

US EPA ARCHIVE DOCUMENT

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

RCRA XX- 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. 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 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 State's program is equivalent to the federal program as outlined in revision checklists 222, 223, and 224 which was adopted and became effective on March 20, 2012.

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.

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. Act 48 of the 2010 Regular Session of the Louisiana Legislature eliminated the Office of Environmental Assessment. LDEQ was regrouped into four (4) function-oriented offices: 1. Office of the Secretary; 2. Office of Management and Finance; 3. Office of Environmental Services; and 4. Office of Environmental Compliance. The Office of the Secretary houses the legal and communications staff, technical advisors and auditors. The re-engineered Department allows the hazardous waste program to be managed in a streamlined approach by all the offices within the Department.

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; and
- 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 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 Cluster XIV on January 13, 2007, RCRA Cluster XV on October 15, 2007, RCRA Clusters XVI and XVII on July 20, 2009, and RCRA Cluster XVIII on August 23, 2011, all announced in the *Federal Register*.

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 222- OECD Requirements; Export Shipments of Spend Lead-Acid Batteries

Summary: This rule amends existing regulations regarding hazardous waste exports from and imports into the United States.

Checklist 223- Hazardous Waste Technical Corrections and Clarifications

Summary: It makes a number of technical changes that correct existing errors in the hazardous waste regulations that have occurred over time in numerous final rules published in the Federal Register, such as typographical errors, incorrect or outdated citations, and omissions. Some of the corrections are necessary to make conforming changes to all appropriate parts of the RCRA hazardous waste regulations for new rules that have since been promulgated. In addition, these changes clarify existing parts of the hazardous waste regulatory program and update references to the Department of Transportation (DOT) regulations that have changed since the publication of various RCRA final rules.

Checklist 224- Withdrawal of the Emission Comparable Fuel Exclusion

Summary: This rule withdraws the conditional exclusion from regulations promulgated on 12/19/08 under subtitle C of the Resource Conservation and Recovery Act (RCRA) for so-called Emission Comparable Fuel. These are fuels produced from hazardous secondary materials which, when burned in industrial boilers under specified conditions, generate emissions that are comparable to emissions from burning fuel oil in those boilers. EPA withdrew this conditional exclusion because the Agency has concluded the Emission Comparable Fuel is more appropriately classified as a discard material and regulated as a hazardous waste. The exclusion for comparable fuel and synthesis gas are not addressed or otherwise affected by this rule.

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 four offices, three 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 Clean Water State Revolving Fund, Recycling, and Business, Community Outreach and Incentives Division.

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 Public Participation and Permit Support Divisions, 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 Inspection Division, Assessment Division, UST and Remediation Division, and Enforcement.