




Hazardous Waste Permitting Updates by the LDEQ

Putting the “W” in AWMA

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Hazardous Waste Permitting Updates by the LDEQ

- Who we are
 - Organizational Charts
 - OES Functions
- Federal Initiatives
- Rulemaking in Progress
- Recent LDEQ Guidance
- Groundwater Construction Advisory 



Office of Environmental Services (OES)

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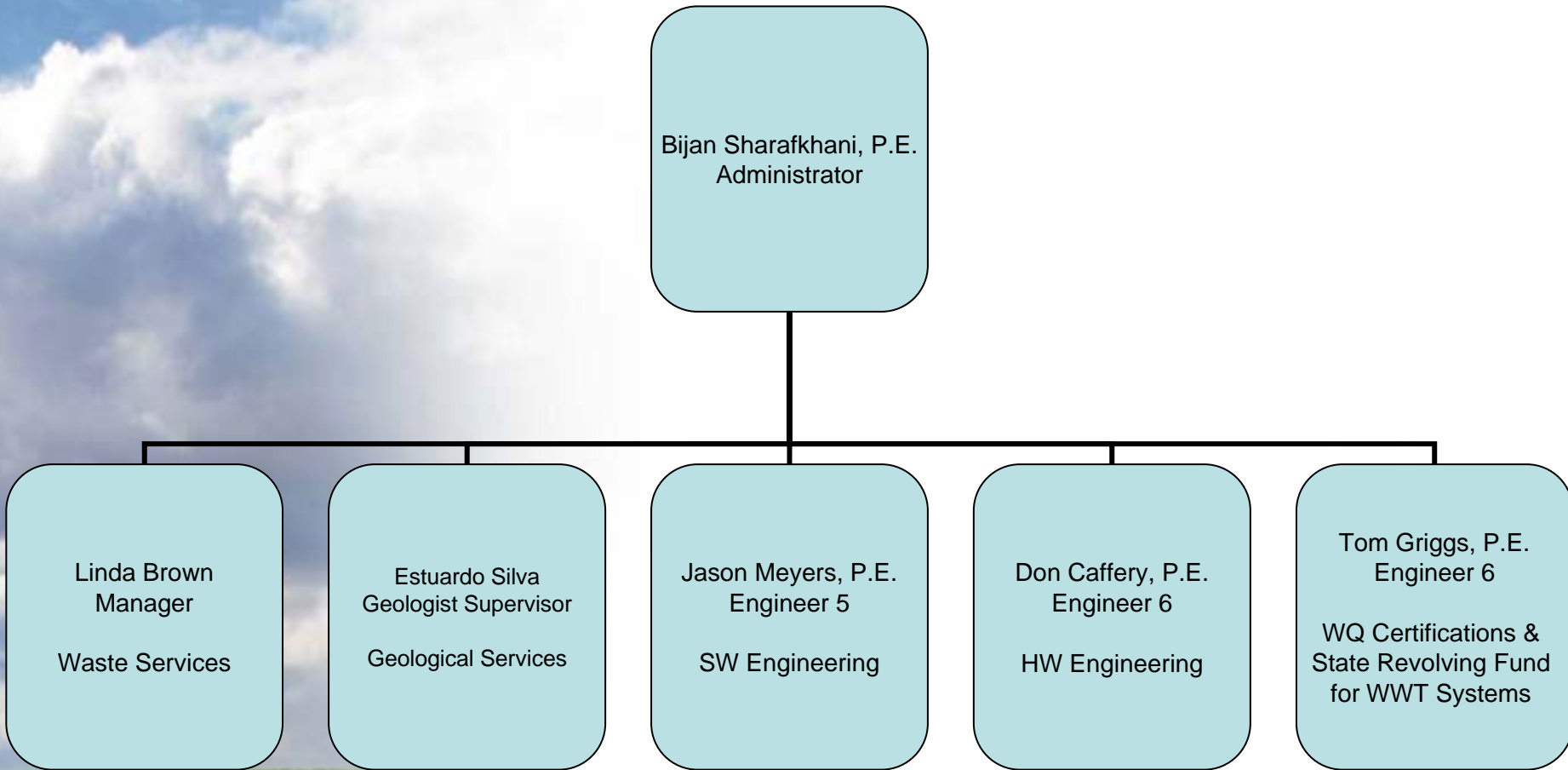
Waste Permits

Vince Sagnibene,
Administrator

Environmental Assistance



Waste Permits Division





OES Functions

- Permitting
 - Air, Water, Solid Waste, Hazardous Waste
- RCRA corrective action (Waste Permits)
- Water Quality Certifications (Waste Permits)
- State Revolving Funds for Wastewater Treatment Systems (Waste Permits)
- Small Business Assistance (Env. Assistance)
- Community Industry Relations (Env. Assistance)
- Public Participation Group (Env. Assistance)



Federal Initiatives

- Risk Assessment for HW Combustion
- GPRA permitting goals (Government Performance Results Act of 1993)
- Financial Assurance



Risk Assessment for HW Combustion

- 1981, 1991 RCRA Incinerator, BIF Rules
 - Standards based on direct (inhalation) risk only
- 1993 RCRA Combustion Strategy
 - Called for Site-Specific Risk Assessment (SSRA) based on direct + indirect exposure



Risk Assessment for HW Combustion

- 1999 Subpart EEE Phase I (Incinerators)
 - Combines RCRA and CAA requirements
 - SSRA policy changed to case-by-case
- 2005 Subpart EEE Phase II (BIFs)
 - Includes codification of SSRA policy - 40 CFR 270.10(l), 270.32(b)(3)



LDEQ Implementation of Combustion Risk Assessment

- 1991 RCRA incinerator permits begin including metal limits
- 1993 RCRA incinerator permits process begins requiring stack testing for risk data
- 2002 RCRA BIF permits begin including limits from SSRAs
- 2007 first Phase I incinerator RCRA, Title V permits issued including limits from SSRA



GPRA Permitting Goals

- Under the Government Performance and Results Act (GPRA) of 1993, EPA has 2 specific permitting goals for HW facilities. By the end of Federal Fiscal Year 2008 (9/30/08):
 - Prevent releases from RCRA HW management facilities by increasing the number of facilities with permits or other approved controls to 95%
 - Update controls for preventing releases at 35% of the facilities that are due for permit renewals by the end of 2006



GPRRA Permitting Goal: “Uncontrolled Units”

- 24 of the 67 facilities on the original GPRRA baseline were considered “uncontrolled” (i.e., had interim status units)
- Currently, there are 7 “uncontrolled” facilities on the GPRRA baseline
 - 3 interim status BIFs (boilers & industrial furnaces)
 - 2 post-closure units (land disposal)
 - 1 facility closure
 - 1 container storage area going to <90 day storage
- By 10/1/08 all facilities should be under control



GPRA Permitting Goal: Renewal Permitting

- 21 facilities on the GPRA renewal baseline (operating permits only)
- Currently, there are 9 facilities still requiring a renewal permit
- By 10/1/08 15 of the 21 (71%) facilities should have current permits



Financial Assurance

- Financial assurance is an integral component of HW permitting
 - Provides assurance that resources will be available for closure, post-closure, and corrective action, if the facility proves unable to do so
 - Provides third-party liability coverage for accidental occurrences
- EPA's Office of Enforcement and Compliance Assurance (OECA) initiated a phased approach to review compliance and enforcement in various programs:
 - First, RCRA HW closure/post-closure & corrective action, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Toxic Substances Control Act (TSCA)
 - Second, Safe Drinking Water Act (SDWA) and RCRA Subtitle I (USTs)
- EPA has issued several memorandums stressing the importance of financial assurance



Financial Assurance: LDEQ File Review

- In most states, EPA conducted a review of financial assurance for all RCRA HW facilities
- File review conducted at LDEQ in May 2006
- Draft LA report issued September 2006 (EPA required confidentiality agreement due to potential enforcement issues)
- LDEQ Waste Permits Division working with facilities to ensure their “path to compliance”
- EPA HQ & Region 6 have lead on a few facilities



Financial Assurance: LDEQ File Review

Instrument	Number of Facilities
Financial Test	12
Corporate Guarantee	10
Letter of Credit	20
Trust Fund	2
Insurance	10
Surety Bond	0
Hybrid	1
None / Unknown	1
Released / Not Required	3
Total	59



Rulemaking in Progress

- Standardized Permit Rule
- RCRA Burden Reduction Initiative
- Evidentiary Hearings for Commercial HW Facilities



Standardized Permit Rule

- Final Rule published by EPA on Sept. 8, 2005
- Optional (LA does NOT have to adopt)
- Applicable for tanks, container storage & containment buildings
- NOT applicable for commercial HW facilities
- LDEQ workgroup met w/stakeholders, working on rulemaking
- Info available on EPA's website

<http://www.epa.gov/epaoswer/hazwaste/permit/std-perm.htm>



Standardized Permit Rule

- Streamlines the RCRA permitting process
- Consistent with the process and terminology currently used for NPDES general permits
- Utilizes auditing and self-certification of compliance process
- Requires same basic information normally submitted with a Part B application
- Shift of burden from permitting to audit and surveillance



Standardized Permit Rule

- An owner/operator submits a Notice of Intent with supporting documents
 - Pre-application meeting info
 - Part A information
 - Closure plan & cost estimate
 - Financial assurance
 - Location standards
 - Waste analysis plan for facilities receiving off-site waste
 - Audit report and certification



Standardized Permit Rule

- General info kept at facility and NOT in application
 - General facility description
 - Detailed description of the wastes / Waste analysis plan
 - Security information
 - Inspection information
 - Preparedness and prevention / Contingency plan
 - Precautions for ignitable, reactive or incompatible waste
 - Traffic patterns
 - Training programs
 - Topographic map
 - Design and operation info for the storage/treatment units



Standardized Permit Rule

- Permit would contain 2 parts
 - Uniform portion
 - Supplemental portion, which would include corrective action



RCRA Burden Reduction Initiative

- Final Rule published by EPA on April 4, 2006
- Rulemaking streamlines information collection requirements, in accordance with the Paperwork Reduction Act
- LDEQ workgroup currently evaluating its merits
- Info available on EPA's website

<http://www.epa.gov/epaoswer/hazwaste/data/burdenreduction/#final>



RCRA Burden Reduction Initiative

- Burden Reduction Changes
 - Changes to retention time for certain operating records
 - Changes to professional engineer certification requirements
 - Option to follow the Integrated Contingency Plan Guidance
 - Option to follow OSHA regulations for emergency training
 - Clarifies Land Disposal Restrictions
 - Eliminates duplicative/unnecessary notifications
 - Decreases inspections for certain units
 - Changes record retention and submittal of records
 - Changes to the requirements for document submittal
 - Reduces frequency for report submittals



RCRA Burden Reduction Initiative

- Most of this rule would be implemented Via Class I Permit Modification without prior approval
 - reduced inspection frequency for Performance Track facilities implemented as a Class 1¹ permit mod with prior approval
- States can be more stringent than the EPA rules
- Federal rule does not curtail the right of States to request any desired info
- States can use the omnibus authority of RCRA Section 3005(c) for specific facilities where there is risk due to site-specific circumstances



Evidentiary Hearings for Commercial HW Facilities

- Notice of Intent October 20th
- Public Hearing November 28th
- Public comment period ends December 5th
- Proposed rule available at www.deq.louisiana.gov/portal/tabid/1669/default.aspx



Evidentiary Hearings for Commercial HW Facilities

- Currently, evidentiary hearings are conducted for all operating permit applications for commercial HW facilities under LAC 33:V.709
- An evidentiary (i.e., fact-finding) hearing is held after the technical review of the application has been completed
- Proposed rule HW101 would mandate evidentiary hearings only for initial permit applications and give LDEQ the discretion to hold hearings for permit renewal applications



Evidentiary Hearings for Commercial HW Facilities

- Evidentiary Hearing is not a federal requirement
- La. R.S. 30:2181 was the statute that required an evidentiary hearing for commercial HW facilities
- Repealed by Act No. 947 of the 1995 Legislature which also created La. R.S. 30:2016
 - gave LDEQ discretionary authority to hold hearings for any kind of application, policy, or rule development
- Rulemaking will align the HW regulations with the intent of Act No. 947 of the 1995 Legislature



Evidentiary Hearings for Commercial HW Facilities

- ~6 evidentiary hearings over last 10 years
- No interveners and no additional substantial information was gathered
- Evidentiary hearings will continue to be public noticed, when they are held
- Public comment period will continue to be held on the draft permitting decision
- As always, a public hearing may be held on the draft permitting decision



Recent LDEQ Guidance for Hazardous Waste Permitting

- Certification of Acknowledgment, Compliance and Applicability
- Corrective Action Strategy (CAS)



Certification of Acknowledgment, Compliance and Applicability

- Permit application for HW treatment, storage, and/or disposal (TSD) must address all regulations (i.e., Chapters 1 through 53)
 - Necessary for the Administrative Authority to determine the applicant's full compliance with all standards
- Historically, this included
 - administrative chapters (acknowledgment and compliance statement)
 - Non-applicable chapters (statement that it did not apply and why)
- Difficult and burdensome



Certification of Acknowledgment, Compliance and Applicability

- 3 key parts to the document
 - Statement of Acknowledgement and Compliance with “administrative chapters” (1, 3, 7, 11, 13, 22, 38, 40, 41, 42, 43, 49 & 53)
 - Statement of Applicability and Non-Applicability of Additional Chapters (specific to the type of permit and units being permitted)
 - Certification
- Available at
<http://www.deq.louisiana.gov/portal/tabid/2267/Default.aspx>



Corrective Action Strategy (CAS)

- Hazardous & Solid Waste Amendments (HSWA) of RCRA requires permits to address corrective action for releases of haz. constituents from solid waste management units (SWMU)
- EPA's traditional corrective action approach
 - RCRA facility assessment (RFA)
 - RCRA facility investigation (RFI)
 - Corrective measures study (CMS)
 - Remedy selection
 - Corrective measures implementation (CMI)



Corrective Action Strategy (CAS)

- EPA Region 6 developed the CAS Guidance Document as an alternate approach to streamlining the process (http://www.epa.gov/region6/6pd/rcra_c/pd-o/riskman.htm)
- The CAS can be implemented during any phase of the corrective action
 - performance-based
 - Risk management strategy
 - Facility-wide
- Two primary objectives:
 - prioritize corrective action
 - streamline administrative procedures



Corrective Action Strategy (CAS)

- Permitting language uses CAS & incorporates LDEQ's Risk Evaluation/Corrective Action Program (RECAP) for screening and media-specific cleanup standards
- Key component: Conceptual Site Model (used to develop performance standard and data quality objectives)
 - Facility Profile
 - Land Use and Exposure Profile
 - Physical Profile
 - Release Profile
 - Ecological Profile
 - Risk Management Profile
- Transition: previous info & reports is encouraged



Groundwater Construction Advisory

- Potpourri notice 6/20/07 with 30 day comment period on Construction Advisory Document
- As of 11/1/07, LDEQ no longer requires Groundwater Certifications
- GW Certification Program began in Nov. 1989
- Required GW Certifications with air permitting actions for construction involving subsurface
- Goal was to ensure construction did not affect existing GW quality nor impede corrective action



Groundwater Construction Advisory

Reasons for the advisory

- Protection of the subsurface can be attained w/o formal Certification
- Most impacted areas already covered by RCRA corrective action
- Financial/liability requirements compel an awareness of GW issues
- LDEQ's RECAP has made facilities aware of GW protection
- Majority of Certifications did not involve impacted areas
- Certification program was policy and not regulation; thought to be only one of its in the nation
- Required extensive resources



Groundwater Construction Advisory

- 2007 LDEQ Construction Advisory Document accompanies the advisory memo on the website <http://www.deq.louisiana.gov/portal/tabid/2812/Default.aspx>
- Addresses GW investigation & impact
- Administrative & general technical guidance regarding proposed construction activities that may occur in areas of contamination



Groundwater Construction Advisory

- Facilities still responsible for the impacts associated with construction activities that may occur in areas of contamination prior to construction
- Facilities still subject to all notification requirements
- Facilities should still review planned construction projects
 - Site History; Known Contamination; Construction Design; Water Wells; etc.
- Further subsurface assessment may or may not be necessary



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