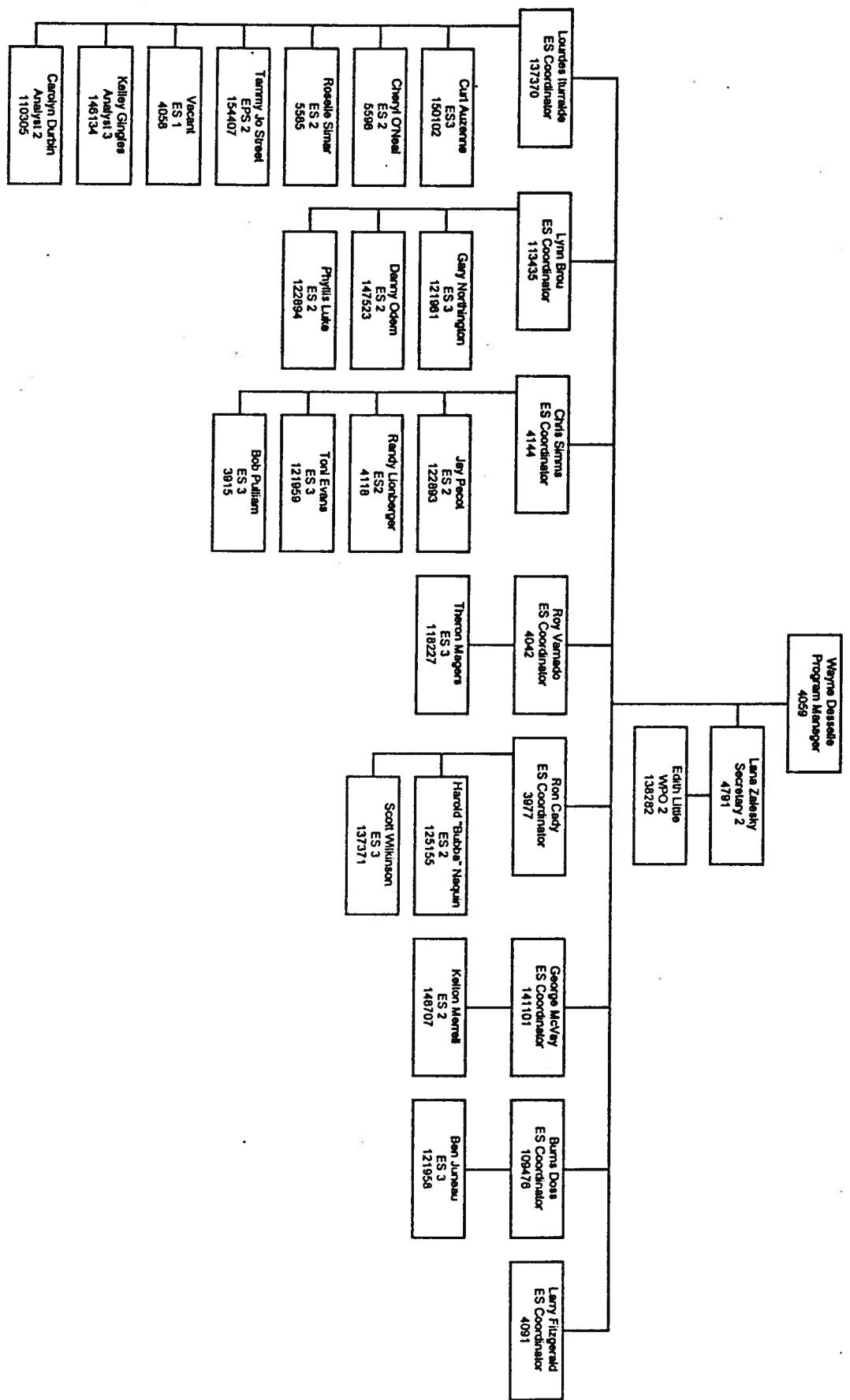


Figure 4-D



Compliance Monitoring and Enforcement

Figure 4-F



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.

3. Generator's Name and Mailing Address

A. State Manifest Document Number

LA A

B. State Generator's ID

4. Generator's Phone ()

5. Transporter 1 Company Name

6. US EPA ID Number

C. State Transporter's ID

7. Transporter 2 Company Name

8. US EPA ID Number

D. Transporter's Phone

8. Designated Facility Name and Site Address

10. US EPA ID Number

E. State Transporter's ID

F. Transporter's Phone

G. State Facility's ID

H. Facility's Phone

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

12. Containers

13. Total Quantity

14. Unit Wt/Vol

L

Waste No.

No.	Type	Total Quantity	Unit Wt/Vol	Waste No.
a.				
b.				
c.				
d.				

J. 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 minimizes the present and future threat to human health and the environment OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

Signature

Month Day Year

TRANSPORTER

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

FACILITY

19. Discrepancy Indication Space

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

Printed/Typed Name

Signature

Month Day Year

IF SPILLED IN LOUISIANA (THE LOUISIANA HAZMAT UNIT AT 504/825-6585 (DAY OR NIGHT)

COPY 1

I M P O R T A N T !

THE ATTACHED FORM IS THE LOUISIANA
NOTIFICATION OF HAZARDOUS WASTE ACTIVITY
(HW-1).

COMPLETE, SIGN, AND RETURN FORM TO LA DEQ.

QUESTIONS REGARDING THIS FORM SHOULD BE
DIRECTED TO KELLEY GINGLES OF THE
AUTHORIZATION, REVENUE/INFORMATION
MANAGEMENT SECTION . (ARIM) AT
(504) 765-0332.

Figure 6-B

LOUISIANA NOTIFICATION OF HAZARDOUS WASTE ACTIVITY



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS WASTE DIVISION
P.O. BOX 82178 BATON ROUGE, LA 70884-2178



INSTALLATION'S EPA ID NUMBER

NOTIFICATION:
FIRST SUBSEQUENT

NAME OF INSTALLATION (include company and specific site name)

INSTALLATION LOCATION ADDRESS (physical address, not p.o. box, route number, or hwy number)
STREET

CITY OR TOWN

STATE ZIP CODE

LATITUDE

LONGITUDE

PARISH NAME

SIC CODE

(see instructions)

PARISH CODE

INSTALLATION CONTACT (person to be contacted regarding waste activities at site)

LAST NAME

FIRST NAME

JOB TITLE

PHONE NUMBER

INSTALLATION MAILING ADDRESS

STREET, P.O. BOX OR ROUTE NUMBER

CITY OR TOWN

STATE ZIP CODE

TYPE OF HAZARDOUS WASTE ACTIVITY (SEE INSTRUCTIONS)

GENERATOR:

- greater than 1000 kg/mo (2,200 lbs)
- 100 to 1000 kg/mo (220 - 2,200 lbs)
- less than 100 kg/mo (220 lbs)

LABORATORY OR TESTING FACILITY FOR TREATABILITY STUDIES

- on-site reuse/recycle operation for own waste only
- on-site reuse/recycle operation for commercial purposes

less than 90 day storage in tanks

TRANSPORTER: (Indicate Mode below)

- for own waste only
- for commercial purposes

MODE OF TRANSPORTATION (transporters only)

- highway
- rail
- air
- water

TRANSFER FACILITY STATUS: (MONTH, DAY, YEAR)
(Transferor status must be indicated above)

requested _____
received _____

TREATER, STORER, DISPOSER (at installation)

*NOTE: A permit is required for this activity
SEE INSTRUCTIONS

UNDERGROUND INJECTION CONTROL

For Official Use Only

CHECK NUMBER: _____

Figure 7

Personnel Costs
FY 1995 - 96

Title	Level	Qty	Salary (Mid-Pt)	Monthly GS Level Cost	Months in Effect	Costs for Year	Include 21% Benefits	Total Annual Cost
Admin	GS-26	1	4639	4,639				
Asst Adm	GS-24	2	4052	8,104				
Geog Sup	GS-24	1	4052	4,052				
Progrm Mg	GS-22	5	3540	17,700				
Eng Super	GS-21	4	3308	13,232				
Geologist	GS-20	4	3,092	12,368				
Coord	GS-19	14	2,890	40,460				
Geologist	GS-18	0	2,700	0				
Engineer	GS-18	0	2,700	0				
EQS-3	GS-17	13	2,524	32,812				
Toxicologist	GS-17	0	2,524	0				
ET	GS-16	0	2,358	0				
EQS-2	GS-15	15	2,205	33,075				
EPS-2	GS-15	1	2,205	2,205				
Analyst-3	GS-14	12	2,080	24,720				
EQPS-1	GS-13	0	1,926	0				
EPS-1	GS-13	0	1,926	0				
Paralegal	GS-13	0	1,926	0				
Analyst-2	GS-12	3	1,800	5,400				
Analyst	GS-11	12	1,682	20,184				
SEC-2	GS-9	6	1,470	8,820				
WFO-2	GS-8	1	1,374	1,374				
WFO-1	GS-7	1	1,283	1,283				
Typ/Cltk II	GS-6	2	1,199	2,398				
Total		97	39,844	232,826	12	2,793,912	1.21	3,380,634

Personnel Costs
FY 1996 - 97

End Last FY Monthly Base Costs	Add Step Inc 4%	Adjusted Cost at Start of Year	Months in Effect	Costs for year	Include 21% Benefits	Total Annual Cost
232,826	1.04	242,139	12	2,905,668	1.21	3,515,859

Personnel Costs
FY 1997 - 98

End Last FY Monthly Base Costs	Add Step Inc 4%	Adjusted Cost at Start of Year	Months in Effect	Costs for year	Include 21% Benefits	Total Annual Cost
242,139	1.04	251,825	12	3,021,895	1.21	3,656,493

Operating Expenses are \$1500 per person per year.

Number of Personnel	Annual Cost Per Person	Total Annual Operating Expense
97	1,500	145,500

Expenditure Increase (Decrease)

STATE COSTS	1995-96	1996-97	1997-98
Personnel Services	3,380,634	3,515,859	3,656,493
Operating Expenses	145,500	145,500	145,500
Professional Services			
Other Charges	0		
Equipment (Vehicles)	0		
Announcement Adv Exp	0	0	0
Total State Expenditures	3,526,134	3,661,359	3,801,993