

US EPA ARCHIVE DOCUMENT

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

RCRA XVI AND XVII- SUPPLEMENTAL PROGRAM DESCRIPTION

I. INTRODUCTION

Since 1979, through the Environmental Affairs Act, Act 449 enabled the Office of Environmental Affairs within the Louisiana Department of Natural Resources, as well as, the Environmental Control Commission to conduct 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. as the Environmental Quality Act, renaming the Environmental Affairs Act (Act 1938 of 1979). This Act created the Louisiana Department of Environmental Quality (LDEQ), including provisions for new offices within this new Department of Environmental Quality. Act 97 also 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. During the 1999 Regular Session of Louisiana Legislature, Act 303 revised the La. R.S. 30:2011 et seq. allowing LDEQ to reengineer the Department to perform more efficiently and to meet its strategic goals.

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 Louisiana Environmental Quality Act authorizes the State's program, Subtitle II of Title 30 of the Louisiana Revised Statutes. The States program is equivalent to the federal program as outlined in revision checklists 208 and 211-215. The State has added electronics to the state's RCRA authorized Universal Waste regulations. The State has determined it will not promulgate or seek authorization for the Standardized Permit regulations at this time. 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 that 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 allows the hazardous waste program to be managed in a streamlined approach by all the 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 which the divisions within the Office of Environmental Affairs (OEA) could utilize in order to ensure compliance. With Act 97, effective February 1, 1984, the Louisiana Environmental Quality Act was authorized, and with Act 594,

effective July 18, 1990, the Department of Environmental Quality was formed to administer the law.

Act 303 of 1999 enabled the reengineering of LDEQ. LDEQ was 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. The Office of the Secretary houses the legal and communications staff, technical advisors and auditors.

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 waste substances, which 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 that 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 hazardous waste regulations 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.

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 and 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, RCRA Cluster VII on October 25, 1999, Land Disposal Restrictions on November 1, 1999, RCRA Cluster VIII and waste minimization on April 28, 2000, RCRA Cluster IX on March 5, 2001, RCRA Clusters X, XI and XII on February 9, 2004, RCRA Cluster XIII on June 10, 2005, RCRA XIV on January 13, 2007, and RCRA XV on October 15, 2007, all announced in the *Federal Register*. The State determined in RCRA XIV that it would not promulgate the Performance Track Program (PTP). The state has its own Regulatory Innovations Program, LAC 33:I.Chapter 37, that parallels the federal PTP.

With this application the LDEQ is applying for authorization for specific areas of the state regulations identified as requiring authorization and 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 208-Waste Management System; Testing and Monitoring Activities; Final Rule: Methods Innovation Rule and SW-846 Final Update IIIB

Summary: This rule amends a variety of testing and monitoring requirements in the Resource Conservation and Recovery Act (RCRA) hazardous and non-hazardous solid waste regulations and for certain Clean Air Act (CAA) regulations that relate to hazardous waste combustors. These amendments allow more flexibility when conducting RCRA-related sampling and analysis by removing from the regulations a requirement to use the methods found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," also known as "SW-846," in conducting various testing and monitoring and by limiting required uses of an SW-846 method to circumstances where the method is the only one capable of measuring the particular property (i.e., the method is used to measure a required method-defined parameter). This action is an important step forward in implementing the use of a performance-based approach, which is part of the EPA's efforts toward Innovating for Better Environmental Results. Additionally, the EPA is making certain other clarifications and technical amendments.

The state will list new procedures as they become available in section 110.A. An incorporation by reference of federal rules, methods, industry guidelines, etc. into state regulations must follow the rulemaking procedures outlined in LA. R.S. 49.950-972. Therefore, 40 CFR 260.21(d) has not been adopted making the state more stringent.

Checklist 211-Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks exemptions”)

Summary: This rule adds benzene and 2-ethoxyethanol to the list of solvents whose mixtures with wastewaters are exempted from the definition of hazardous waste under the Resource Conservation and Recovery Act. The scrubber waters derived from the combustion of any of the exempted solvents are also included in the exemption. In addition, the Agency is revising the rule by adding an option to allow generators to directly measure solvent chemical levels at the headworks of the wastewater treatment system to determine whether the wastewater mixture is exempt from the definition of hazardous waste. Finally, the Agency is extending the eligibility for the de minimis exemption to other listed hazardous wastes (beyond discarded commercial chemical products) and to non-manufacturing facilities.

Checklist 212- National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)

Summary: This rule finalizes national emission standards (NESHAP) for hazardous air pollutants for hazardous waste combustors (HWCs): hazardous waste burning incinerators, cement kilns, lightweight aggregate kilns, industrial/commercial/institutional boilers and process heaters, and hydrochloric acid production furnaces. EPA has identified HWCs as major sources of hazardous air pollutant (HAP) emissions. These standards implement section 112(d) of the Clean Air Act (CAA) by requiring hazardous waste combustors to meet HAP emission standards reflecting the performance of the maximum achievable control technology (MACT).

Checklist 213- Resource Conservation and Recovery Act Burden Reduction Initiative

Summary: This rule promulgates changes to the regulatory requirements of the Resource Conservation and Recovery Act (RCRA) hazardous waste program to reduce the paperwork burden these requirements impose on the states, EPA, and the regulated community. EPA has estimated that the total annual hour savings under the final rule ranges from 22,000 hours to 37,500 hours per year. The total annual cost savings under the final rule ranges from approximately \$2 million to \$3 million. This rulemaking will streamline our information collection requirements, ensuring that only the information that is actually needed and used to implement the RCRA program is collected and the goals of protection of human health and the environment are retained.

The state has chosen to be more stringent by requiring semi-annual reporting in the corrective action and closure, post closure activities because more frequent monitoring of remediation progress and containment of plume is necessary due to the unique hydrogeology found in the state.

The state has chosen to be more stringent than 40 CFR 265.192(a) and (b) by leaving "independent" as a descriptor for the type of qualified professional engineer. The state requires a third party professional for most certifications or evaluations that are required in the regulations in all mediums.

Checklist 214- Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations

Summary: This rule corrects errors in the hazardous waste and used oil regulations, as a result of printing omissions, typographical errors, misspellings, citations to paragraphs and other references that have been deleted or moved to new locations without correcting the citations, and similar mistakes appearing in numerous final rules published in the *Federal Register*. This final rule does not create new regulatory requirements.

The state has chosen to be more stringent at 40 CFR 261.6.(2)(v) by not adopting the amendment. The state has not adopted the XL program and, therefore, cannot adopt the amendment indicated for U.S. Filter Recovery Services XL waste.

The state has chosen to be more stringent at 40 CFR 264.4 by requiring the exact process allowed by LA R.S. 30.2050.8 for enforcement action by utilizing the wording of "in accordance with.." instead of "pursuant to".

Checklist 215- Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes

Summary: This rule streamlines management requirements for recycling of used cathode ray tubes (CRTs) and glass removed from CRTs. The amendments exclude these materials from the RCRA definition of solid waste if certain conditions are met. This rule is intended to encourage recycling and reuse of used CRTs and CRT glass.

Electronics have been added to the universal waste regulations. Electronics are the fastest growing portion of the municipal waste stream. In 1988 only 20 million computers were discarded as obsolete, and only 11% were recycled. In 2004, 315 million computers were rendered obsolete in the United States. That equates to 4 billion pounds of plastic, 1 billion pounds of lead, 2 million pounds of cadmium and 400,000 pounds of mercury.

Electronic products are hazardous. They contain lead, mercury, cadmium, zinc, and brominated flame retardants. Many efforts are underway to develop "green" electronic products and improve production practices. Manufacturers are making modular computers

that can be easily upgraded, reducing waste by-products during production of electronics, producing electronics with less toxic materials, requiring PC's Energy Star compliance for energy reduction, using leasing programs to eliminate user responsibility for disposal, and offering funding for recycling and reclamation. The universal waste regulations will be crucial in promoting these efforts. Louisiana is following the lead of several other states (Colorado, Connecticut, New Jersey, Nebraska, Michigan, Arkansas, New Hampshire (CRT's only), Maine (CRTs Only), Rhode Island (CRTs only), and California), by adding electronics to its universal waste program. This rule is intended to encourage recycling and reuse of used and discarded electronic devices.

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, by authority of La. R.S. 30:2001 et.seq., specifically section 2011, has the following powers and duties:

1. represent the public interest in the administration of the Louisiana Environmental Quality Act and be responsible to the governor, the legislature and the public;
2. determine the policies of the Department, except as otherwise provided by Title 30 of the Louisiana Revised Statutes;
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 30 of the Louisiana Revised Statutes;
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 30 of the Louisiana Revised Statutes;
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 that 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 that 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 his 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 that 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.

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, and administrative services for the Department.

D. LDEQ Offices

The Department is divided into five offices, four of which are under the immediate supervision and direction of an Assistant Secretary. The duties and functions of each office and its Assistant Secretary or Undersecretary 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. This office includes Executive Staff, Legal Affairs Division that includes the Regulation Development Section, Criminal Investigations Division, Communications, Auditing, and a newly created division, Business and Community Outreach, that will provide more intensive agency focus on providing information on regulatory and environmental changes to businesses and communities. The sections that make up this division include Small Business Assistance, Clean Water State Revolving Fund, Recycling, Performance and Planning and Community and Industry Relations.

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 General Services, Administrative Services, Financial Services, Human Resources, Contracts and Grants, and Procurement.

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, consisting of media specific units as well as a multimedia team approach.); providing technical guidance for permit applications; providing improved permit tracking; and maintaining the ability to focus on applications with highest potential for environmental impact. The divisions in this office are Environmental Assistance, Waste Permits, Water Permits, and Air Permits. At the present time, the LDEQ Secretary has delegated his authority and power to grant or deny permits to the Assistant Secretary of Environmental Services, and to his successors in office.

Office of Environmental Compliance - The duty 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 and Radiological Services, 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 and 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 the regulatee, and increases accountability. The divisions in this office are Air Quality Assessment, Environmental Technology, Laboratory Services, Remediation Services, Underground Storage Tanks and Water Quality Assessment.