

US EPA ARCHIVE DOCUMENT

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

RCRA VIII - 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 those who generate, transport, treat, store, dispose or recycle 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 this new Department. During the 1999 Regular Session of Louisiana Legislature, Act 303 revised the revised La. R.S. 30:2011 et seq. allowing LDEQ to reengineer the Department to perform more efficiently and to meet its strategic goals.

Act 97, which amended and reenacted La. R. S. 30:1051 et seq. or the Environmental Act, transferred the duties and responsibilities previously delegated to the Department of Natural Resources, Office of Environmental Affairs, to the new Department. The LDEQ has lead agency jurisdictional authority for administering the Resource Recovery and Conservation Act (RCRA) Subtitle C program in Louisiana. Also, the LDEQ is designated to facilitate communication between the United States Environmental Protection Agency (USEPA) and the State.

It is the intention of the State through this application, to demonstrate its equivalence and consistency with the federal statutory tests, which are outlined in the United States Environmental Protection Agency 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 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 17D, 154, 159, 160 - 164, and 166 - 168. Under RCRA, State programs applying for final authorization are subject to seven 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 generator's site, were released to transporters who deposited the material surreptitiously in convenient, but perhaps unsafe places. In some cases, these wastes were taken to dumps or landfills not suitable for those types of wastes and could no longer be handled in this manner without violating the law.

Act 334 of 1978 directed the promulgation of regulations that 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 then Hazardous Waste Division (HWD) began implementing the Hazardous Waste Management Plan (HWMP), which was designed to ensure the proper management of hazardous waste from "cradle to grave". The re-engineered Department will allow the hazardous waste program to be managed in a streamlined approach by the all offices within the Department.

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 that 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 requirement that generators of hazardous waste manage their waste in an environmentally sound manner creates new demands for adequate hazardous waste management capacity. The LDEQ has worked with the regulated community, private interest groups and the federal government to ensure equivalent standards that 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 United States Environmental Protection Agency (USEPA). 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.

Act 303 of 1999 enabled the reengineering of LDEQ with the primary responsibility to streamline the operations to be more efficient and effective in meeting the needs of the customers and the citizens of Louisiana. The evolution of LDEQ had become an agency organized by media (air, water, and waste), each existing in its own entity. These entities were stifling communication and impeded productivity. These entities also prevent LDEQ from utilizing a multi-media approach to environmental management. The goal of LDEQ is to focus on and excel at core business processes that protect human health and the environment, ensure optimal use of available resources and identify mechanisms to improve both internal and external cooperation and communication. LDEQ is regrouped into five (5) function-oriented offices: 1. Office of the Secretary; 2. Office of Management and Finance; 3. Office of Environmental Services; 4. Office of Environmental Compliance; and 5. Office of Environmental Assessment.

These changes promote cross-fertilization of ideas, cooperation and efficiency and enhance internal and external communication. Layers of management review are reduced, with responsibility and accountability clearly delineated at appropriate levels. The Office of the Secretary houses the legal and communications staff, technical advisors and auditors.

Louisiana has demonstrated to EPA that its program was "substantially equivalent" in its management of hazardous waste to the federal program developed pursuant to RCRA. EPA awarded Phase I Interim Authorization to Louisiana on December 19, 1980, based on those federal standards promulgated 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, Non-HSWA IV on

March 8, 1995, non-HSWA V, non-HSWA VI, HSWA II on January 2, 1996, and RCRA I, II, and III on June 11, 1996, RCRA Cluster IV on March 16, 1998, RCRA V and VI on December 22, 1998.

With this application the LDEQ is applying for authorization for the listed checklist that will allow the state to implement the equivalent RCRA C portion of the program based on the summary of the specified checklists.

Checklist 17D – Waste minimization

Summary: This checklist provides for waste minimization of hazardous waste.

Checklist 154 – Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

Summary: This checklist provides for organic air emission standards for tanks, surface impoundments and containers and provide that air emission control requirements be added to the permit terms and provisions specified for miscellaneous units.

Checklist 159 – Conformance with the Carbamate Vacatur

Summary: This amends regulations to conform with the Federal appeals court ruling in *Dithiocarbamate Task Force v. EPA* (98 F.3d 1394 (D.C. Cir. 1996)) that invalidated, in part, USEPA regulations listing certain carbamate wastes as hazardous. These regulations also pertain to certain hazardous waste management of carbamate industry wastes under RCRA.

Checklist 160 – Land Disposal Restrictions Phase III - Emergency Extension of the K088 National Capacity Variance Amendment

Summary: This rule extends, for (3) months, the national capacity variance for spent potliners from primary aluminum production (Hazardous Waste Number K088). Thus, K088 wastes do not have to be treated to meet LDR treatment standards until October 8, 1997, three months from the treatment standard effective date of July 8, 1997.

Checklist 161 – Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production

Summary: The emergency revision extends by one year the time that alternate carbamate treatment standards are in place. This rule applies only to the carbamate wastes that remain listed as hazardous wastes.

Checklist 162 – Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances

Summary: This checklist finalizes clarifying amendments to the rule authorizing treatment variances from the national LDR treatment standards, adopting USEPA's interpretation that a treatment variance may be granted when treatment of any given waste to the level or by the method specified in the regulations is not appropriate, under either technical or environmental circumstances. It also incorporates preamble language from the August 17, 1988 rule (53 FR 31200), requiring public participation for site-specific variances.

Checklist 163 – Amendment to Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

Summary: This portion on the RCRA C program provided for the promulgation of standards to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment.

Checklist 164 – Kraft Mill Steam Stripper Condensate Exclusion

Summary: This checklist excludes from RCRA regulation condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The scope of this exemption is limited to combustion at the facility generating the condensates. The exclusion is part of a much larger rule that affects both effluent guidelines and air emission standards for specified sections of the pulp and paper industry.

Checklist 166 – Recycled Used Oil Management Standards; Technical Correction and Clarification

Summary: This checklist clarifies: 1) when used oil contaminated with PCBs is regulated under the used oil management standards and when it is not, 2) that the requirements applicable to releases of used oil apply in States that are not authorized for the RCRA base program, 3) that mixtures of Conditionally Exempt Small Quantity Generator (CESQG) wastes and used oil are subject to the used oil management standards irrespective of how that mixture is to be recycled, and 4) that the initial marketer of used oil that meets the used oil fuel specification needs to keep a record of the shipment of used oil to the facility to which the initial marketer delivers the used oil, but does not need to keep records on the subsequent transfers of that used oil. This rule also amends incorrect references to the pre-1992 used oil specifications in the provisions which address hazardous waste fuel produced from, or reclaimed from, oil bearing hazardous wastes from petroleum refining operations.

Checklist 167 – Land Disposal Restrictions Phase IV: Treatment Standards and Exclusions

Summary: This checklist addresses five interrelated areas associated with the land disposal restrictions. First, new land disposal restrictions treatment standards are promulgated for wastes identified as hazardous because they exhibit the toxicity characteristic for metals. The universal treatment standards for 12 metal constituents are also revised. Second, this checklist establishes a land disposal prohibition and treatment standards for a group of newly identified hazardous wastes/mineral processing wastes that exhibit a characteristic of hazardous waste. This group includes not only those mineral processing wastes exhibiting the toxicity characteristic but also mineral processing wastes exhibiting the characteristics of ignitability (D001), corrosivity (D002) or reactivity (D003). Third, this checklist amends the provisions defining when secondary materials from mineral processing which are recycled within the industry sector are solid waste. Secondary materials from mineral processing which are generated and reclaimed within that industry are not solid wastes (and therefore not hazardous waste) unless they are managed in land disposal units before being reclaimed. This checklist also addresses issues related to whether materials are within

the scope of the Bevill exclusion and allows secondary materials from mineral processing to be co-processed with normal raw materials in beneficiation operations which generate Bevill exempt wastes, without changing the exempt status of the resulting Bevill wastes, provided certain requirements are met. Fourth, this checklist includes alternative treatment standards for soil that contains a listed hazardous waste or which exhibits a characteristic of hazardous waste. Finally, this checklist clarifies certain portions of the land disposal restrictions as well as corrects typographical errors.

Checklist 168 – Hazardous Waste Combustors Revised Standards

Summary: This checklist excludes, from the regulatory definition of solid waste, fuels produced from a hazardous waste which are comparable to some currently used fossil fuels. It also adds a new RCRA permit modification provision intended to make it easier for facilities to make changes to their existing RCRA permits. Facilities with certain hazardous waste combustion units can use this permit modification provision when adding air pollution control equipment, making other changes in equipment or making changes in operation needed to comply with upcoming air emission standards. It adds notification requirements for sources which intend to comply with this rule. [While this is a Clean Air Act provision, it is referenced by the RCRA regulations.] Finally, the checklist adds allowances for extensions to the compliance period to promote the installation of cost effective pollution prevention technologies.

III. PROGRAM STRUCTURE - DEPARTMENT OF ENVIRONMENTAL QUALITY

A. Secretary

All Offices are 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 are under the general control and supervision of the Governor. The Secretary has the following powers and duties:

1. represent the public interest in the administration of Title 36, Chapter 5 of the Louisiana Environmental Quality Act and be responsible to the governor, the legislature, and the public therefore;
2. determine the policies of the Department, except as otherwise provided by Title 36 of the Louisiana Environmental Quality Act;
3. in accordance with the Administrative Procedure Act, make, alter, amend, and promulgate rules and regulations necessary for the administration of the functions of the Department, except as otherwise provided by Title 36 of the Louisiana Environmental Quality Act;

4. organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the Department in the manner and to the extent provided by Title 36 of the Louisiana Environmental Quality Act;
5. manage the personnel, develop information systems and data processing systems, manage facilities and space as provided by law, and employ such personnel or enter into such contracts as are necessary for the efficient and effective operation of the Department;
6. develop programs of public information and education regarding the pollutants or contaminants which are present in the environment;
7. develop programs of training and development of all personnel to improve the ability of personnel to fulfill their duties and functions;
8. develop programs of public information and education regarding environmental problems, developments, hazards, or programs;
9. establish programs to monitor and analyze emissions into the air, water, or land and to provide current and accurate information to the public regarding the pollutants or contaminants which are present in the environment;
10. advise the governor on problems concerning the administration of the Department;
11. grant or deny permits, licenses, registrations, variances, or compliance schedules as are provided for by law. He shall have the authority to delegate to the Environmental Control Commission or the assistant secretaries the power to issue certain permits, licenses, registrations, variances, or compliance schedules;
12. make and publish an annual report to the governor and the legislature concerning the operations of the Department and submit with each report such recommendations as he deems necessary for the more effective internal structure and administration of the Department and make other reports and recommendations on its own initiative or upon request of the governor, the legislature, or any committee or member thereof; and
13. provide for the ongoing merger and consolidation of the agencies and functions transferred to his department and submit a report thereon to the governor and the legislature, which report shall accompany the budget statement which he submits under provisions of R.S. 39:45. Such report shall include a statement of the goals of the Department and of the programs thereof and shall summarize the accomplishments of the Department in meeting such goals and implementing such programs. The report shall also contain a specific statement of the reorganization and consolidation plan for the Department for the next year and shall include a report on the implementation of such reorganization and consolidation plan for the previous year. The report concerning reorganization shall specifically detail the extent to which the Department has achieved goals stated the previous year with respect to merger and consolidation of functions, abolition of agencies, consolidation of offices, elimination of job positions, and efficiency and economy in delivery of services. The report shall contain any recommendations with respect to re-organization that may require legislative action under the provisions of this Title. A copy of the report and recommended legislation shall also be submitted by the secretary to the presiding officer of both houses of the legislature. The presiding officer shall refer

the report to the appropriate committee having jurisdiction of the subject matter as provided in the rules of the respective house.

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 financial services, contract and grant services, information services, laboratory services, and administrative services for the Department.

D. Assistant Secretaries

The Department is divided into five offices that are 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.

Office of the Secretary - As the managerial branch of the Department, the mission of the Administrative program is to facilitate the achievement of environmental improvements by coordinating the work of the other program offices in order to reduce quantity and toxicity of emissions. The office represents the Department when dealing with external agencies, and promotes initiatives that serve a broad environmental mandate. The Administration Program fosters improved relationships with our customers, including community relationships and relations with other governmental agencies. The Administration Program reviews objectives and budget priorities to assure they are in keeping with the mandates of LDEQ. The goal of the Administration Program is to improve the environment of Louisiana by enabling the Department to provide the people of Louisiana with comprehensive environmental protection in order to promote and protect health, safety and welfare while considering sound economic development and employment policies. The divisions in this office include Executive Staff, Technical Advisors, Legal Affairs, Communications and Internal Audits.

Office of Management and Finance - The mission of this office is to provide effective and efficient support and resources to all of the offices within the Louisiana Department of Environmental Quality and external customers as necessary to carry out the mission of the department. The specific role of this office is to provide fiscal services (accounting, laboratory services, technology transfer and communications), and administrative services (human resources, contracts and grants, procurement, property control, safety and other general services) to the department and its employees. This goal of this program is to administer and provide effective and efficient support and resources to all LDEQ's

offices and external customers. The divisions in this office are Information Services, Administrative Services, Financial Services and Laboratories.

Office of Environmental Services - This office is responsible for the following services: regulating pollution sources; permitting activities consistent with laws and regulations and providing interface between the department and businesses and customers; providing environmental assistance and improved public participation to small businesses, schools, complaints hotline, and community/industrial relations. The permitting activity will provide single entry/contact point for permitting, including a multimedia team approach; providing technical guidance for permit applications; improved permit tracking; and the ability to focus on applications with highest potential for environmental impact. The divisions in this office are Environmental Assistance and Permits.

Office of Environmental Compliance - The duties of the Office of Environmental Compliance is to ensure the public and occupational safety and welfare of the people and environmental resources of Louisiana by conducting inspections of permitted facilities and activities and responding to chemical emergencies. This program establishes a multimedia compliance approach; creates a uniform approach for compliance activities; assigns accountability and responsibility to appropriate parties; provides standardized instruction training for all investigation personnel; and provides for vigorous prosecution and timely resolution of enforcement actions. The divisions in this program are emergency response, surveillance and enforcement.

Office of Environmental Assessment - The specific mission of the environmental assessment program is to maintain and enhance the environment of the state in order to promote and protect the health, safety and welfare of the people of Louisiana. This program provides an efficient means to develop, implement and enforce regulations, inventory and monitor emissions, pursue efforts to prevent and to remediate contamination of the environment. This program pursues a unified approach to remediation. It simplifies and clarifies the scope of the remediation process; increases protection of human health and the environment by addressing remediation consistently; allows for fast track remediation, where applicable; reduces review time and labor; increases responsiveness to the public and regulatee; and increases accountability. The divisions in this office are Environmental Planning, Environmental Evaluation, Environmental Technology and Remediation Services.

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 Office of Environmental Services.

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 Title 30, Subtitle II 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 Office of Environmental Compliance will provide a multi disciplinary approach for compliance to state regulations. This consolidated approach along with the integrated database system will provide the Secretary with a more comprehensive assessment of the problem of compliance in all media. The Division of Environmental Technology will provide the engineering, geotechnical and toxicological support needed by the Office of Environmental Compliance.

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 (UIC) 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.

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 LDEQ 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 LDAG regulates pesticides and herbicides that are not classified as listed hazardous waste. The DPS is responsible for enforcing transportation standards for 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 rests solely with the LDEQ. As the recognized lead agency, the LDEQ is the USEPA grantee with the DPS as a sub-grantee. Through interagency agreement with DPS, the LDEQ in conjunction with USEPA negotiates grant activities assigning those milestones and outputs applicable to the sub-grantees' 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 (LHWR), 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. All generators who ship hazardous waste off-site, dispose, treat or store hazardous waste 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. This report must contain the EPA identification number, the year covered by the report, information on the off-site treatment, storage, or disposal destination facility, generator certification, and a description of waste minimization efforts taken during the year. Additionally, treatment, storage and disposal facilities must report the total quantity of waste, by type of waste handled, and how that waste was disposed, treated, or stored.

Louisiana exporters of hazardous waste to foreign countries must comply with all requirements of Chapter 11 of the LHWR. When shipping hazardous waste outside the United States from Louisiana, generators are required to:

- a. notify the Administrative Authority in writing four weeks before the initial shipment of waste;
- b. identify the waste by its EPA hazardous waste identification number and its DPS shipping description;
- c. identify the name and address of the foreign consignee;
- d. 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 Administrative Authority for the State.

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. Each container must be marked with the date accumulation begins; each tank must be clearly labeled with the words "Hazardous Waste".

3. Transporter Standards

The State's hazardous waste management program is equivalent to the federal program as outlined 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 LDEQ, 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 that 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, record-keeping and reporting requirements regarding the applicability, use of the manifest system, manifest discrepancies, operating record, availability, retention and disposition of records, biennial report, un-manifested 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, drip pads, miscellaneous unite, waste piles, land treatment facilities, landfills, incinerators, thermal treatment facilities, chemical and biological treatment facilities, injection wells, BIFs 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, 25, 27, 28, 29, 30, 31, 32, 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), and in accordance with the Hazardous and Solid Waste Amendments (HSWA) of 1984, EPA has the authority to issue or deny permits for those portions of permits to facilities in Louisiana for the requirements and prohibitions in or stemming from the unauthorized portions of the HSWA program 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. The duties and responsibilities of the USEPA and the State shall be specified in the Multi-year State Grant Work Program. The details of which 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 program, the Multi-year State Work Grant Program shall be amended to reflect the authorization. Amendment of the Memorandum of Agreement or the execution of separate Memorandum of Agreement may be required for authorization of any of the provisions of the HSWA program.

All new facilities which treat, store or dispose of hazardous waste are required to apply to the LDEQ 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, or storage or disposal of hazardous waste is prohibited by any person who has not received an interim status or a 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 the USEPA 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 I application to the USEPA. 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.109);
- c. a farmer disposing of waste pesticides from his own use as provided in LAC 33:V.1101.D;
- 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 in accordance with the LAC 33:V.Subpart 1, the construction and operation of a facility to treat, store or dispose of hazardous wastes is a violation of the LAC 33:V.107 which is enforceable by the powers granted in La. R. S. 30:2025.

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 permitted facilities in the State. 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 that would allow importation of wastes only from the States that 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.

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 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.

The LDEQ 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. Louisiana has mirrored the Land Disposal Restrictions after that of the EPA but has tailored their regulations for Louisiana. 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 clusters, the Department has the necessary technical expertise within the various Offices to implement the authorized portions of the RCRA C program. The Permits Division ensures an adequate and timely review of all incoming permit applications and 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 Department identified both the complexity and fiscal impact of the above clusters on the Department and the regulated community. Due to the increased responsibility, resulting from the implementation of the RCRA C program the Department has ensured that it is staffed and funded with personnel to better regulate all and any aspect 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.

The Louisiana manifest tracking system is designed to be consistent with the federal Program. The state utilizes its own pre-numbered manifest (See Figure 1).

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 Office of Environmental Services. 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 Office of Environmental Services. An example of this form is found in Figure 2. Manifests may be obtained by either writing or telephoning the Office of Environmental Services.

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. Generators

Louisiana does not have a conditionally exempt small quantity generator. Generators who generate less than an average of 100 kg of hazardous waste per month are fully regulated as small quantity generators. Persons who generate greater than an average of 100 kg of hazardous waste per month are regulated as large quantity generators. There are approximately nine thousand four hundred and sixty-seven (9,467) generators who generate less than 100 kg of waste per month registered in the State of Louisiana as small quantity generators and two thousand nine hundred and fifty-nine (2,959) 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 of the manifest and mailing a copy to the Department. The TSD is required to mail the final completed original to the Department no later than seven (7) days after receiving the completed manifest from the hazardous waste facility operator.

2. 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 cannot be delivered to the designated facility due to an emergency that may prevent the 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 and seventy-seven (777) 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.

3. Facilities

Treatment, storage and disposal facilities are subject to the following procedural design and operational requirements that are more stringent than those of the federal program. See Figure 3, for a summary of the number of facilities in Louisiana and the amounts of hazardous waste generated, transported, treated, and disposed of in Louisiana.

a. Landfills -

- i. Liners - Composite liners must consist of a synthetic liner installed 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. The unit must be designed and operated to prevent endangering any fresh-water aquifer by migration of contaminants from the facility. The Administrative Authority may also approve an acceptable equivalent system.
 - ii. Landfilled Materials - Specific criteria and concentration levels are placed on materials that may be landfilled using clay encapsulation through permits.
 - iii. Groundwater exemptions - No exemptions from the groundwater protection requirements in LAC 33:V.Chapter 33 are given.
 - iv. Leachate detection system - A leachate detection system must be installed in addition to the design requirements for a synthetic liner, and/ or permanent clay barrier. A leachate collection and removal system and groundwater monitoring system are normally required 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.
- b. Land treatment - no produce or food-chain crops may be allowed to grow on a land treatment unit. Additionally, grasses and other cover plants may not be used for grazing or hay production for domestic livestock.
- c. Tanks - hazardous waste treatment and storage tanks shall not be located underground.
- d. Groundwater protection - the Administrative Authority may require the owner or operator to run specific indicator parameters on a more frequent schedule.
- e. Administrative procedures for treatment, storage, and disposal facility permits - in addition to the public hearing on the intent of the state 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 require an adjudication.
- f. 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 prevent hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place.

- g. Financial requirements - owners or operators of facilities that treat, store or dispose by land treatment (i.e., surface impoundments, waste piles, landfarms, or landfills) 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.
- h. 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.

4. 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 are 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 that 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 Office of Environmental Compliance conducts both routine and non-routine inspections of transporters, generators and treatment, storage and disposal facilities in order to:

- determine compliance with permits and/or interim permit conditions regarding the design and operational standards, site conditions, security and record-keeping;

- 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.;

- 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 Office of Environmental Compliance 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. A copy of the results of any analysis performed will be provided to the facility.

The Office of Environmental Compliance 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. These include reports from agency inspectors during routine inspection activities, referrals from other offices within the Department and through investigations involving citizen complaints, and emergency response.

When this Agency receives notice of a possible non-notifier, an Environmental Specialist visits the site and makes a thorough evaluation of the waste handling activities at that facility. If the inspector determines that the activities of the facility include the generation, treatment, storage and/or disposal of hazardous waste, he furnishes the responsible person with the necessary form with which to 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. Civil actions may be brought to recover any damages or penalties resulting from a violation of the district court on behalf of the Secretary.
- b. Upon a determination that a violation is occurring or is about to occur, notice may or may not be given to the respondent of his failure to comply with such requirement. However, an order will be issued requiring compliance within a specified time period, or the Secretary shall commence a civil action for appropriate relief, including a temporary or permanent injunction.
- c. 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 the Administrative Authority or by a court.
- d. 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:

- i. the history of previous violations or repeated noncompliance;
 - ii. the nature and gravity of the violation;
 - iii. the gross revenues generated by the respondent;
 - iv. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
 - v. the monetary benefits realized through noncompliance;
 - vi. the degree of risk to human health or property caused by the violation;
 - vii. 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;
 - viii. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his noncompliance or violation;
 - ix. the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance.
- e. 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.
- f. The actual decision process in penalty assessment involves a consideration of not only the above factors but also the recommendations of the field personnel.
- g. 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.
- h. 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.

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

The Louisiana hazardous waste management program provides for citizen involvement in the permitting process of the State 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 by 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, the state newspaper, 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 has been to develop a State hazardous waste management program equivalent to 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. Office of Environmental Compliance

The Office of Environmental Compliance programs are 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, record-keeping, regulatory requirements and overall performance under the State Waste Management Program.

The number and the nature of the inspections that will be made, and the frequency, with which they will be conducted, depend 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 Office of Environmental Compliance 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.

At the beginning of every federal fiscal year, inspectors in the Office of Environmental Compliance are assigned specific handlers that they are responsible for inspecting and evaluating to ensure compliance with the program and permit requirements. Routine RCRA inspections are performed at least once each year at all major facilities and twice a year at commercial facilities.

During each routine inspection of hazardous waste generators, transporters or TSD, the inspector completes a Compliance Evaluation Inspection (CEI) narrative. The Department has an inspection protocol to enhance the inspector's ability to identify violations on key pathways. The inspector during routine inspections utilizes the following procedures, which are listed, to the extent possible in chronological order:

1. To the extent practicable, especially on RCRA inspections, the inspector reviews the file prior to an inspection. This review may include a briefing from the previous inspector and personnel from Offices of Environmental Services and Assessment.
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 that will occur thereafter.
3. The inspection and on-site record review is conducted, including all necessary measurements, sampling, photographs and record copying. Any information that 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 allow the facility personnel the opportunity to provide any additional information they feel might be appropriate.
5. Upon returning to the office, the inspector should complete any necessary record reviews and discussions with the pertinent Staff. A narrative report should be written detailing the extent and nature of each item of non-compliance and corrective actions taken during the inspection. The report is then reviewed with the direct supervisor and a recommendation for enforcement action is made. Sufficient information is provided by the inspector to formulate a narrative 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 Division staff for completeness. The Enforcement Division staff drafts the enforcement instrument with concurrence from the inspector. The entire package (inspection report, attachments, and enforcement instrument) is presented for Legal review. 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 the 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 that is under the preview of another Office during any inspection, should be called to the attention of that Office.

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 were 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.

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. 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, penalties may be issued.

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 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 major and non-major generators, transporters, and TSD's. Members of the Office of Environmental Assessment, 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 Office of Environmental Compliance. 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 Office of Environmental Compliance currently uses commercial laboratories for sample analyses. Any commercial laboratory proposing to perform analytical services for the Office of Environmental Compliance must, at a minimum, comply with all EPA established guidelines. LDEQ's surveillance and analysis personnel periodically visit the Office of Environmental Compliance 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.

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 inspector 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 Office of Environmental Compliance monitoring and enforcement programs are comprehensive with the necessary full-time staff dedicated to enforcing the Louisiana Hazardous Waste Regulations. The regional offices are also 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 rule-making authority, must follow the procedures set forth in La. R. S. 30:2011.

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 7, and are at least as stringent as the federal requirements. In addition, evidentiary hearings are required to be held after technical review on a permit application for operation of a commercial hazardous waste treatment, storage, disposal, or recycling facility. The administrative authority must provide public notice of the hearing at least thirty (30) days prior to the date scheduled for commencement of the hearing.

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 removed 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 their activity. Following this re-notification, the Division cross checked its new listing of waste handlers in order to assure that it corresponded to the USEPA's database in the Hazardous Waste Data Management System (HWDMS). In the past, there were some discrepancies between the State and the USEPA 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 was 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 re-notification 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 USEPA. The Administrative Authority upon setting a submittal date, gives the applicant six (6) months notice for submission of Part II of the application. The State prioritized the Part II call-ins in coordination with USEPA Region VI permit staff.

NOTE: The State's Parts I and II are analogous to USEPA'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 that 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:

- i. has a valid federal permit for ocean dumping;
- ii. has a permit for underground injection and is in compliance with such permit, and associated facilities are permitted under the LHWR;
- iii. has a Federal National Pollution Discharge Elimination System (NPDES) permit to accept hazardous waste for treatment.

e. Interagency Coordination for Permits Processing

The Department will review permit applications with an omni-media approach that will streamline the permitting process. The Permits Division will receive support from the divisions of Environmental Technology and Remediation Services. The Department will also solicit assistance, when applicable, from other agencies as described in LAC 33:V.Chapter 7.

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 would 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

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 that must be addressed in a complete permit application. In general, the exchange between the larger companies and the Office of Environmental Services 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 permit application is preceded by the Hazardous Waste notification form requiring specific information concerning the site, disposal method and the specific waste streams to be treated, stored or disposed. 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.

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 staff in the Office of Environmental Services to ensure the applicable technical standards under LAC 33:V.Chapters 15, 17, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, and 37 have been addressed and formatted properly. (See Figure 4 - Permitting Process)

All applicants for hazardous waste permits must provide the information stated in LAC 33:V.515.A, 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 Office 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:

- i. If an application lacks the information necessary for proper evaluation, a Notice of Deficiency (NOD) including a list of deficiencies and time frames for submission of the required information 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.
- ii. Applications that are complete will be accepted for review. Operators will be notified of the Office's acceptance for review within sixty (60) days of receipt of applications.

h. Complete Permit Application

i. Part I

Part I of hazardous waste permit application must include the information specified in LAC 33:V.515.A that 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.
- ii. In addition, the person signing the document must certify that he is aware of the penalties for submitting false information in the application.

iii. 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 the USEPA Part II

i. Technical Evaluation

The Department's technical evaluation considers:

- (a) purpose and use of facilities;
- (b) operation and use of facilities;
- (c) capacity;
- (d) closure;
- (e) site suitability;
- (f) financial responsibility;
- (g) legal considerations;
- (h) specific considerations deemed necessary on a site specific basis;
- (i) local zoning ordinances.

J. Draft Permit And Fact Sheet

A draft permit will be prepared by the Permits 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:

- i. a brief description of the type of facility or activity which is the subject of the draft permit;
- ii. 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;
- iii. a brief summary of the basis for the draft permit conditions;
- iv. reasons why any requested variances or alternatives to required standards do, or do not, appear justified;
- v. 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.

l. 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 pertinent comments and information pertaining to 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 verifiable information so that credibility will be given equally between these comments and expert testimony.

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:

- i. all permit applications for commercial hazardous waste disposal facilities; and in instances where the Administrative Authority determines that equity and justice require an adjudication;
- ii. any person possessing a real interest that might be adversely affected by actions of the Administrative Authority. The request must be in writing. 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;
- iii. 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, he/she 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 the Office of Environmental Services 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 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 within six (6) months of written request by the Office of Environmental Services. 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 and comment.

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 that 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.

VI. FUNDING AND RESOURCE REQUIREMENTS

A. Resource Requirements

The LDEQ 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 LDEQ is divided into five (5) function-oriented offices:

1. Office of the Secretary;
2. Office of Management and Finance;
3. Office of Environmental Services;
4. Office of Environmental Compliance; and
5. Office of Environmental Assessment.

These sections and the classification of each employee that applies to RCRA C activity can be found in Figures 5-A through 5-E.

The Assistant Secretaries of the various offices provide leadership 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 staff of attorneys on matters such as the issuance of compliance and administrative orders, the preparation and presentation of civil suits, and/or assistance on criminal actions against violators.

Support service, when applicable, is 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 staff within the various offices. All positions described below are budgeted and approved at the present time.

1. Administration

The overall coordination and administration of the Office within LDEQ fall under the direction of the Administrators. The Administrators are responsible for providing supervision and guidance on all aspects of the program to the personnel in the various Offices. The Administrators are responsible for establishing policy and criteria for determining compliance with State laws and rules and regulations. The Administrators are actively involved in the permitting process and in the initiation of enforcement action. The Administrators closely monitor the compliance monitoring and surveillance activities within the offices. The Administrators are also responsible for providing assistance in the preparation of the annual budget request. They must approve all requisitions for equipment and supplies, as well as approve expenditures for travel and training. Additionally, the Administrators are responsible for ensuring that commitments made by the LDEQ under annual RCRA federal assistance agreement are achieved. Finally, the Administrators are responsible for informing the Assistant Secretary of the various offices 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 Technical Advisors assist the Administrators in the management and administration of the various Divisions.

There is a Program Manager or Supervisor for each Section who is directly responsible for the direct management of his/her particular Section.

There are clerical positions within each office that are classified as Administrative Secretary, Secretary II, Clerk I, II and III, Receptionist, Word Processor I and II, and Telephone Systems Operator. 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 memoranda, and typing reports, budget, grant applications, correspondence, and other forms and reports. The Administrative Secretary and the Secretary II positions are also responsible for time-keeping/payroll for their individual divisions.

2. Permitting

The Permits Division is comprised of 174 professional and paraprofessional level positions. The members of the staff have experience in a wide range of permitting activities in each media. In addition to the staff assigned to the Permits Division, the LDEQ has in place contracts with technical personnel to provide technical support to supplement the State's effort in the review of closure/post-closure plans, groundwater assessment plans, etc.

Environmental Program Manager

The Environmental Program Managers for the Permits Division are responsible for planning, coordinating, organizing and directing the review of hazardous waste facilities. Additionally, the Environmental Program Managers are responsible for making recommendations to the Administrator based on findings of the permit review team.

Environmental Specialist

Environmental 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 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 Specialists that review groundwater monitoring activities 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 operator's 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, other Offices, other Divisions, and the general public.

3. Office of Environmental Compliance

The Office of Environmental Compliance is staffed with Environmental Specialists classed as Environmental Specialists Intern, Environmental Specialist I, II, III and Coordinators. Engineers and geologists provide technical assistance on matters such as the evaluation of chemical processes, groundwater monitoring and enforcement. The Office of Environmental Compliance 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. This Office 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 Offices, Departments or local governing bodies;
- e. companies which have failed to notify the Office of Environmental Services 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 Office are described below:

Environmental Specialist

Environmental Specialists in the Office of Environmental Compliance 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, record-keeping 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 specialist completes the necessary reports, drafts a letter of compliance, or notice of violation for review by the Administrator, who then forwards it to the Secretary for signature. If major violations are discovered which could pose a threat to health or the environment, the specialist is responsible for recommending whether a compliance order, administrative order, or possibly a cease and desist order should be issued. This Office is also responsible for activities that pertain to emergency response. The professional staff of the Office is also required to present testimony in cases of litigation involving facilities that they inspect.

Inspectors who perform RCRA inspections on major facilities are Environmental Specialist II 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 Office.

Non-major facilities, generators, and transporters are inspected by Environmental Specialist II 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. Environmental Assistance Division

The Environmental Assistance Division is staffed with professional and paraprofessional level people. These employees range from Program Manager and Environmental Coordinators to Environmental Program Analyst . The Environmental Assistance Division is responsible for the tracking 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. All intrastate and interstate shipments of hazardous waste are subject to this system. To accomplish this task, the Environmental Assistance Division 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.

5. Environmental Technology Division

The Environmental Technology Division is staffed with professional and paraprofessional level people with disciplines in geology, engineering, toxicology and environmental sciences. The geologist applies specialized expertise in the fields of geotechnical engineering, geology, geohydrology, and soil mechanics. Technical assistance to Office of Environmental Compliance is provided by the staff who also accompanies inspectors on field inspections when it is necessary to evaluate process and operations at facilities and to assure compliance with applicable regulations. He/she provides technical assistance to other Division personnel as required.

The employees in this Division review permit applications from hazardous waste treatment, storage and disposal facilities for compliance with the technical requirements of the LHWRR, and prepare deficiency lists with respect to waste characterization plans, process and mechanical designs, waste compatibility procedures, contingency plans, closure/post-closure plans, etc. In addition, they review petitions and requests for de-listing and declassifying facilities based on de minimis rules, non-hazardous nature of operation, and other considerations; design and operational requirements for tanks, container storage areas, incinerators, BIFs, surface impoundments, landfills, any ancillary equipment, etc., and may prepare applicable permit conditions.

The personnel of this Division review and/or 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 LHWRRs is monitored by field inspections. In addition to the above duties and responsibilities, the staff provide expertise in the area of deep well injection of hazardous waste and review exemption petitions for underground injection wells. Responsibilities include review of permit applications for technical completeness related to toxicology, engineering, geological, hydrogeological and geotechnical considerations and if found deficient, directs the work that 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 staff performs site inspections to verify the accuracy of information and data submitted. Inspections of drip pads at wood treatment facilities are also performed along with identification of areas requiring corrective action. At sites subject to hazardous waste regulation, the Division conducts RFAs and reviews and approves HSWA corrective action workplans along with interim measures and corrective measures for contamination. In addition, staff reviews the groundwater

monitoring data supplied to the Division on a semi-annual basis. The staff also reviews and approves 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.

The staff 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.

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 RCRA C program effectively is on the order of 5.7 million dollars, of which the USEPA contributes approximately 3.2 million 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 LDEQ with an additional two to five hundred thousand (\$200,000 - \$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 RCRA C program dramatically. As the state accepts more authority from the USEPA, additional costs that must be acquired will be incurred to adequately carry out the provisions of HSWA. A breakdown of salary and personnel costs for fiscal years 1999-2000 is found in Figure 6. (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 USEPA 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.

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

FIGURE 1

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

Form Approved. OMB No. 2050-0039. Expires 9-30-96

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 LAA 3403646		
4. Generator's Phone ()				B. State Generator's ID		
5. Transporter 1 Company Name		6. US EPA ID Number		C. State Transporter's ID		
				D. Transporter's Phone		
7. Transporter 2 Company Name		8. US EPA ID Number		E. State Transporter's ID		
				F. Transporter's Phone		
9. Designated Facility Name and Site Address		10. US EPA ID Number		G. State Facility's ID		
				H. Facility's Phone		
11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)		12. Containers No.	13. Total Quantity	14. Unit Wt/Vol	I. 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						
<p>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.</p> <p>If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimize the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.</p>						
Printed/Typed Name			Signature		Month Day Year	
17. Transporter 1 Acknowledgement of Receipt of Materials						
Printed/Typed Name			Signature		Month Day Year	
18. Transporter 2 Acknowledgement of Receipt of Materials						
Printed/Typed Name			Signature		Month Day Year	
19. Discrepancy Indication Space						
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in item 19.						
Printed/Typed Name			Signature		Month Day Year	

GENERATOR SHALL BE RESPONSIBLE FOR THE LOCATION AND NUMBER OF UNITS TO BE USED TO TRANSPORT THIS WASTE TO THE TREATMENT, STORAGE, OR DISPOSAL FACILITY.

GENERATOR

TRANSPORTER

FACILITY

COPY 1

FIGURE 2

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 TYPE:
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

PARISH NAME

PARISH CODE

SIC CODE

LATITUDE

LONGITUDE

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

LAST NAME

FIRST NAME

JOB TITLE

PHONE NUMBER

_____ () _____

Area Code

INSTALLATION MAILING ADDRESS

STREET, P.O. BOX OR ROUTE NUMBER

CITY OR TOWN

STATE

ZIP CODE

INSTALLATION OWNER *(legal owner of installation)*
NAME

PHONE NUMBER

_____ () _____

Area Code

STREET, P.O. BOX OR ROUTE NUMBER

CITY OR TOWN

STATE

ZIP CODE

CHANGE OF OWNER INDICATOR: YES NO

Date Changed (Month, Day, Year)

Property Owner (if different from installation owner): _____

INSTALLATION CLASSIFICATION *(ALL THREE CATEGORIES MUST BE COMPLETED)*

TYPES: F=Federal S=State I=Indian P=Private C=Parish M=Municipal O=Other

Owner Type

Operator Type

Property Type

For Official Use Only

CHECK NUMBER: _____

FIGURE 3

Hazardous Waste Summary 1998

Hazardous Waste	Tons Per Year
Generated within Louisiana	4,702,744
Transported into Louisiana	152,474
Transported out of Louisiana	154,909
Treated on-site within Louisiana	226,019
Treated off-site within Louisiana	151,873
Disposed of on-site within Louisiana	3,841,574
Disposed off-site within Louisiana	67,748

1998 Data from Biennial Reports

Type within Louisiana	Approximate Total
Generators	12,426
Transporters	777
On-site Treatment Facilities	17
Off-site Treatment Facilities	12
On-site Disposal Facilities	5
Off-site Disposal Facilities	5
On-site Storage Facilities	15
Off-site Storage Facilities	14

Hazardous Waste Division Permit Procedure Flow Chart

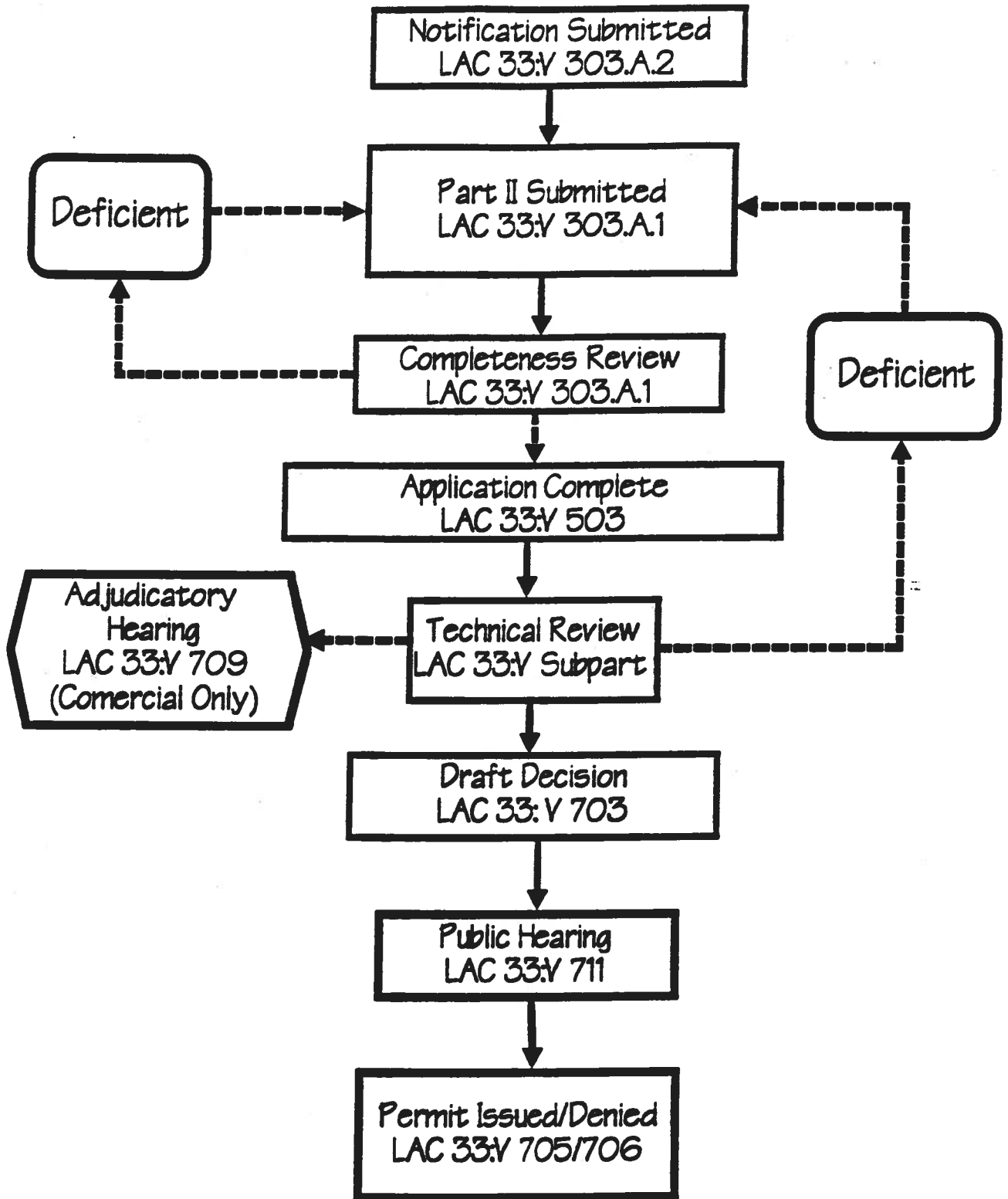


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Off-site Disposal Facilities	5
On-site Storage Facilities	15
Off-site Storage Facilities	14

SALARY AND RELATED BENEFITS FOR KUCA EMPLOYEES
1999-2000
OFFICE OF ENVIRONMENTAL SERVICES

NAME OF INCUMBENT	CLASS OR TITLE OF POSITION	GS	SALARY	4 RELATED BENEFITS					TOTAL
				RETIRE- MENT	F.I.C.A. TAX	MEDCR TAX	GROUP INS		
CLERK 4		8	21,105	2,618		304	2,045	26,072	
ENV QUAL PROGRAM MANAGER		22	55,261	6,852			2,440	64,553	
ENV PROJECT SPECIALIST 2		17	26,218	3,251		380	1,236	31,085	
ENV PROGRAM ANALYST 3		14	32,582	4,040		471	2,045	39,138	
ENV PROGRAM ANALYST 3		14	32,582	4,040		268	2,017	38,639	
ENV PROGRAM ANALYST 1		12	18,583	2,304				21,155	
WORD PROCESSOR OPER 1		7	12,954	1,606		187		14,747	
WORD PROCESSOR OPER 1		7	13,565	1,682		195	2,440	17,882	
SECRETARY 2		9	17,897	2,219		258		20,374	
CLEAK 3		7	13,847	1,717		200	1,264	17,028	
ENV QUAL ASST DIV ADMIN		24	65,340	8,102			2,439	75,881	
SECRETARY 2		9	23,630	2,930			2,439	28,999	
ENV PROJECT SPECIALIST 2		17	30,315	3,759		438	1,264	35,776	
ENV PROGRAM ANALYST 3		14	32,803	4,068		474	221	37,566	
ENV PROGRAM ANALYST 1		12	25,027	3,103		361	1,236	29,727	
ENV PROGRAM ANALYST 2		12	28,066	3,480			2,440	33,986	
ENV PROJ SPECIALIST 3		17	34,412	4,267			1,236	39,915	
CLEAK 3		7	18,368	2,278		265	2,439	23,350	
ENV SPECIALIST COORDINATOR		19	45,918	5,694			1,236	52,848	
ENV SPECIALIST		17	30,801	3,819		444		35,285	
ENV SPECIALIST		17	30,632	3,789		443	221	34,864	
ENV PROGRAM ANALYST 3		14	26,099	3,236		377	1,236	30,948	
ENV SPECIALIST		17	26,565	3,294		383	1,236	31,478	
ENV SPECIALIST COORDINATOR		19	36,590	4,537		529	1,457	43,113	
ENV SPECIALIST		17	26,010	3,225		376	1,264	30,875	
ENV SPECIALIST		17	31,627	3,922		458	1,457	37,464	
ENV QULA PROGRAM MANAGER		22	55,387	6,868			2,661	64,916	
ENV SPECIALIST COORDINATOR		19	45,050	5,586				50,636	
ENV SPECIALIST		17	37,566	4,658			2,660	44,884	
ENV SPECIALIST		17	28,190	3,496		407		32,093	
ENV SPECIALIST		17	28,440	3,527		406	1,236	33,609	
ENV SPECIALIST COORDINATOR		19	37,409	4,639		540	2,439	45,027	
ENV SPECIALIST		15	22,569	2,799		326	1,111	25,865	
ENV SPECIALIST		15	29,915	3,709		432	2,017	36,073	

SALARY AND RELATED BENEFITS FOR RCRA EMPLOYEES
1999-2000
OFFICE OF ENVIRONMENTAL SERVICES

NAME OF INCUMBENT	CLASS OR TITLE OF POSITION	GS	SALARY	4 RELATED BENEFITS				TOTAL
				RETIRE- MENT	F.I.C.A. TAX	MEDCR TAX	GROUP INS	
IV SPECIALIST		17	25,264	3,133		365	1,236	29,998
IV SPECIALIST		17	30,658	3,802		443	221	35,124
		35	1,076,140	133,431	-	9,426	45,904	1,264,901

SALARY AND RELATED BENEFITS FOR RCRA EMPLOYEES
1999-2000
OFFICE OF ENVIRONMENTAL COMPLIANCE

NAME OF INCUMBENT	CLASS OR TITLE OF POSITION	GS	SALARY	4 RELATED BENEFITS					TOTAL
				RETIRE- MENT	F.I.C.A. TAX	MEDCR TAX	GROUP INS		
ENV QUAL PROGRAM MANAGER		22	42,693	5,294		616		48,603	
SECRETARY 2		9	18,500	2,294		268	2,018	23,080	
WORD PROCESSOR OPERATOR 2		8	19,864	2,463		287	2,600	25,214	
CLERK 2		7	15,659	1,942		227	1,236	19,064	
ENV SPECIALIST COORDINATOR		19	43,773	5,428		631	1,457	51,289	
ENV SPECIALIST		15	24,607	3,051		355		28,013	
ENV SPECIALIST		17	25,934	3,216		375	2,439	31,964	
ENV SPECIALIST		17	25,736	3,191		371	1,236	30,534	
ENV SPECIALIST		17	29,787	3,694		430	2,045	35,956	
ENV PROJECT SPECIALIST 3		17	28,695	3,558		415	2,660	35,328	
ENV PROGRAM ANALYST 1		12	28,898	3,583		417	28	32,926	
ENV PROGRAM ANALYST 3		14	32,876	4,077			2,018	38,971	
ENV SPECIALIST COORDINATOR		19	39,541	4,903		570	2,440	47,454	
ENV SPECIALIST		17	34,293	4,252		495	2,239	41,279	
ENV SPECIALIST		17	33,789	4,190		488	1,236	39,703	
ENV SPECIALIST		17	39,977	4,957			221	45,155	
ENV SPECIALIST		17	26,525	3,289		383	2,017	32,214	
ENV SPECIALIST		17	30,427	3,773		439	2,017	36,656	
ENV SPECIALIST COORDINATOR		19	31,765	3,938		462	2,250	38,415	
ENV SPECIALIST		17	32,649	4,048		472	1,264	38,433	
ENV SPECIALIST		17	31,948	3,962		462	2,250	38,622	
ENV SPECIALIST		15	24,734	3,067		357		28,158	
ENV SPECIALIST		17	30,869	3,828		445	1,236	36,378	
ENV SPECIALIST COORDINATOR		19	40,669	5,043				45,712	
ENV SPECIALIST COORDINATOR		19	39,671	4,919		573	1,236	46,399	
ENV SPECIALIST		17	32,600	4,042		471	2,439	39,552	
ENV SPECIALIST COORDINATOR		19	39,117	4,851		565	2,017	46,550	
ENV SPECIALIST		17	31,790	3,942		459	221	36,412	

