

PROGRAM DESCRIPTION

MARYLAND DEPARTMENT OF THE ENVIRONMENT

LAND MANAGEMENT ADMINISTRATION

Implementation of Maryland's Hazardous Waste Management Program

Revised July, 2015

List of Abbreviations and Acronyms

<u>ABBREVIATION</u>	<u>MEANING</u>
AELR.....	Administrative Executive Legislative Review
AG.....	Attorney General
ASTSWMO	Association of State and Territorial Solid Waste Management Officials
CAP.....	Capacity Assurance Planning
CARS.....	Corrective Action Reporting System
CDI.....	Case Development Inspection
CDX.....	Central Data Exchange
CEI.....	Comprehensive Evaluation Inspection
CFR.....	Code of Federal Regulations
CHS.....	Controlled Hazardous Substance(s)
CME.....	Comprehensive Monitoring Evaluation
COMAR.....	Code of Maryland Regulations
CWMIS.....	Comprehensive Waste Management Information System
DBED	Department of Business and Economic Development
Department	Maryland Department of the Environment
DHMH	Department of Health and Mental Hygiene
DOT	Department of Transportation
DSD	Division of State Documents
DSMOA	Defense State Memorandum of Agreement
ECU	Environmental Crimes Unit
EPA.....	Environmental Protection Agency
ERP	Emergency Response Program
GPRA.....	Government Performance Results Act
HMCS.....	HazMat Compliance Section
HSWA.....	Hazardous and Solid Waste
HWDMS.....	Hazardous Waste Data Management System
LDR	Land Disposal Restrictions
LLRW	Low-Level Radioactive Waste
LMA.....	Land Management Administration
LQG	Large Quantity Generator
LRP	Land Restoration Program
MDE	Maryland Department of the Environment
MDOT.....	Maryland Department of Transportation
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MTN	Manifest Tracking Number
NCAPS	National Corrective Action Priority System

ABBREVIATION

MEANING

NETI	National Enforcement Training Institute
NOD.....	Notice of Deficiency
NOV.....	Notice of Violation
O&M.....	Operations and Maintenance
OAG.....	Office of the Attorney General
OECA	Office of Enforcement and Compliance Assistance
OSWER	Office of Solid Waste and Emergency Response
PD	Program Description
RCE.....	Regulatory and Compliance Engineer
RCRA	Resource Conservation and Recovery Act
RD&D.....	Research, Development and Demonstration
RMP	Resource Management Program
SEIP	Supplemental Environmental Improvement Project
SEPs.....	Supplemental Environmental Projects
SNCs.....	Significant Non-compliers
SOP	Standard Operating Procedure
SQG	Small Quantity Generator
SV	Secondary Violator
TSD.....	Treatment, Storage and Disposal
VCP.....	Voluntary Cleanup Program

SECTION I. INTRODUCTION

The Maryland Department of the Environment (MDE or “Department”), Land Management Administration (LMA) is the agency responsible for administering all solid and hazardous waste regulations for the State of Maryland. This document provides a description of the hazardous waste regulatory program administered by the Department, as authorized under the federal Resource Conservation and Recovery Act (RCRA). It also reflects elements of Maryland’s program for which the State is seeking authorization. It replaces the Program Description (PD) previously submitted as a part of the State’s application for base program authorization and applications 1 and 2 for revisions beyond the base program.

This document reflects the evolution of the State’s program since the base program was authorized. It includes information on implementation of base program requirements and requirements beyond the base program. This Program Description has been prepared in accordance with the requirements of 40 CFR §271.6.

The Program Description is organized as follows:

Section II describes the Scope, Structure, Coverage, and Processes of the State’s hazardous waste regulatory program. This section identifies the elements of the State’s authorized program (including elements for which authorization is being sought in the authorization request that this document supports.) It includes a discussion of the differences between federal and Maryland laws and regulations.

Section III provides a description of the LMA with the aid of an organizational chart. The LMA has assigned responsibility for the oversight of hazardous waste management in the State to various Programs within the Administration. The specifics of this assignment of responsibilities are discussed and the individual responsibilities of the various administrative units are detailed. This section also includes a discussion of the procedures for coordination among various State agencies and EPA, and the responsibilities of these various groups.

Section IV deals with staffing and funding. It identifies hazardous waste staff and funding resources that are available to carry out the activities that are the subject of this program revision. This section distinguishes between new resources and existing resources being assigned to the new responsibilities. The effect on the existing authorized program of the incorporation of the additional requirements for which authorization is being sought is also examined.

Section V describes the State Procedures that are used to implement the program revision. It discusses regulatory development, various tracking functions (notification, transporter certification, manifesting, biennial reporting, etc.), permitting, interim status, enforcement, groundwater monitoring, and waste minimization/pollution prevention.

Section VI examines Maryland’s compliance tracking and enforcement processes and resources in greater detail. Section VII provides information on regulated activities as of the date of the Program Description. Section VIII contains copies of State Forms and provides a discussion of coordination with other agencies.

SECTION II. PROGRAM SCOPE, STRUCTURE, COVERAGE, AND PROCESSES

A. Scope and Coverage of Program Revision

The regulatory program described in this document reflects elements for which the State has already been authorized (the base program, interim status requirements, authority to regulate the hazardous component of mixed (radioactive and hazardous) waste, and the regulations identified in Table II-1). Additional details concerning elements of the State’s program beyond the base program for which EPA has granted authorization can be found in the Federal Register notices announcing EPA’s approval of the modifications to the State’s program. Citations for the notices are: 66 Fed. Reg. 29712 (6/1/2001) and 69 Fed. Reg. 44463 (7/26/2004).

In addition, this Program Description describes procedures the State follows in implementing additional elements for which the State is seeking authorization. The State has adopted the additional provisions identified in Table II-2 and is seeking authorization to implement the regulatory program for them in lieu of the U.S. Environmental Protection Agency.

In these tables, “Checklist Number” refers to the number assigned for authorization purposes by EPA to each rule EPA promulgates under RCRA Subtitle C. A comprehensive list, including Federal Register citations, may be found in Tables G-1 and G-2 accessible from <http://www.epa.gov/epawaste/laws-regs/state/revision/program.htm>.

Maryland is also seeking authorization for certain State-initiated changes that are not directly related to any of the Revision Checklists listed in Table II-2. These State-initiated changes are related to either (1) adoption of a provision intended to improve clarity of the State’s regulations and provide for necessary conforming changes; (2) modifications to take provisions of the State’s regulations that had previously been more stringent than the corresponding federal provisions and make them equivalent to federal hazardous waste regulations; or (3) correction of typographical errors. The State-initiated changes for which the State is seeking authorization are listed in Table II-3.

TABLE II-1 – AUTHORIZED RULES BEYOND THE BASE PROGRAM

Rules Beyond the Base Program for Which the State is Authorized	
Checklist Number	Subject
1	Biennial Report
2	Permit Rule
3	Interim Status Standards
4	Chlorinated Aliphatic Hydrocarbons
5	National Uniform Manifests
6	Permit Rule – Deficient Part A Applications
7	Listing Warfarin and Zinc Phosphide
8	Lime Stabilized Pickle Liquor Sludge
9	Exclusion of Household Waste
10	Interim Status Standards – Applicability
11	Corrections to Test Methods Manual
12	Satellite Accumulation Standards
13	Definition of Solid Waste
15	Interim Status Standards for Treatment, Storage and Disposal Facilities

Rules Beyond the Base Program for Which the State is Authorized	
Checklist Number	Subject
16	Paint Filter Test
17A	Small Quantity Generators (superseded – see checklist 23)
17C	Household Waste
17D	Waste Minimization
17F	Liquids in Landfills I
17G	Dust Suppression
17H	Double Liners
17J	Cement Kilns
17O	Omnibus Provisions
17P	Interim Status
17R	Hazardous Waste Exports
18	Listing of TDI, TDA, DNT
20	Spent Solvents Listing
21	EDB Waste Listing
22	Four Spent Solvent Listings
23	Small Quantity Generators
24	Financial Responsibility: Settlement Agreement
25	Paint Filter Test – Correction
26	Listing of Spent Pickle Liquor
27	Corporate Guarantee – Liability Coverage
28	Hazardous Waste Storage and Tank Systems
29	Correction – Commercial Chemical Products and Appendix VIII
30	Biennial Reports; Corrections
31	Exports of Hazardous Wastes
32	Standards for Generators – Waste Minimization Certificates
33	Listing of EBDC
35	Revised Manual SW 846
36	Closure/Post Closure Care for Interim Status Surface Impoundments
37	Definition of Solid Waste – Technical Corrections
38	Amendments, Part B – Information Requirements for Disposal Facilities
40	List (Phase I) of Hazardous Constituents for Ground-water Monitoring
41	Identification and Listing of Hazardous Waste
42	Exception Reporting for Hazardous Waste Generators
43	Liability Requirements; Corporate Guarantee
45	Hazardous Waste Miscellaneous Units
46	Technical Correction – Identification and Listing of Hazardous Waste
47	Small Quantity Generators; Technical Correction
48	Farmer Exemption; Technical Correction
49	Treatability Studies Sample Exemption
52	Standards for Hazardous Waste Storage and Treatment Tank Systems
53	Identification and Listing of Hazardous Waste (K064, K065, K066, K088, K090, K091)
54	Permit Modifications for Waste Management Facilities
55	Statistical Methods for Evaluating Ground-water Monitoring Data
56	Removal of Iron Dextran from the Lists of Hazardous Wastes
57	Removal of Strontium Sulfide from the Lists of Hazardous Wastes

Rules Beyond the Base Program for Which the State is Authorized	
Checklist Number	Subject
58	Standards for Generators of Hazardous Waste; Manifest Renewal
59	Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators
60	Amendment to Requirements for Hazardous Waste Incinerator Permits
61	Changes to Interim Status Facilities; Modifications of Hazardous Waste Management Permits; Procedures for Post-closure Permitting
64	Delay of Closure Period for Hazardous Waste Management Facilities
65	Mining Exclusion I
67	Testing and Monitoring Activities
68	Reportable Quantity Adjustment Methyl Bromide Production Waste
69	Reportable Quantity Adjustment
70	Changes to Part 124 Not Accounted for by Present Checklists
71	Mining Waste Exclusion II
72	Modification of F019 Listing
73	Testing and Monitoring Activities, Technical Correction
74	Toxicity Characteristic Revisions
75	Listing of 1,1-Dimethylhydrazine Production Waste
76	Criteria for Listing Toxic Wastes; Technical Amendment
81	Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038)
82	Wood Preserving Listings
84	Toxicity Characteristic; Chlorofluorocarbon Refrigerants
86	Removal of Strontium Sulfide from the Lists of Hazardous Wastes; Technical Amendment
89	Revision to F037 and F038 Listings
90	Mining Exclusion III
92	Wood Preserving Listings; Technical Corrections
97	Exports of Hazardous Waste; Technical Corrections
99	Amendments to Interim Status Standards for Downgradient Groundwater Monitoring Locations
104	Used Oil Filter Exclusion
105	Recycled Coke By-product Exclusion
107	Used Oil Filter Exclusion; Technical Corrections
108	Toxicity Characteristic Revisions; Technical Corrections
110	Coke By-products Listings
113	Consolidated Liability Requirements
115	Chlorinated Toluene Production Waste Listing
118	Liquids in Landfills II
119	Toxicity Characteristic Revision; TCLP Correction
120	Wood Preserving; Amendments to Listings and Technical Corrections
126	Testing and Monitoring Activities (all requirements except for the ASTM Standard Test Method for Preparing Refuse Derived Fuel)
128	Wastes from the Use of Chlorophenolic Formulations in Wood Surface Protection
131	Recordkeeping Instructions; Technical Amendment
132	Wood Surface Protection; Corrections
133	Letter of Credit Revision

Rules Beyond the Base Program for Which the State is Authorized	
Checklist Number	Subject
134	Correction of Beryllium Powder (P015) Listing
139	Testing and Monitoring Activities Amendment
141	Testing and Monitoring Activities Amendment II
142A – E	A - General Provisions B - Specific Provisions for Batteries C - Specific Provisions for Pesticides D - Specific Provisions for Thermostats E - Petition Provisions to Add a New Universal Waste
144	Removal of Legally Obsolete Rules
145	Liquids in Landfills III
153	Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D
167F	Exclusion of Recycled Wood Preserving Wastewaters
168	Hazardous Waste Combustors Revised Standards
176	Universal Waste Rule -- Technical Amendments
182	Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule (partial authorization – State is authorized for dioxins definition, technical correction for comparable fuel specification, and permit modification provision for changes to meet MACT standards)
188	Hazardous Air Pollutant Standards; Technical Corrections (partial authorization – State is authorized for provision concerning gas turbines under the comparable/syngas fuel exclusion)
C6	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
-	Legislation Checklist
-	Statutory Checklist – Hazardous and Solid Waste Amendments of 1984
-	Mixed Waste
End	

Note: In checklist 54, Maryland only sought authorization for the parts of the checklist applicable to "minor" and "major" modifications. In checklist 126, the State sought authorization of all requirements except for the ASTM Standard Test Method for Preparing Refuse Derived Fuel. The State has been unable to find any text in federal hazardous waste regulations that references this method, and has decided to incorporate this method into the State's regulations only if federal regulations change to explicitly reference this method.

TABLE II-2 – ADDITIONAL RULES FOR WHICH THE STATE IS SEEKING AUTHORIZATION

Rules Beyond the Base Program for Which the State is Seeking Authorization	
Checklist Number	Subject
14	Dioxin Waste Listing and Management Standards
17E	Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves
17I	Ground-Water Monitoring
17M	Pre-construction Ban

Rules Beyond the Base Program for Which the State is Seeking Authorization	
Checklist Number	Subject
17N	Permit Life
17Q	Research and Development Permits
17S	Exposure Information
44D	Permit Modification
44F	Permit Conditions to Protect Human Health and the Environment
78	Land Disposal Restrictions for Third Third Scheduled Wastes (only seeking authorization for minor changes to definitions of hazardous characteristics and listing of F039)
109	Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris (only seeking authorization for containment building provisions)
117B	Toxicity Characteristic Revision
129	Revision of Conditional Exemption for Small Scale Treatability Studies
135	Recovered Oil Exclusion
136	Removal of the Conditional Exemption for Certain Slag Residues
140	Carbamate Production Identification and Listing of Hazardous Waste
148	RCRA Expanded Public Participation
150	Recovered Oil Exclusion, Correction
156	Military Munitions Rule
157	Land Disposal Restrictions – Phase IV (only seeking authorization for exemptions from RCRA for certain processed materials; and miscellaneous hazardous waste)
159	Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions (Conformance With the Carbamate Vacatur)
164	Kraft Mill Stream Stripper Condensate Exclusion
169	Petroleum Refining Process Wastes
178	Petroleum Refining Process Wastes – Leachate Exemption
183	Land Disposal Restrictions Phase IV – Technical Corrections (only seeking authorization for deletion of K064, K065, K066, K090 and K091 from the lists of Hazardous Wastes.)
187	Petroleum Refining Process Wastes – Clarification
189	Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes (only seeking authorization for new waste listings)
192A	Mixture and Derived-From Rules Revisions
194	Mixture and Derived-From Rules Revision II
195	Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes (only seeking authorization for new waste listings)
199	Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use With MGP Waste
207	Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System
209	Universal Waste Rule: Specific Provisions for Mercury Containing Equipment
end	

TABLE II-3 – STATE-INITIATED CHANGES

COMAR Citation	Corresponding Federal Provision	Summary of Change
26.13.02.05D(2)(c)(iv)	No direct federal analog. Related to 261.5(g)(3)	Clarifies that if a small quantity generator sends hazardous waste to something other than a permitted hazardous waste facility, the alternate facility must have the proper permits to accept the waste.
26.13.02.11A(3), A(4), and C; 26.13.02.11-1	40 CFR 261.21(a)(3); (no Federal analog to 26.13.02.11-1)	The State has adopted changes EPA made in its July 14, 2006 error correction rule (71 FR 40254) to the definition of ignitability. These changes eliminate discrepancies between the hazardous waste regulations and current U.S. Department of Transportation regulations. In addition, the State has included in the text of its regulations (at 26.13.02.11-1) the specific procedures for test methods of the Bureau of Explosive Safety that EPA references in its regulations. The State included the specific procedures in its regulatory text because of limitations imposed by the Maryland Division of State Documents on using incorporation by reference for brief documents (documents less than 50 pages long.)
26.13.02.13A(8) and C	40 CFR 261.23(a)(8)	The State has adopted changes to the definition of the characteristic of reactivity to correct erroneous cross references to current U.S. Department of Transportation (DOT) regulations. EPA will need to similarly correct the corresponding federal regulation at some point. The State has also modified its regulations to clarify how to determine if a waste is a Class A or a Class B explosive based on the waste’s designation under the current DOT categorization scheme, which supplanted the Class A and Class B designation.
26.13.03.07-5A(2)	262.58(a)	The State has split this provision into A(2)(a) and A(2)(b) and added clarifying language regarding EPA’s authority under HSWA. It is equivalent to the Federal program.
26.13.06.01A(4)(k)	265.1(c)(13)	This provision states that Chapter 06 does not apply to addition of absorbent material to a container or addition of waste to absorbent in a container if certain conditions are met.
26.13.07.20-2F(3)(e)	No Federal analog in 40 CFR 124.32	This provision deals with State statutory requirements to hold a public informational meeting under certain circumstances.
26.13.10.03A	266.70(a)	Correct spelling of “palladium”.
26.13.10.04C	266.80	Provisions concerning lead acid batteries. Rewrites federal “question/answer” format to conform to Maryland Division of State Documents style requirements.

COMAR Citation	Corresponding Federal Provision	Summary of Change
26.13.10.26	No federal analog	The State requires that, in some cases, fluorescent lamps that under federal regulations would be exempt from hazardous waste regulatory requirements must be sent to a permitted hazardous waste facility or a universal waste destination facility. This applies to household waste and waste generated by generators that meet Maryland's definition of "small quantity generator" if the number of lamps being disposed over a calendar year is above a specified amount. (Maryland's small quantity generator category is analogous to the federal conditionally exempt small quantity generator category.) These provisions were adopted to implement State statutory requirements.

Each application for program authorization prepared by the State includes regulatory checklists for each provision for which the State seeks authorization. These checklists identify the citation in the Code of Maryland Regulations (COMAR) for each provision and the corresponding federal citation in the Code of Federal Regulations. The checklists also specify whether each State provision is equivalent to, more stringent than, or broader in scope than the corresponding federal provision.

As demonstrated in the State Procedures Section of this Program Description, the State's hazardous waste program is at least as stringent as the federal program. However, there are a few significant differences between the Maryland program and the federal program, which are discussed in the next subsection. The universe of generators regulated by the State program is generally equivalent to the federal program's universe of generators. However, the State has identified a small number of additional wastes that are regulated as hazardous waste as a matter of State law. The State has an expanded transporter program for hauler and vehicle certification that is in addition to the program contained in 40 CFR 263.

The agency is committed to fulfilling all grant commitments and deadlines by submitting the relevant reports to EPA.

B. Differences Between Federal and State Regulations

The State's base program is generally equivalent to the federal program. However, there are areas where the State program is either more stringent or broader in scope than the federal program. These differences are identified in a comprehensive way in the Attorney General's Statement and the Program Revision Checklists that are part of the State's authorization application submitted to EPA. Notable differences between the State and the federal program include:

- The EPA program regulates "hazardous waste" while the State of Maryland regulates "Controlled Hazardous Substances" (CHS). In addition to wastes defined in 40 CFR Part 261, CHS can include any hazardous substance that the Department chooses to identify as a CHS (Environment Article 7-201(b)). Table II-4 lists the Controlled Hazardous Substances that the State of Maryland regulates beyond the federal program. (Note that some of these wastes may be regulated under the federal program to the extent that they exhibit a hazardous characteristic under 40 CFR Part 261 Subpart C.)

TABLE II-4 – MARYLAND-SPECIFIC CONTROLLED HAZARDOUS SUBSTANCES

<i>WASTE CODE</i>	<i>CHS</i>
K991	Waste ethyl dimethylamidocyanophosphate, also known by the common names GA and Tabun and the following alternate chemical names: Ethyl N,N-dimethylphosphoramidocyanidate Dimethylamidoethoxyphosphoryl cyanide
K992	Waste isopropyl methanefluorophosphonate, also known by the common names GB and Sarin and the following alternate chemical names: Isopropyl methylphosphonofluoridate Isopropyl ester of methylphosphonofluoridic acid
K993	Waste 3,3-dimethyl-n-but-2-yl methylphosphonofluoridate, also known by the common names GD and Soman and the following alternate chemical names: Pinacolyl methyl-phosphonofluoridate 1,2,2-trimethyl, methylphosphono-fluoridate Pinacoloxymethylphosphoryl fluoridate.
K994	Waste O-ethyl S-2-diisopropyl-aminoethyl, methylphospho-nothioate also known by the common name VX.
K995	Waste chlorovinylarsine dichloride, also known by the names L and Lewisite and the following alternate chemical names: Dichloro (2-chlorovinyl) arsine 2-chlorovinyl dichlorarsine
K996	Waste phenarsazine chloride, also known by the common name Adamsite.
K997	Waste bis(2-chloroethyl) sulfide, also known by the common name sulfur mustard and HD.
K998	Waste 2,2-di(3-chloroethylthio)-diethyl ether, also known by the common name T and the following alternate chemical name : Bis-(2-chloroethylthioethyl) ether.
K999	Waste, lethal military warfare agents having any substances identified in the listings for hazardous waste numbers K991 through K998 as their active or principal ingredient or ingredients such as HT, which is a mixture of sulfur mustard and bis-(2-chloroethylthioethyl) ether.
M001	Polychlorinated Biphenyls above 500ppm
MT01	Polychlorinated Biphenyls between 50ppm to 500ppm

<i>WASTE CODE</i>	<i>CHS</i>
MX01	Polychlorinated Biphenyls as a clean-up residue or contaminated soil
MD01	Filter cake and chemical sludge from API separators, generated during the production of phthalate esters.
MD02	(Reaction products from the decontamination of certain compounds designated as military warfare agents.)
MD 03	(Residues from the treatment of wastes K991 – K999, including waste from the treatment of liquids and waste from the treatment of solid items known or thought to have been contaminated with one or more of the wastes K991 – K999.)

- The State hazardous waste generator regulations are different than federal regulations when considering exemptions for generators of small quantities of hazardous waste.
 1. A Maryland small quantity generator (SQG) is similar to a federal *conditionally exempt* SQG. They both include anyone who produces *less than* 100kg of hazardous waste in a calendar month (1 kg of acute hazardous waste). In addition, to be designated a Maryland SQG, a person may not accumulate more than this amount at any time (among other requirements).
 2. Maryland’s regulations do not have a separate regulatory category for generators that is equivalent to the federal SQG. The federal SQG is anyone producing between 100kg to 1000kg of hazardous waste in a calendar month.
 3. In Maryland, anyone generating 100 kg or more of hazardous waste in a calendar month or accumulating more than this amount at any time is fully regulated. Operationally, they are equivalent to the federal large quantity generator (LQG) category (anyone producing more than 1000 kg of hazardous waste in a calendar month.)
 4. Except as described below, a Maryland generator who does not qualify as a Maryland-defined small quantity generator may not store hazardous waste for more than 90 days without a permit.
 5. A Maryland generator who has accumulated 100 kg to 500 kg of hazardous waste at the generating site may store it for up to 180 days without having to obtain a storage facility permit, provided the generator does not generate 1000 kg or more of hazardous waste in a calendar month.
 6. If a Maryland generator accumulates more than 500kg of hazardous waste, Maryland regulations allow the hazardous waste to be stored for up to 90 days. The federal regulation allows a federal SQG to store up to 6000 kg of hazardous waste at the generating site for up to 180 days (270 days if the waste must be transported 200 miles or more for off-site treatment, storage or disposal).
- The State does not have a provision for the granting of an extension of the 90-day limit on accumulation of hazardous waste without a permit.
- The EPA enforcement system uses the permit as the sole enforcement tool upon its issuance. The State, on the other hand, does not use the issued permit as the only mechanism for ensuring the compliance of facilities with regulatory changes. The State uses either the permit or the regulations for enforcement purposes at any time during the term of the permit. This is also applicable if the regulations change during the term of the permit.

- The federal government issues permit to Treatment, Storage, and Disposal (TSD) facilities for a term of 10 years. At the time of base program authorization, the State issued CHS permits to TSD facilities for a term of 3 years. During the 1996 legislative session the term length of the TSD CHS facility permit was increased to 5 years. During the 2004 legislative session the term length of the TSD CHS facility permit was increased to a maximum of 10 years, effective October 1, 2004. This is identical to the federal requirement.
- The federal government requires all Large Quantity Generators and Treatment, Storage, and Disposal facilities to file biennial activity reports. The State requires all hazardous waste generators, except those that are Maryland-defined small quantity generators, to file a biennial report. (Note that at the time of base program authorization, the State required all Generators and Treatment, Storage, and Disposal facilities to file annual activity reports. Through subsequent regulatory changes, the State has altered the required frequency of reporting to be equivalent to the federal government's requirement.)
- The State operates a certification program for hazardous waste haulers and vehicles. The federal program does not.
- Maryland has a classification of either a minor or a major permit modification, where the federal government denotes modifications as class 1, class 2, or class 3. EPA offered the minor/major modification system as an alternative system in the preamble to its rule on permit modifications (52 FR 45788, 12/1/87).
- Maryland includes PCB-containing light ballasts as an additional category of universal waste.
- Unlike the federal regulations, Maryland does not allow bulk or non-containerized liquid waste or waste containing free-liquids to be disposed in landfills under any circumstances.
- Maryland has not adopted an analog to 40 CFR 270.42(j)(3), which provides for automatic approval of a permit modification request in the event the Director does not approve or deny the request within 90 days of receipt.
- The State's regulations were generally equivalent to federal regulations concerning exclusions for the burning of "comparable fuels" that were codified at 40 CFR 261.38. The comparable fuels rule was vacated by United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014 (*Natural Resources Defense Council v. EPA*, 755 F. 3d 1010 (June 27, 2014)). The vacatur went into effect on March 30, 2015, when the D.C. Circuit Court issued a mandate effectuating the vacatur of the comparable fuels rule. The court's vacatur means that the federal comparable fuels rule is legally null and void. As a result, the State's comparable fuels regulations, which EPA had authorized the State to implement, are no longer considered to be a part of the State's authorized hazardous waste regulatory program (see 67 Fed. Reg. 18779, 4/8/15), and anyone operating under the exclusions provided by the State's regulations (and formerly provided by federal regulations) will be in violation of federal law on hazardous waste management. The State will be moving expeditiously to repeal the State's comparable fuels regulations to address the vacatur and maintain consistency with the federal hazardous waste regulatory program.
- Differences in Public Participation. The federal regulations for incorporating public participation in the RCRA hazardous waste permitting process are outlined in 40 CFR 124 Subpart A-General Program Requirements, and Subpart B-Specific Procedures Applicable to RCRA Permits. The State statutory requirements regarding public participation in the

hazardous waste permitting process appear in Sections 1-601 through 1-606 of the Environment Article, Annotated Code of Maryland. The State has adopted regulations to implement these statutory requirements and the relevant requirements of 40 CFR Part 124, including requirements covered by check list 148. Maryland 's requirements are more stringent than federal regulations because public notice must be given of receipt of an application for a permit modification, and receipt of an application for post-closure activities.

- The State has not adopted the federal provision that allows conditionally exempt small quantity generators to mix hazardous waste with used oil and manage the resulting mixture as used oil.

Additional areas where the State program differs from the federal program are identified in the consolidated checklists and revision checklists included as an attachment to the Attorney General's Certification that is part of the State's application for program authorization. Table II-5 shows the general correspondence between the State's regulations and Federal regulations.

TABLE II-5

GENERAL CORRESPONDENCE BETWEEN STATE REGULATIONS
AND FEDERAL REGULATIONS

EPA REGULATION Code of Federal Regulations (CFR)	STATE REGULATION	DESCRIPTION
PART 124	COMAR 26.13.07.02, .11, 12, .19-1 thru .20-6	Administrative procedures.
PART 260	COMAR 26.13.01	Hazardous Waste Management System: General.
PART 261	COMAR 26.13.02	Identification and Listing of Hazardous Waste.
PART 262	COMAR 26.13.03	Standards Applicable to the Generators of Hazardous Wastes.
PART 263	COMAR 26.13.04	Standards Applicable to the Transporters of Hazardous Wastes.
PART 264	COMAR 26.13.05	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities Who Have a Maryland Permit.
PART 265	COMAR 26.13.06	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
PART 266, Subparts C, F, G and M	COMAR 26.13.10.01, 26.13.10.03, 26.13.10.04 and 26.13.10.27	Materials used in a manner constituting disposal; materials utilized for precious metal recovery; spent lead acid batteries being reclaimed; and military munitions.
PART 270 and PART 124	COMAR 26.13.07	Permits for CHS Facilities.
PART 273	COMAR 26.13.10.06 – 26.13.10.25	Standards for Universal Waste Management.
PART 279	COMAR 26.10.15, 26.11.09.10 and 26.13.10.05	Management Standards for Used Oil.

SECTION III. STATE AGENCY RESPONSIBILITIES

A. Organization and Structure of Maryland's Hazardous Waste Regulatory Program

The Maryland Department of the Environment (MDE), a cabinet level agency of the State government, was created by an act of the State legislature on July 1, 1987. Responsibility for the regulation of hazardous waste was transferred to the new department from the Department of Health and Mental Hygiene. Figure 1 shows an organizational chart of the Maryland Department of the Environment.

The Land Management Administration (LMA) is the unit within MDE that has primary responsibility for regulation of hazardous waste management within the State. This responsibility includes regulation of hazardous waste generators, transporters, and treatment, storage and disposal facilities. Various aspects of the regulatory program are implemented by the following units of the LMA: the Resource Management Program, the Solid Waste Program, and the Technical Services and Operations Program. Details are provided in subsequent subsections of this Section III of the Program Description.

In addition, the Emergency Response group within the Office of the Secretary performs hazardous waste transporter inspections. Technical staff from other programs within LMA are also available to assist with hazardous waste regulatory functions in a supporting role.

Figure 2 shows the organizational chart for the LMA. Figures 3 – 7 present organizational charts for the Resource Management Program, the Solid Waste Program, the Technical Services and Operations Program, the Land Restoration Program, and the Hazmat Transportation Section, respectively. Staff with significant responsibilities concerning the hazardous waste regulatory program are highlighted on the charts by being enclosed within dashed lines.

FIGUR – MDE Organizational Chart

Maryland Department of the Environment
1800 Washington Boulevard, Baltimore, MD 21230

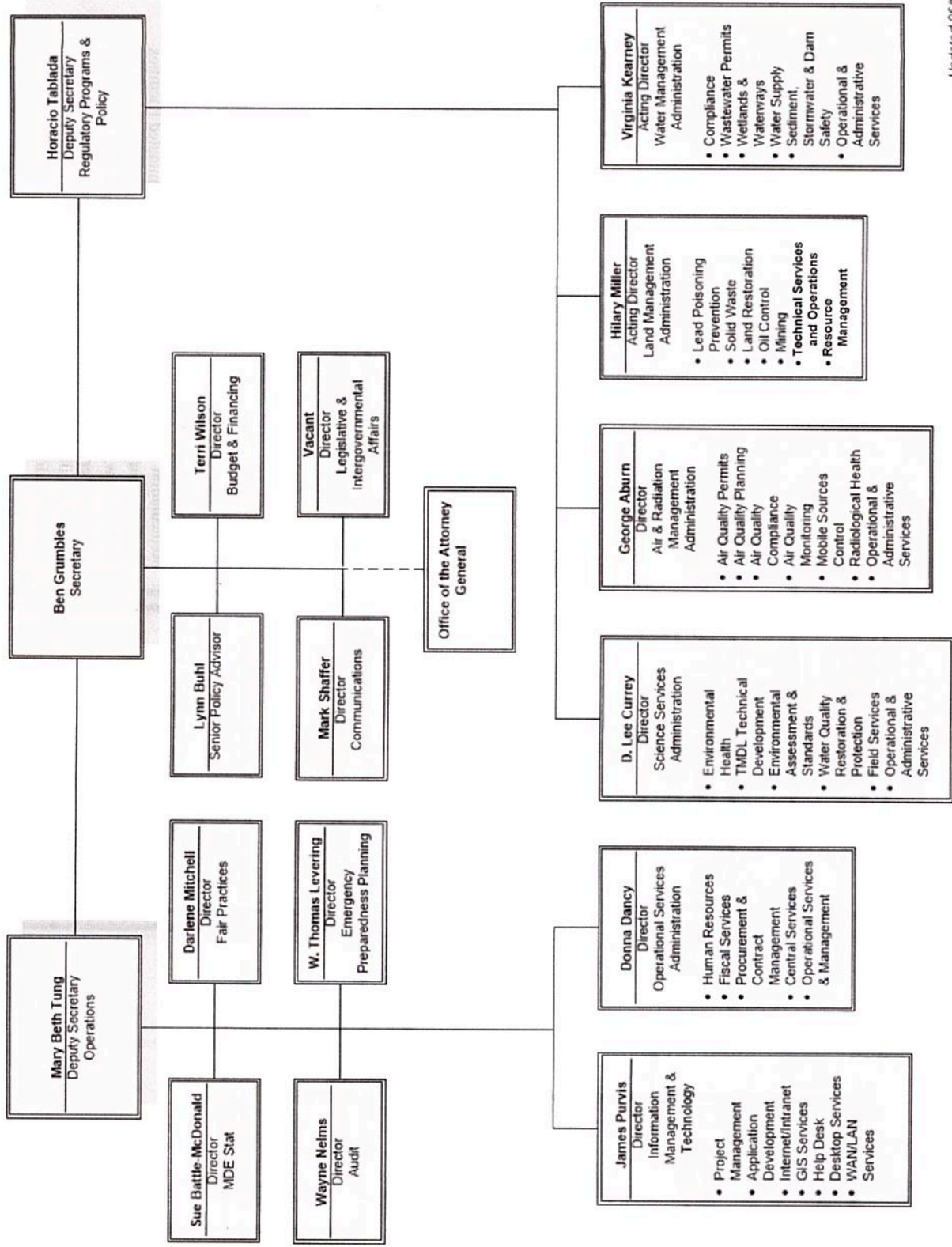


FIGURE 2 – Land Management Administration Organizational Chart

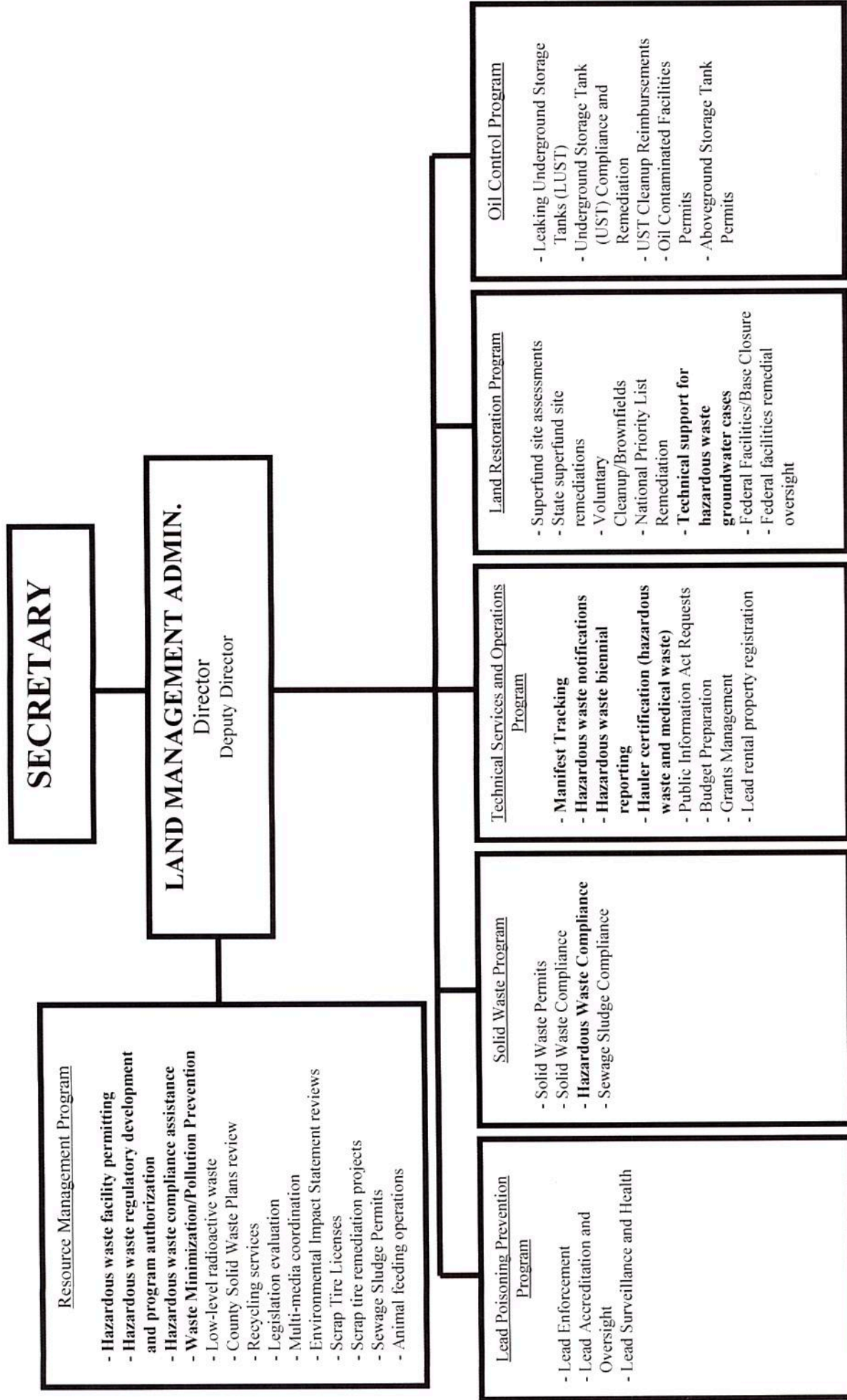
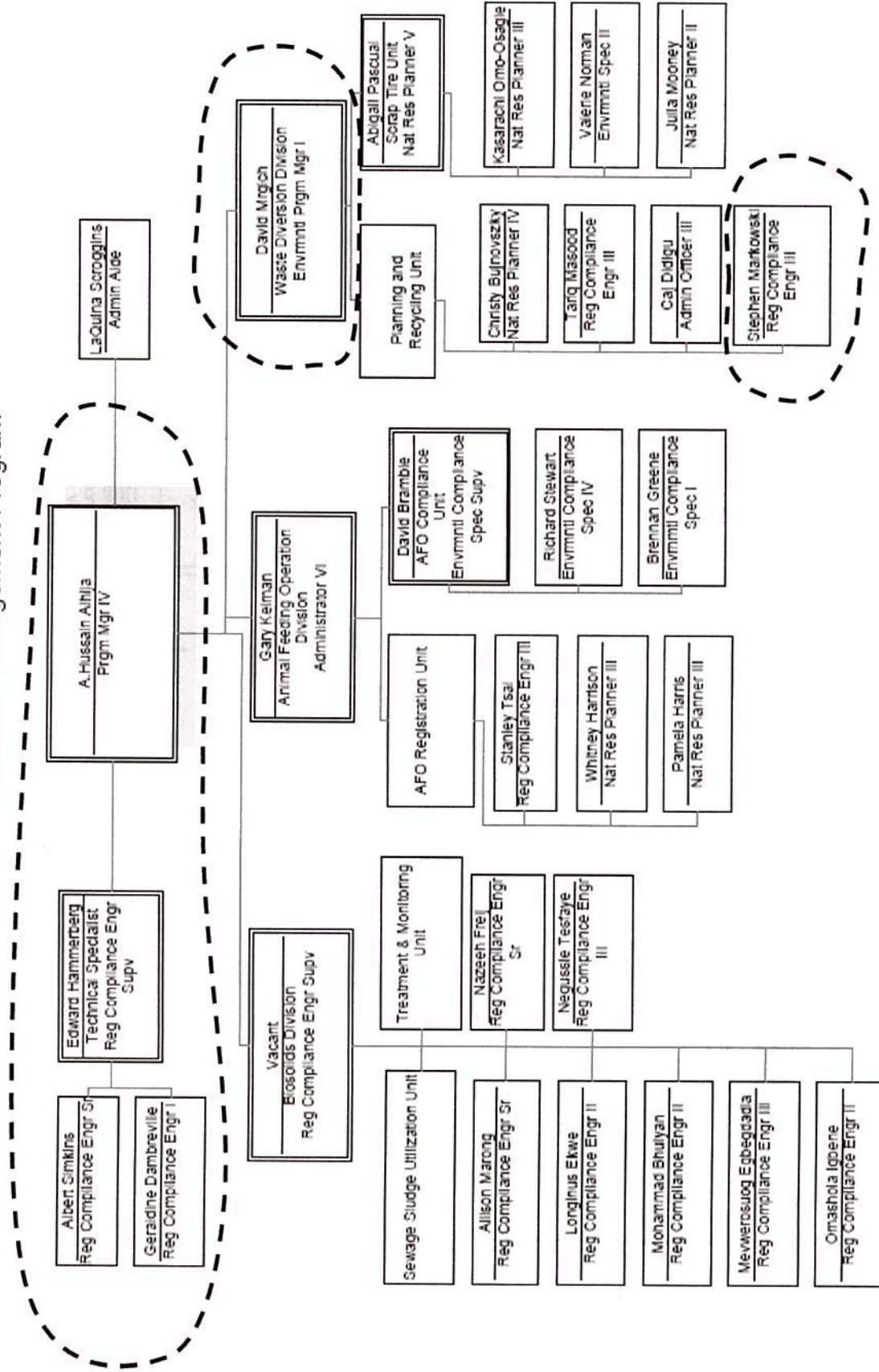


FIGURE 3 – Resource Management Program Organizational Chart
LAND MANAGEMENT ADMINISTRATION

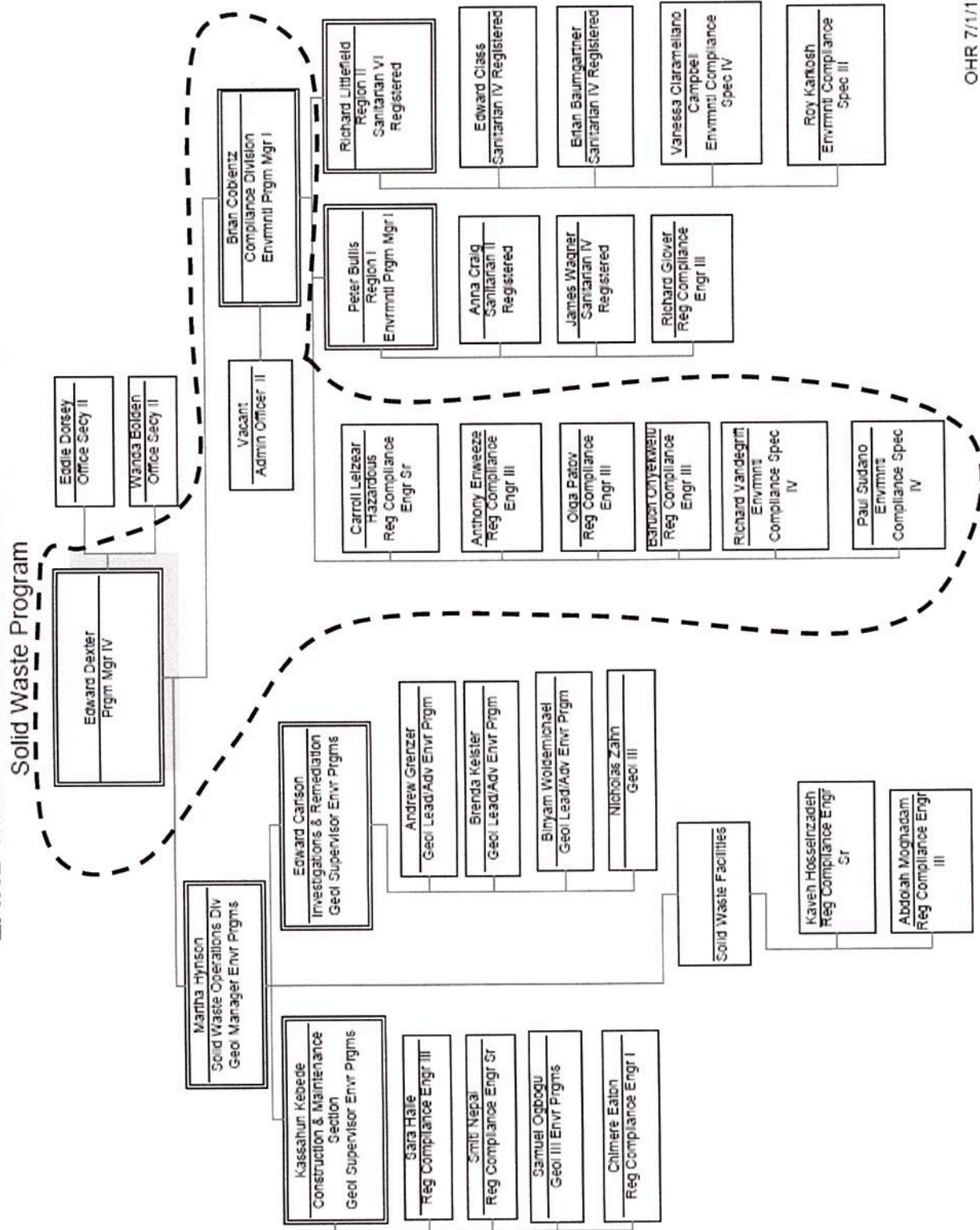
Resource Management Program



(Note: positions with significant responsibilities regarding hazardous waste management are enclosed in dashed lines.)

FIGURE 4 – Solid Waste Program Organizational Chart

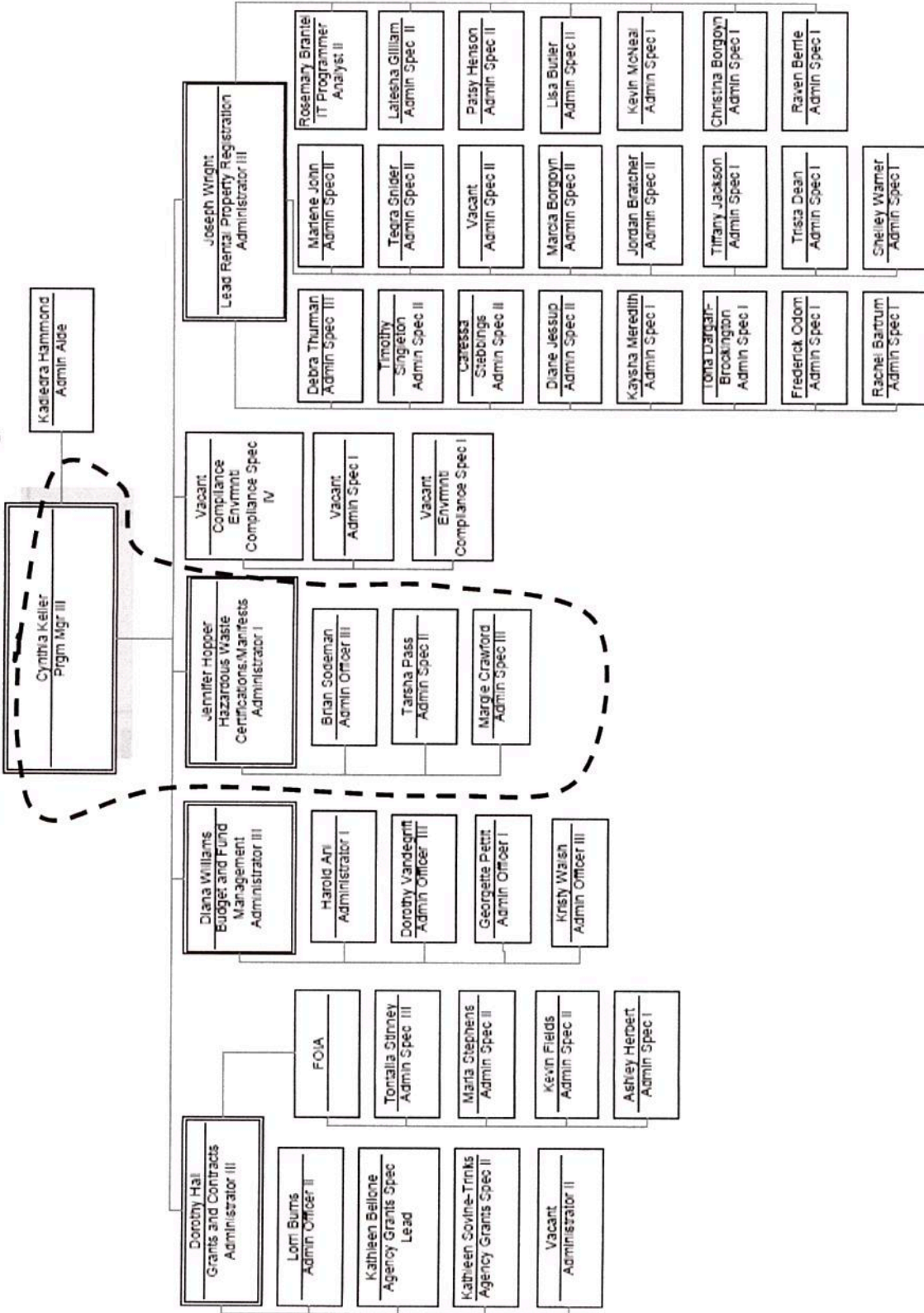
LAND MANAGEMENT ADMINISTRATION



OHR 7/1/15

(Note: positions with significant responsibilities regarding hazardous waste management are enclosed in dashed line.)

FIGURE 5 – Technical Services and Operations Program Organizational Chart
LAND MANAGEMENT ADMINISTRATION
 Technical Services and Operations Program

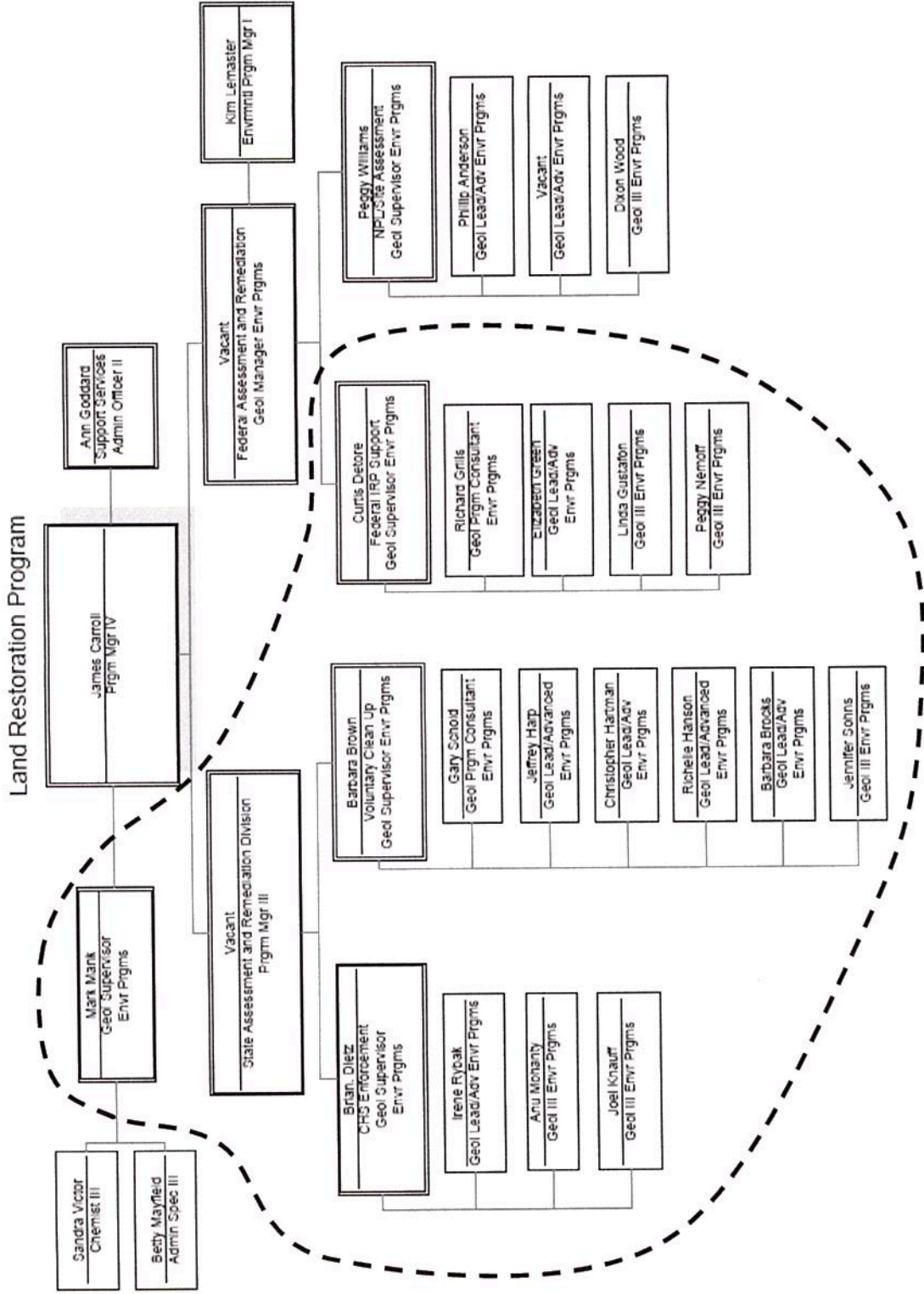


OHR 7/1/15

(Note: positions with significant programmatic responsibilities regarding hazardous waste management are enclosed in dashed lines. Staff members in the Budget and Fund Management group and the Grants and Contracts group provide administrative support.)

FIGURE 6 – Land Restoration Program Organizational Chart

LAND MANAGEMENT ADMINISTRATION

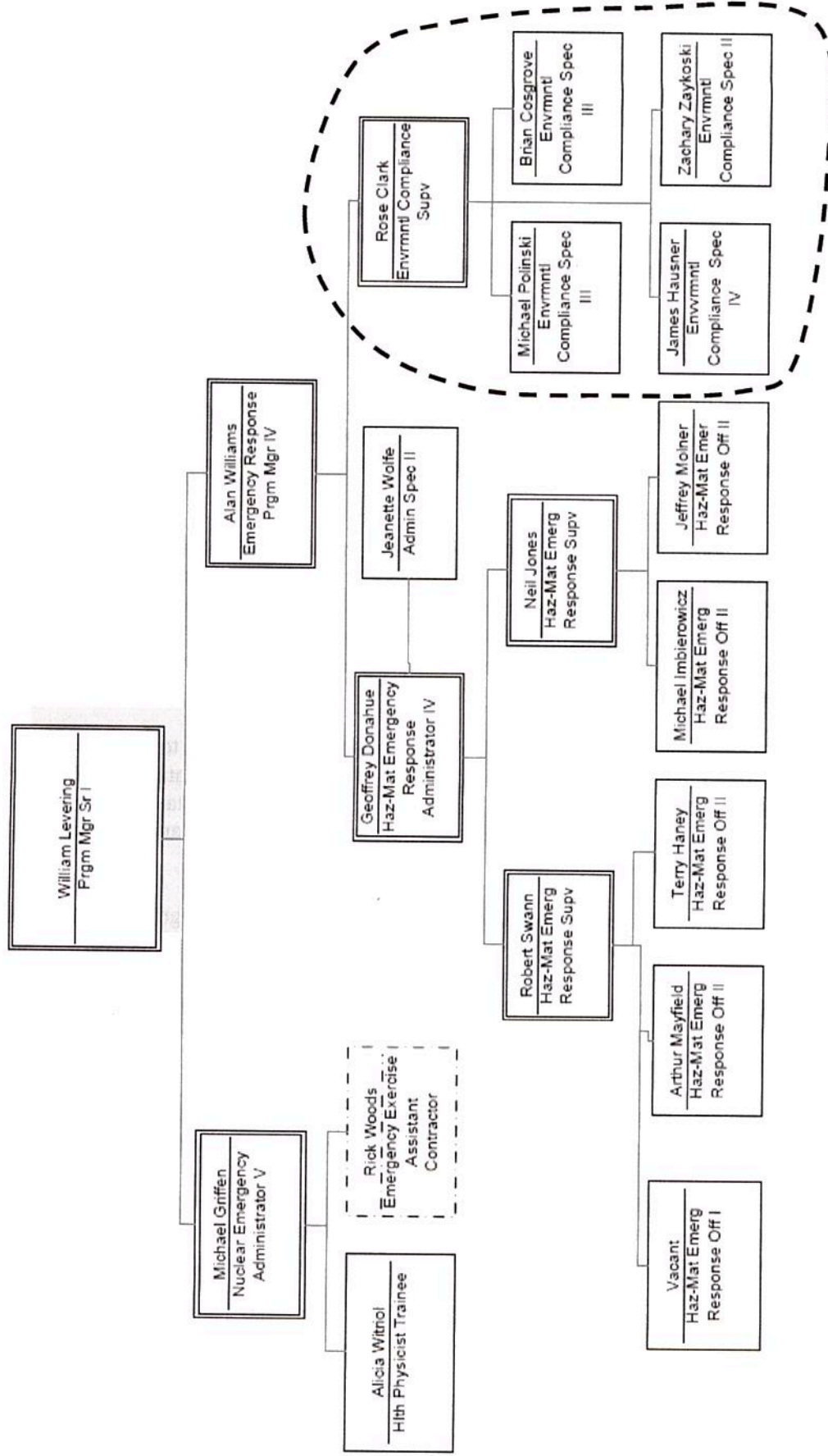


OHR 7/1/15

(Note: positions that may provide technical support on an as-needed basis for hazardous waste management activities are enclosed in dashed lines.)

FIGURE 7 – Hazmat Compliance Section Organizational Chart

EMERGENCY PREPAREDNESS PLANNING



OHR 7/1/15
 (Note: Positions enclosed in dashed line may inspect hazardous waste transporters as part of their normal federal motor carrier safety inspection duties.)

B. Overview – Functions and Responsibilities

Maryland’s hazardous waste regulatory program involves the following substantive functions:

1. Regulatory development: promulgation of regulations related to hazardous waste management in order to keep the State’s regulations consistent with federal regulations, reflect State statutory requirements, and respond to perceived needs of the State.
2. Program authorization: obtain authorization from the U.S. Environmental Protection Agency (EPA) to implement federal hazardous waste regulations in the State in lieu of EPA.
3. Facility permitting: evaluate applications for permits to treat hazardous waste, store hazardous waste for periods longer than 90 days, and/or dispose hazardous waste; draft and issue permits as appropriate; and provide continuing oversight of operations at permitted hazardous waste facilities.
4. Site-wide corrective action: through a work sharing arrangement with EPA, assist EPA with implementation of the site-wide corrective action program established by Section 3004(u) of RCRA to address any releases of hazardous constituents from solid waste management units at permitted or interim status hazardous waste facilities (note: the State is not authorized by EPA to be the primary implementer of this program, and is not currently seeking such authorization.)
5. Tracking and certifications: Issue EPA site identification numbers to implement the notification requirement of Section 3010 of the Resource Conservation and Recovery Act (RCRA); implement the hazardous waste manifest system in the State; implement the biennial report of hazardous waste activity in the State; and certify haulers and vehicles involved in the transportation of hazardous waste.
6. Compliance monitoring and enforcement: assess compliance by regulated entities with the State’s hazardous waste regulations, and take enforcement action as needed.
7. Compliance assistance: assist the regulated community in understanding their responsibilities under the State’s hazardous waste regulations, and provide advice on appropriate actions to achieve compliance.
8. Pollution prevention/waste minimization: perform activities targeted at reducing the amount of hazardous waste generated and increasing the amount of hazardous waste recycled.

The following table identifies the units within MDE that have primary responsibility for these functions. Implementation details are discussed in subsequent subsections, with each function discussed in the order in which it appears in the table.

TABLE III-1 Summary of Program Functions and Responsibilities	
Function	Unit with Primary Responsibility
Regulatory development	Resource Management Program
Program Authorization	Resource Management Program
Facility Permitting	Resource Management Program
Site-wide Corrective Action	Resource Management Program
Tracking and Certifications	Technical Services and Operations Program
Compliance Monitoring and Enforcement	Solid Waste Program Emergency Response Unit (transporters)
Compliance Assistance	Resource Management Program
Pollution Prevention/Waste Minimization	Resource Management Program

Staff from other units within the Department may be called on to provide staff support for these various program functions. Assistant Attorneys General assigned to MDE by the Office of the Attorney General provide legal support in the areas of regulatory development, program authorization, and enforcement. Technical support for facility permitting, site-wide corrective action, or enforcement may be obtained from staff geologists assigned to the Land Restoration Program and the Solid Waste Program. Staff from the Land Restoration Program are also able to provide the expertise of a toxicologist on an as-needed basis. An independent Environmental Crimes unit within the Department investigates and prosecutes criminal violations of the State's hazardous waste statute.

C. Regulatory Development

Regulatory development for the State's hazardous waste regulatory program is the responsibility of the LMA's Resource Management Program. The Technical Specialist/Regulatory and Compliance Engineer Supervisor has the principal responsibility for drafting regulatory amendments, and guiding proposed regulations through the adoption process. Details on the procedures that are followed in promulgating regulations are found in Section V.A.

D. Program Authorization

Program Authorization is the process through which states obtain the authority from the U.S. EPA to implement the federal hazardous waste regulatory program in the state in lieu of EPA. Applying for Program Authorization for the State's hazardous waste regulatory program is the responsibility of the LMA's Resource Management Program. The Technical Specialist/Regulatory & Compliance Engineer Supervisor has the principal responsibility for developing the Program Authorization application. Assistant Attorneys General assigned to the Department by the Office of the Attorney General assist with some elements of the application.

E. Facility Permitting

The Resource Management Program is responsible for hazardous waste facility permitting in the State. Principal duties associated with this activity are assigned to the Program's Technical Specialist/Regulatory & Compliance Engineer (RCE) Supervisor, an RCE (Senior), and an RCE I. Permit review, processing, and oversight may involve coordination with enforcement personnel from the Solid Waste Program. Details on permitting procedures are found in Section V.G.

F. Site-wide Corrective Action

Maryland is currently not authorized to implement the site-wide corrective action program established by Section 3004(u) of the Resource Conservation and Recovery Act (RCRA). However, MDE staff assist EPA with corrective action activities in the State by performing work-sharing activities on corrective action sites as part of the State's RCRA Performance Partnership Grant work plan. Such work may be performed by hazardous waste permitting staff of the Resource Management Program (RMP), or, with the coordination of the RMP, by Voluntary Cleanup Program staff in the LMA's Land Restoration Program (LRP), or hazardous waste enforcement staff in the Solid Waste Program.

G. Tracking and Certifications

Tracking and Certification activities with respect to hazardous waste management are the responsibility of the LMA's Technical Services and Operations Program. The Hazardous Waste Certifications/Manifests Section's main duties involve issuance of EPA identification numbers, managing the biennial report of hazardous waste activity, tracking shipments of hazardous waste through the hazardous waste manifest system, and certifying transporters of hazardous waste. Activities conducted by the Section in support of these duties include:

- Management of data, including timely updating of information in the Handler Module of EPA's RCRAInfo data base;
- Assignment of U.S. EPA ID numbers for generators, transporters, and treatment, storage and disposal facilities (TSDs), including collection of Notification of Hazardous Waste Activity Forms, assignment of numbers, and entry of information into RCRAInfo;
- Issuance of ID numbers for generators/shippers with a one-time shipment of hazardous waste;
- Biennial collection of information on hazardous waste activity and submission of Biennial Report data to EPA's national biennial report data base;
- Collecting information on shipments of hazardous waste from hazardous waste manifests submitted by hazardous waste destination facilities, entering key information into a data base maintained by MDE, and making information available to enforcement personnel;
- Reviewing applications for certification of hazardous waste transporters, and vehicles; and
- Responding to inquiries from industries and the general public regarding the Section's

responsibilities.

Altogether, 4 staff members of the Technical Services and Operations Program, including a Section supervisor, have direct responsibility for processing notifications, hazardous waste manifests, and biennial reports of hazardous waste activity. An Administrative Specialist and Administrative Officer have primary responsibility for issuing EPA identification numbers to persons complying with requirements to provide notification of regulated activity. An Administrative Specialist has primary responsibility for collecting information from hazardous waste manifests. Activities associated with collection and submission of data from the biennial report of hazardous waste activity are performed by an Administrator I, an Administrative Specialist and an Administrative Officer.

Certification activities for hazardous waste haulers and vehicles are performed by an Administrative Officer and an Administrative Specialist in the Technical Services and Operations Program. These certification activities are elements of the State's regulatory program that are considered "broader in scope" for the purposes of Program Authorization.

H . Compliance Monitoring and Enforcement

Hazardous waste compliance monitoring and enforcement functions are housed in a section of the Compliance Division of the LMA's Solid Waste Program. Staff responsible for compliance monitoring and enforcement functions include a Regulatory and Compliance Engineer (RCE) Senior, three RCEs, and two Environmental Compliance Specialists. These staff members are responsible for inspecting hazardous waste generators and permitted hazardous waste treatment, storage and disposal (TSD) facilities. They also investigate complaints alleging illegal hazardous waste activities. An Administrative Officer assigned to the Compliance Division has responsibility for implementing various hazardous waste data tracking functions, such as entry of data into the Compliance Monitoring and Enforcement module of RCRAInfo.

Inspections of hazardous waste transporters are performed by staff of the HazMat Compliance Section in the Department's Emergency Response unit, which is housed in the Office of the Secretary. The principle function of the HazMat Compliance Section is to perform inspections of hazardous materials transportation vehicles to evaluate compliance with motor carrier safety regulations. A subset of these inspections involves hazardous waste transporters. The staff consists of an Environmental Compliance Specialist Supervisor and four staff inspectors.

Note that the Maryland Department of Transportation (MDOT) is the lead State agency for the regulation of the transport of hazardous materials. Inspections of hazardous materials transporters by the HazMat Compliance Section are performed under a Memorandum of Understanding with the MDOT.

The MDOT created the Governor's Task Force for Motor Safety and Uniformity, Subcommittee for Hazardous Materials, which coordinates transportation activities with state and federal agencies. State law provides for the adoption of federal regulations regarding hazardous waste transportation.

In accordance with EPA's Enforcement Response Policy (Dated 3-15-96) and the Hazardous Waste Non-Compliance Response Policy, the Compliance Division takes timely and appropriate action against all persons in violation of the hazardous waste regulations, permit requirements, compliance schedules, and all other program requirements. Appropriate enforcement action is taken in a manner consistent with the Enforcement Response Policy. This is accomplished by enforcement inspectors from the Division periodically inspecting all permitted facilities, hazardous waste generators, and transporters.

They also investigate complaints and reports of illegal activities. The Enforcement personnel are assisted by Assistant Attorneys General from the Office of the Attorney General, who handle all civil and administrative actions that are brought by the Compliance Division.

The following paragraphs provide more detail on the activities performed by staff engaged in compliance assurance and enforcement.

Specific duties performed by staff in the Solid Waste Program's Compliance Division in support of the RCRA program are:

- Conducting inspections of permitted CHS facilities;
- Enforcing hazardous waste facility permits issued by the Resource Management Program;
- Conducting inspections of generators, transporters and treatment, storage and disposal facilities to determine compliance with regulatory and permit requirements;
- Identifying non-notifiers;
- Investigating complaints or reports regarding hazardous waste activities;
- Developing expertise by performing inspections on behalf of EPA for non-delegated requirements promulgated by EPA under the Hazardous and Solid Waste Amendments of 1984 (HSWA);
- Overseeing groundwater extent of contamination and remediation projects, including CME (Comprehensive Monitoring Evaluation)/O&M (Operation and Maintenance) and other inspections;
- Initiating actions to bring violators into compliance, including informal actions, administrative orders, civil actions, and criminal actions; and
- Responding to spills and monitoring spill clean up (as a secondary role, since MDE's Emergency Response Division has primary responsibility).

Personnel in the Compliance Division may also perform other duties in support of EPA initiatives. An example is support that was provided to EPA in evaluating whether corrective action was necessary at facilities identified as high priority on the National Corrective Action Priority System (NCAPS) list. These special activities will be identified through the development of the State's annual RCRA grant work plan.

The HazMat Compliance Section (HMCS) inspects commercial vehicles with a staff of one Section Head and four inspectors. With their expert knowledge of hazardous materials, they assist the Maryland State Police and the Maryland Transportation Authority Police with commercial vehicle inspections at various truck weigh stations. The HMCS staff also assists local law enforcement officials with numerous special assignments throughout the state. They work in coordination with the Solid Waste Program's Compliance Division to verify that certified CHS vehicles are in compliance with all State and federal safety regulations. The HMCS is designated to administer the federal training grant for commercial vehicle safety inspectors statewide.

The Solid Waste Program establishes priorities for inspecting TSD facilities based on an evaluation of the facilities' impact on public health and the environment. The highest priority is assigned to the facilities that meet the following criteria:

- Demonstrated contamination of groundwater which is currently utilized as a drinking water source;
- Large industrial facilities that fall into at least two of the following categories:
 - Facilities known to have contaminated groundwater and/or surface water;
 - Facilities that store, treat or dispose of relatively large quantities of hazardous wastes;
 - Facilities that have been targets of frequent enforcement actions.

In instances where the expertise of a geologist or toxicologist is needed for a site where a release of hazardous waste is being addressed under state enforcement authorities, assistance may be provided by staff of the LMA's Land Restoration Program. In such cases, the Compliance Division maintains overall project management responsibility, with the Land Restoration Program staff serving an internal consulting function.

The division of enforcement responsibilities between the State of Maryland and EPA are described in the Memorandum of Agreement (MOA), which is a part of the State's existing Program Authorization. The State has the lead on enforcement of the authorized base program. As a matter of State law, the State also has the lead on additional program elements in the COMAR 26.13 for which the State has not yet received authorization from the EPA. The State, however, recognizes that EPA retains independent authority to conduct inspections and take enforcement actions in accordance with the notification requirements listed in the MOA.

EPA has the lead on site-wide corrective action at permitted and interim status facilities, land disposal restrictions (LDR) regulations, and for other regulations adopted by EPA under HSWA authority for which the State has not yet been authorized. The State reserves the right to use State authority to achieve compliance and remediation at hazardous waste sites currently under Corrective Action with EPA. In the case of the LDR regulations, the State checks for compliance. If any violations are found, the State refers them to EPA for action.

The federal role includes evaluating state programs, conducting compliance inspections and follow-up enforcement actions, as well as ensuring a level playing field among states. MDE carries out the bulk of inspections, enforcement and compliance actions that occur in the State of Maryland. The Compliance Division will continue to employ civil and criminal enforcement actions where appropriate, as well as additional innovative enforcement tools. Evaluation of compliance with Land Ban, TCLP, Waste Minimization, and Organic Air Emissions will be included as important components of all RCRA CEI inspections. Enforcement activities are conducted in accordance with the performance expectations set forth in EPA's "National Criteria for a Quality Hazardous Waste Management Program Under RCRA". (EPA/530/SW 86-021, July 1986)

Enforcement and Compliance has been recognized in the Environmental Performance Partnership Agreement in that both MDE and Region III agree that enforcement and compliance actions are important tools for achieving agreed-upon environmental goals and strategic priorities. Recognizing that they each have limited resources to devote to their respective strategic priorities aimed at achieving overall environmental improvement, the Partners will continue to develop a consultative relationship.

They will also discuss opportunities to improve data management, coordination, and integration.

I. Groundwater Support

Technical support for program regulatory efforts on issues involving contamination of soils and groundwater is provided on an as-needed basis by geologists and a toxicologist assigned to the LMA's Land Restoration Program. In cases where such assistance is needed, the Administrator of the Solid Waste Program or the Program Manager of the Resource Management Program will make a formal request for assistance to the Administrator of the Land Restoration Program. Project managers from the Program requesting the assistance then meet regularly with Land Restoration Program managers and staff to assure that the desired technical assistance is obtained.

Alternatively, technical support may be obtained from staff geologists in the LMA's Solid Waste Program whose primary responsibilities involve nonhazardous solid waste facilities.

Such assistance may be sought, for example, for enforcement cases involving groundwater contamination where the expertise of a geologist may be needed to evaluate the hydrogeological aspects of a site conceptual model, site characterization report, or proposed remedial measure. Assistance from a geologist may also be requested for review of site progress reports or ground water monitoring data. Another example where support from a geologist may be required is for an operation and maintenance (O&M) inspection at a land disposal facility.

J. Waste Minimization/Pollution Prevention

COMAR 26.13.03.06B(1)(d)(vi) and (vii), in keeping with RCRA §3002, require generators of CHS wastes to identify in their biennial reports the efforts undertaken to reduce volume and toxicity of waste generated as well as identify reductions in volume and toxicity that have actually been achieved. Moreover, generators are required by COMAR 26.13.03.04F to certify on their manifests that they have a waste reduction program in place. Staff in the Resource Management Program's Planning and Recycling Unit have the primary responsibility for activities that the State undertakes with respect to hazardous waste minimization and pollution prevention.

Specific activities undertaken are determined through discussions with EPA Region 3 staff as part of the process of developing a work plan under the State's Performance Partnership Grant. Recent activities have included collaboration with EPA on the National Partnership for Environmental Priorities (NPEP) program, oversight activities for a mercury switch collection program auto recyclers are required to undertake in Maryland, and encouragement of the replacement of lead wheel weights with less toxic alternatives.

K. Environmental Crimes Unit

The Environmental Crimes Unit (ECU) is part of the Criminal Division of the Maryland Attorney General's Office. The ECU is housed within MDE's Office of the Secretary, and provides support for all programs within MDE, not just for cases related to hazardous waste. The ECU is responsible for investigating any alleged environmental crimes cases that are referred to them, and for prosecuting any environmental criminal cases in the criminal court system. ECU utilizes the prosecutorial authority of the Attorney General and also, in part, when available, the investigative skills

and law enforcement authority of the Maryland State Police, Natural Resources Police and local police departments to investigate environmental violations.

A case is typically referred to the ECU when an offender has been uncooperative in responding to a notice of violation or when the offense is viewed as a blatant criminal act. Criminal investigations will be pursued based on an assessment by ECU attorneys. Criminal charges are pursued when repeated unsuccessful civil actions have been attempted, or when the offenses are particularly significant or involve immediate danger to the environment, as well as under other circumstances. Criminal enforcement is used whenever the prospect of imprisonment and/or being stigmatized by a criminal conviction is deemed a necessary tool to protect health and the quality of Maryland's air, land and water resources.

ECU receives complaints about possible criminal activity from multiple sources: citizen complaints, other governmental and law enforcement agencies, the MDE Administrations, or from their own initiatives. Complaints are initially reviewed by an ECU prosecutor and investigator to determine the appropriateness and available resources for a full investigation. Cases deemed potentially appropriate for prosecution are subjected to full investigations for the purpose of gathering sufficient evidence to accurately assess whether the filing of criminal charges is warranted. If charges are filed or indictments returned by grand juries, ECU prosecutors and investigators work the case through trial and any appeals.

When a case is referred to the ECU, it is the responsibility of the ECU to begin a criminal investigation, which is conducted apart from any Program's investigation. Once a case is referred to the ECU it is no longer a Program matter, but a Departmental matter. Staff within the LMA who have hazardous waste responsibilities may be consulted by ECU staff, however, on particular cases where their expertise is required.

SECTION IV. STAFFING AND FUNDING RESOURCES

A. Description of Agency

Primary responsibility for implementing the State's hazardous waste regulatory program resides within the Maryland Department of the Environment's Land Management Administration. These responsibilities have been distributed among 3 Programs within the Administration: the Resource Management Program, the Solid Waste Program, and the Technical Services and Operations Program. Details of these programmatic areas and specifics of the distribution of responsibility among programs are presented in Section III of this Program Description. In summary, the major activities in which these staff members are engaged include permitting; compliance evaluation and enforcement; tracking, certification and reporting functions; regulatory development and program authorization; and waste minimization/pollution prevention.

20 positions distributed among the Resource Management Program, the Solid Waste Program, and the Technical Services and Operations Programs devote all or a significant portion of their time to hazardous waste activities. These positions are the ones enclosed by dashed lines on the organizational charts appearing as Figures 3, 4 and 5 in Section III. This figure of 20 positions does not include staff within these Programs that perform general administrative duties in support roles.

Additional technical support for hazardous waste regulatory functions is provided by some staff members outside of these three Programs. For example, legal assistance is provided by Assistant Attorneys General assigned to the Department by the Office of the Attorney General, and support from staff geologists and toxicologists is available on an as-needed basis from personnel in the LMA's Land Restoration Program and the LMA's Solid Waste Program.

In addition, staff within the Hazmat Compliance Section in the Department's Emergency Response Program (housed in the Office of the Secretary) perform inspections of hazardous waste transporters. These inspections are performed by the HazMat Compliance Section in the course of carrying out the principal duties of the Section of inspection of commercial vehicles to evaluate compliance with federal motor carrier safety requirements. 5 staff are engaged in these activities. They are funded through a memorandum of agreement with the Maryland Department of Transportation.

Table IV-1, which appears in Section IV.C of this Program Description, provides details on the positions that are assigned responsibilities for the State's hazardous waste regulatory program. This Table lists individual positions, identifies the group in which each position is housed, and itemizes estimated costs associated with these functions.

Specific information about the job responsibilities for Program staff devoted to RCRA activities is presented in Section IV D. The information is arranged by broad programmatic area (permitting, enforcement, etc.)

B. Overall Changes in Existing Program Resources

At the time of the base program authorization, the organizational predecessor of the LMA was part of the Department of Health and Mental Hygiene (DHMH). Maryland's regulated community consisted of 5750 generators (estimated), 58 Treatment, Storage, and Disposal facilities, and 203 transporters. In 1987, the State of Maryland reorganized its environmental agencies. Responsibilities for pollution control functions were placed in a newly created Maryland Department of the Environment (MDE). All hazardous waste regulatory functions were assigned to the Department, and were placed

within the Administration that eventually became the present- day LMA.

In the time since the State received base program authorization, there has been a decline in the size of the regulated community subject to oversight under the State's hazardous waste regulatory program. As the size of regulated community has declined, the State's hazardous waste regulatory program has also seen a decline in revenues generated by permit and transporter fees. In addition, there has been a decline in General Funds appropriated by the State legislature. The result of these changes has been a decline in the number of personnel. Despite these constraints, the Program has continued to meet its statutory mandates.

The State has made many amendments to its regulations since the base program was authorized to maintain consistency with the federal program. These amendments have been implemented and enforced as a matter of State law pending completion of the authorization process under RCRA. The State has built capability to implement these requirements through reference to EPA guidance, participation in EPA-sponsored training, work sharing arrangements with EPA, and on-the-job training. This has allowed the State to prepare for a smooth transition as EPA approves program authorization requests.

As of July, 2015, the regulated universe in the State included 6236 generators (federally-defined small quantity and federal-defined large quantity, based on information in RCRAInfo), 122 haulers and 22 Treatment, Storage and Disposal (TSD) facilities (including facilities required to have a permit under Maryland regulations but not federal regulations). The subsections that follow address the overall estimated costs as well as examine the staffing and funding resources for each of the major Divisions/Groups that administer Maryland's hazardous waste program.

C. Itemization of Estimated Costs and Sources of Funding

The total costs for personnel involved in the State's hazardous waste regulatory program for Fiscal Years 2015, 2016 and 2017 are shown in Tables IV-1 and IV-2. These costs are broken out by broad functional category. The responsibilities of each of the listed personnel are discussed in the subsections that follow. As for overhead costs, it is very difficult to break these costs down for each individual programmatic area and therefore they have been entered on Table IV-1 as a total amount for the overall hazardous waste regulatory program implemented by the State.

Table IV-2 provides an itemized listing of the Federal and State funding for work performed in support of Subtitle C of the Resource Conservation and Recovery Act (RCRA). The majority of these resources are dedicated to the federally required portion of the program. Because of budget uncertainties in the current fiscal climate, it has assumed that, overall, funding will remain unchanged over the next two years. Federal funding accounts for 75 percent of the budgeted RCRA grant fund while the State covers the remaining 25 percent. The various items that are funded by the RCRA grant are shown in Table IV-2. There are no specific limitations or restrictions on State or Federal funding other than the requirement that the State meet its grant commitments.

TABLE IV-1 - ITEMIZATION OF ESTIMATED COSTS (Fiscal Years 2015 - 2017)

Activity/Program/ Category	FY 2015		FY 2016 (Projected)		FY 2017 (Projected)	
	RCRA GRANT	OTHER FUNDS	RCRA GRANT	OTHER FUNDS	RCRA GRANT	OTHER FUNDS
<u>Program Managers</u>						
Program Manager IV (Permitting, Authorization/ Regulatory Development, Waste Minimization)	\$ 23,342	\$ 7,781	\$ 29,483	\$ 9,828	\$ 29,483	\$ 9,828
Program Manager IV (Compliance Evaluations and Enforcement)	\$ 14,812	\$ 4,937	\$ 14,930	\$ 4,977	\$ 14,930	\$ 4,977
Program Manager (Tracking and Certification)	\$ 11,707	\$ 3,902	\$ 8,947	\$ 2,982	\$ 8,947	\$ 2,982
Assistant Attorney General	\$ 72,281	\$ 24,094	\$ 69,796	\$ 23,265	\$ 69,796	\$ 23,265
<u>Administrative Support</u>						
Administrative Aide	\$ 13,307	\$ 4,436	\$ 11,032	\$ 3,677	\$ 11,032	\$ 3,677
Agency Grant Specialist	\$ 34,984	\$ 11,661	\$ 36,613	\$ 13,204	\$ 36,613	\$ 13,204
Agency Grant Specialist Supervisor	\$ 7,944	\$ 2,648	\$ 5,398	\$ 1,799	\$ 5,398	\$ 1,799
Administrative Aide	\$ 24,273	\$ 8,091	\$ 25,143	\$ 8,381	\$ 25,143	\$ 8,381
<u>Program Activities</u>						
<u>Regulatory</u>						
<u>Development/Authorization</u>						
RCE Supervisor (20%)	\$ 15,562	\$ 5,187	\$ 15,562	\$ 5,187	\$ 15,562	\$ 5,187
<u>Facility Permitting</u>						
RCE Supervisor (80%)	\$ 62,245	\$ 20,749	\$ 62,245	\$ 20,749	\$ 62,245	\$ 20,749
RCE Senior	\$ 53,379	\$ 17,793	\$ 54,410	\$ 18,136	\$ 54,410	\$ 18,136
RCE I	\$ 19,093	\$ 6,364	\$ 9,690	\$ 3,230	\$ 9,690	\$ 3,230
<u>Waste Minimization</u>						
Environmental Program Mgr I	\$ 14,795	\$ 4,932	\$ 9,046	\$ 3,015	\$ 9,046	\$ 3,015
RCE III	\$ 56,542	\$ 18,847	\$ 57,620	\$ 19,207	\$ 57,620	\$ 19,207
<u>Hazardous Enforcement</u>						
<u>Section</u>						
Environmental Program Manager	\$ 37,749	\$ 12,583	\$ 41,426	\$ 13,809	\$ 41,426	\$ 13,809
Administrative Aide	\$ 24,273	\$ 8,091	\$ 25,143	\$ 8,381	\$ 25,143	\$ 8,381
RCE Senior	\$ 47,865	\$ 15,955	\$ 58,535	\$ 19,512	\$ 58,535	\$ 19,512
RCE III	\$ 45,819	\$ 15,273	\$ 46,714	\$ 15,571	\$ 46,714	\$ 15,571
ECS	\$ 37,188	\$ 12,396	\$ 37,880	\$ 12,626	\$ 37,880	\$ 12,626
RCE III	\$ 46,699	\$ 15,566	\$ 47,599	\$ 15,866	\$ 47,599	\$ 15,866
RCE III (85%)	\$ 41,239	\$ 13,746	\$ 42,033	\$ 14,011	\$ 42,033	\$ 14,011

Activity/Program/ Category	FY 2015		FY 2016 (Projected)		FY 2017(Projected)	
	RCRA GRANT	OTHER FUNDS	RCRA GRANT	OTHER FUNDS	RCRA GRANT	OTHER FUNDS
<u>Information Management: RCRAInfo: Compliance and Enforcement Module</u> Administration Officer II	\$ 41,601	\$ 13,867	\$ 42,623	\$ 14,208	\$ 42,623	\$ 14,208
<u>Information Management: RCRAInfo Permitting Module</u> RCE III (15%)	\$ 7,278	\$ 2,426	\$ 7,418	\$ 2,473	\$ 7,418	\$ 2,473
<u>Tracking/Information Management: RCRAInfo Handler Module; Biennial Report; Manifests</u> Administrator I	\$ 39,179	\$ 13,060	\$ 39,927	\$ 13,309	\$ 39,927	\$ 13,309
Administrative Specialist II	\$ 29,654	\$ 9,885	\$ 30,197	\$ 10,066	\$ 30,197	\$ 10,066
Administrative Officer III	\$ 45,239	\$ 15,080	\$ 46,107	\$ 15,369	\$ 46,107	\$ 15,369
Data Entry Operator II	\$ 26,288	\$ 8,763	\$ 26,766	\$ 8,922	\$ 26,766	\$ 8,922
<u>Groundwater Support</u> Geologist Supervisor	\$40,494	\$13,498	\$23,086	\$6,696	\$23,086	\$6,696
Total Personnel	\$910,558	\$303,520	\$900,226	\$300,075	\$900,226	\$300,075
Fringe Benefits	\$382,435	\$127,478	\$396,099	\$132,033	\$396,099	\$132,033
Indirect	\$349,755	\$116,585	\$350,656	\$116,886	\$350,656	\$116,886
Direct (exclusive of personnel and fringe)						
Travel	\$6,315	\$2,105	\$5,411	\$1,804	\$5,411	\$1,804
Equipment	\$0	\$0	\$0	\$0	\$0	\$0
Supplies	\$23,490	\$7,830	\$19,200	\$6,400	\$19,200	\$6,400
Contractual	\$45,000	\$15,000	\$44,250	\$14,750	\$44,250	\$14,750
Other	\$17,447	\$5,816	\$19,158	\$6,385	\$19,158	\$6,385
Total, Personnel & Benefits	\$1,292,993	\$430,998	\$1,296,325	\$432,108	\$1,296,325	\$432,108
Total, Indirect	\$349,755	\$116,584	\$350,656	\$116,886	\$350,656	\$116,886
Total, Direct (excl. pers., fringe)	\$92,252	\$30,751	\$88,019	\$29,339	\$88,019	\$29,339
Grand Total	\$1,735,000	\$578,333	\$1,735,000	\$578,333	\$1,735,000	\$578,333
	FY 15 FEDERAL	MATCH	(Projected) FY 16 FEDERAL	MATCH	(Projected) FY 17 FEDERAL	MATCH
	\$1,665,530	\$555,177	\$1,735,000	\$578,334	\$1,735,000	\$578,334

Abbreviations: "ECS" – Environmental Compliance Specialist; "RCE" – Regulatory and Compliance Engineer.

TABLE IV-2 TOTAL FEDERAL AND STATE FUNDING FOR RCRA – BUDGET ALLOWANCE

ITEM	FISCAL YEAR 2015	FISCAL YEAR 2016	FISCAL YEAR 2017
DIRECT COSTS			
PERSONNEL	\$1,214,078	\$1,200,301	\$1,200,301
FRINGE BENEFITS	\$509,913	\$528,132	\$528,132
TRAVEL	\$8,420	\$7,215	\$7,215
EQUIPMENT	\$0	\$0	\$0
SUPPLIES	\$31,320	\$25,600	\$25,600
CONTRACTUAL	\$60,000	\$59,000	\$59,000
CONSTRUCTION	\$0	\$0	\$0
OTHER	\$23,263	\$25,543	\$25,543
SUB TOTAL, DIRECT COSTS	\$1,846,994	\$1,845,791	\$1,845,791
INDIRECT	<u>\$466,339</u>	<u>\$467,542</u>	<u>\$467,542</u>
GRAND TOTAL	\$2,313,333	\$2,313,333	\$2,313,333

D. Staffing and Funding by Division/Group

Personnel costs associated with the State's hazardous waste regulatory program are summarized in Table IV-1. These costs are itemized by employee, with the employees grouped by administrative function or programmatic activity. In some cases, entries reflect that an employee is responsible for a particular function for only a fractional amount of the employee's total work time.

Table IV-1 also includes information on overhead costs. Overhead costs are entered as a total amount for the entirety of the State's hazardous waste regulatory program, since it is difficult to break down such costs by individual programmatic area.

The remainder of this section provides additional information on staff duties for the various activities that comprise the State's hazardous waste regulatory program.

1. Resource Management Program – Authorization Activities and Facility Permitting

Activities associated with regulatory development and program authorization are handled by the Technical Specialist/Regulatory and Compliance Engineer (RCE) Supervisor, who reports directly to the manager of the Resource Management Program. It is estimated that 30-40% of the Technical Specialist's time is devoted to these activities. Specific responsibilities are identified in Table IV-3.

It is anticipated that the authorization of the rules included in the State's third application for

authorization beyond the base program will not have any significant effect on these duties. The main job duty that could be affected is the regulatory interpretation function that is also among the Technical Specialist's responsibilities. However, authorization will not increase this workload, since the Technical Specialist will have begun providing regulatory interpretation for all rules beginning when each rule was adopted. The State will continue regulatory development and authorization activities to maintain consistency with the federal program.

Responsibility for permitting hazardous waste treatment, storage and disposal facilities, including post-closure permitting, lies with the Technical Specialist and an RCE Senior who reports to the Technical Specialist. In addition, an RCE I was added to the staff in January, 2015 as an entry-level permit writer. The responsibilities of these positions with respect to permitting are identified in Table IV-3. Additional support for RCRAInfo data management issues is provided by an RCE housed in the Hazardous Section of the Solid Waste Program's Compliance Division.

The Technical Specialist and the RCE Senior assure that revised procedures for public participation are followed in processing permit applications and issuing permits. Although the State will now be regulating containment buildings as a new type of permitted unit, current staff members have the training and resources necessary to write permits for these new types of units if anyone seeks a permit. The Division will not need to add any new permit writers to the staff as a result of the requirements in the 3rd authorization application beyond the base program.

Amendments for which the State is seeking authorization include several addition waste listings previously promulgated by EPA. When these wastes were added to the Code of Maryland Regulations, it was unnecessary to add any Treatment, Storage, and Disposal (TSD) facilities to the existing universe of regulated TSD facilities. Permits for existing facilities have been modified as needed to address these wastes.

The Agency is committed to fulfilling all grant commitments and deadlines by submitting the relevant reports to EPA.

TABLE IV-3 – Regulations, Permitting Staff Responsibilities

Responsibilities for Regulatory Development and Program Authorization:

Technical Specialist/ RCE Supervisor - Responsibilities include:

- Assigning work and supervising staff;
- Reviewing draft and final correspondence;
- Assisting the Program Manager of the Resource Management Program with setting priorities for regulatory development and program authorization;
- Interpretation of regulatory requirements for Department staff, the regulated community, and the general public;
- Liaison with the Office of the Attorney General on matters concerning regulatory development and authorization;
- Liaison with EPA Region III on authorization issues;
- Liaison with the MD Division of State Documents on administrative matters associated with adoption of regulations;
- Liaison with the Controlled Hazardous Substance Advisory Council on regulatory proposals;
- Drafting of regulations related to Hazardous Waste Management;
- Preparation of documentation needed for the final action on proposed regulations;
- Preparation of documentation for requests for program authorization including the Program Description document; and
- Preparing written responses to public inquiries regarding new regulations.

Responsibilities for Hazardous Waste Facility Permitting:

Technical Specialist/RCR Supervisor – Responsibilities include:

- Assigning work and supervising staff;
Supervision of staff review of facility permit applications for completeness;
- Conducting periodic site visits;
- Attending public information meetings and public hearings involving CHS permit applications;
- Interaction with Enforcement staff and the Office of the Attorney General on permit matters;
- Generation of monthly reports of division activities for EPA as required under terms of current cooperative agreement; and
- Maintaining appropriate records to ensure that payments due are billed and paid in a timely manner.

Regulatory and Compliance Engineer (RCE) Senior and RCE I - Responsibilities include:

- Interpretation of State and Federal standards, procedures and policies applicable to Hazardous Waste Permitting;
- Reviewing applications for CHS facility permits to determine completeness and technical sufficiency;
- Preparation of draft permits;
- Assisting in compiling and maintaining a permit file for each permit being processed, issued or renewed;
- Participation in public meetings and public hearings related to facility permits;
- Calculation of fees and charges to be assessed against permit applicants and permit holders;
- Preparation of draft responses to general queries concerning the facility permitting program and specific questions on permitted facilities for which the staff member serves as the project manager;
- Reviewing final closure plans and providing oversight of implementation of final closure;
- Providing oversight of activities related to post-closure care;
- Performing activities related to facility corrective action on a work sharing basis with EPA, as determined through the annual RCRA grant process;
- Reviewing submissions associated with requests related to “comparable fuels” provisions; and
Reviewing financial assurance information for permitted facilities.

Regulatory and Compliance Engineer (note: part time duties for position housed in the Solid Waste Program’s Compliance Division) – responsibilities include:

- Entry of permit data into EPA’s RCRAInfo database, and assistance with data cleanup efforts.

2. Technical Services and Operations Program – Hazardous Waste Certifications/Manifest Section

The Hazardous Waste Certifications/Manifest Section is part of the LMA’s Technical Services and Operations Program. This section consists of a Section Head and 3 staff level employees (see the organizational chart that appears as Figure 5). The responsibilities for these staff positions are outlined in Table IV-4.

TABLE IV-4

HAZARDOUS WASTE CERTIFICATIONS/MANIFEST SECTION – STAFF RESPONSIBILITIES

Section Head– Responsibilities include:

- Distributing work assignments;
- Reviewing and processing applications for hazardous waste hauler certification; and
- Assuring that quality control checks are performed on Program data ;
- Performing first-line management functions associated with manifest processing, handler information, and biennial report information
- Entry of handler data into RCRAInfo

Administrative Specialist and Administrative Officer – Responsibilities include:

- Issuance of EPA ID Numbers;
- Entry of data into TEMPO, the Department’s enterprise database;
- Activities associated with collection, maintenance, and reporting of information for the Biennial Report of Hazardous Waste Activity;
- Reviewing and processing applications for hazardous waste hauler certification.
- Performing random checks on vehicle notification numbers.
- Entering manifest data received by the Program into a Program data base
- Filing and maintaining all manifest data
- Performing checks in manifest files for the Solid Waste Compliance Division, Environmental Crimes Unit and other agencies within MDE;

3. Hazardous Enforcement Section

The Hazardous Enforcement Section, part of the Solid Waste Program’s Compliance Division, has 6 full time inspector positions (see the Solid Waste Program Organizational Chart provided as Figure 4 of this document). An Administrative Officer provides staff support for data management and other administrative functions. Supervisory, planning and policy functions are provided by the Chief of the Compliance Division and the Program Manager of the Solid Waste Program.

The HazMat Compliance Section in the Emergency Response Program provides additional inspection support related to transportation of hazardous waste. There are 5 positions in the HazMat Compliance Section that perform roadside inspections of hazardous material transportation vehicles. These inspections include random inspections of hazardous waste transportation vehicles.

The Hazardous Enforcement Section also receives support from the State Police and the Office of the Attorney General (OAG). The attorneys from the OAG provide legal services for civil cases developed by the Section. The Maryland State Police have a special team of criminal prosecutors and investigators assigned to MDE known as the Environmental Crimes Unit (ECU), which prosecutes

criminal violations of the Environment Article of the Annotated Code of Maryland.

The size of the regulated community as of July, 2015 is 6380 hazardous waste handlers. This number was calculated as (federally-defined small quantity generators plus federally-defined large quantity generators plus TSD facilities plus hazardous waste haulers). This compares to approximately 6000 handlers of CHS at the time of base program authorization (see Table VII-1, Regulated Hazardous Waste Activities).

Note that the number of generators reported in the preceding paragraph is based on data from the RCRAInfo database, which probably overstates the number of active hazardous waste generators, since generators who cease operation frequently do not file updated information with the Department or EPA, and other generators only generate hazardous waste on an episodic basis. Direct review of hazardous waste manifests suggests many fewer generators are currently active. A review of manifests from 2013 identified approximately 1100 generators exceeding the Maryland-defined small quantity generator limit (analogous to the federal conditionally exempt small quantity generator limit) that shipped hazardous waste.

Also, the count for federally-defined large quantity generators includes 627 generators identified as episodic bridge painting projects. Since these sites are not routinely generating hazardous waste, they are deducted from the overall count of large quantity generators for the purposes of determining the State's inspection commitments under the State's federal performance partnership grant work plan.

The State has made many amendments to its regulations since the base program was authorized in order to maintain consistency with the federal program. These amendments have been implemented and enforced as a matter of State law pending completion of the authorization process under RCRA. The State has built capability to enforce these requirements through reference to EPA guidance, participation in EPA-sponsored training, work-sharing arrangements with EPA, joint inspections with EPA, and on-the-job training. This has allowed the State to prepare for a smooth transition as EPA approves program authorization requests. It is not expected that authorization of these additional program elements will require the hiring of additional personnel.

Analyses of waste samples may be conducted for the Department of the Environment by the Maryland Department of Health and Mental Hygiene (DHMH), or by a private laboratory on fee-for-service basis. The DHMH was originally the only facility that conducted the sample analyses. Although the number of samples has remained about the same, downsizing within the DHMH made the workload too great for DHMH to handle. As a result, DHMH had to contract some samples out. Before the private lab was chosen as a vendor, DHMH performed reference checks to ensure that the lab was capable of conducting all analyses required. The contracted laboratory has an agreement with the LMA to perform analyses as needed.

The lab conducts analyses of CHS wastes (such as: metals, organic and other inorganic wastes) according to analytical procedures outlined in the EPA document, "Test Methods for Evaluating Solid Waste (SW-846)". Generally, the time taken to conduct the testing of various CHS wastes samples varies between one week to three months depending on the type of waste and the test procedure.

If, for some reason, the services of neither the DHMH lab nor the private lab are available, the State will make arrangements through its normal purchasing procedures to obtain the necessary services from an alternate provider.

TABLE IV-5

HAZARDOUS WASTE ENFORCEMENT – STAFF RESPONSIBILITIES

(Information on the Hazardous Materials Compliance Section is not included in this Table. See Table IV-6 for Ground Water Support and Table IV-7 for Waste Minimization/Pollution Prevention Staff responsibilities)

Division Chief (Compliance Division) – Responsibilities include:

- Assignment of work, and staff supervision;
- Review of Inspection Reports;
- Review of draft permits to assess enforceability;
- Monitoring of enforcement actions;
- Periodic inspections to audit inspector performance;
- Participation in hearings on enforcement actions;
- Liaison with the Office of the Attorney General;
- Generation of in-house and EPA monthly reports based on data from the Resource Conservation and Recovery Act Information System (RCRAInfo);
- Coordination of enforcement activities within the division;
- Compilation and analysis of enforcement statistics;
- Preparation of reports for the Program Manager of the Solid Waste Program and for EPA; and
- Liaison with various committees within the Department.

Office Secretary – Responsibilities include general secretarial duties.

HAZARDOUS ENFORCEMENT SECTION

Environmental Compliance Specialists (ECSs) and Regulatory and Compliance Engineers (RCEs) –

There are positions for 2 ECSs and 4 RCEs to serve as hazardous waste enforcement officers. The job duties of these positions include:

- Interpretation of State and federal laws and regulations concerning hazardous waste, waste pollution control, air pollution control, and industrial and solid waste management;
- Conducting inspections at facilities where hazardous waste is managed;
- Assisting in planning and evaluation of inspection programs, as they relate to environmental enforcement;
- Coordinating, directing, and initiating various enforcement related activities and projects including conducting major facility inspections and investigations, sampling surveys, special surveillance of facilities, and assisting with some aspects of program management and development.
- Review of technical documents associated with enforcement actions related to the following:
 - chemical treatment systems;
 - facility design plans and blueprints;
 - work plans for ground water remediation and other systems addressing contaminant remediation; and
 - treatment, storage and disposal facility permits.
- Planning, organizing and developing special statewide programs for Hazardous Waste Management;
- Corrective action oversight;
- Drafting technical and enforcement documents such as Notices of Violation, Civil Penalties, Site Complaints, Complaint & Orders, etc.;
- Responding to emergency incidents where technical expertise is needed to evaluate the impact on public health and the environment, and
- Responding to citizens' complaints regarding unlawful activities related to improper hazardous waste management.

Administrative Officer – Duties include:

- Inspection tracking that includes database development and management of the State’s enforcement data on RCRAInfo;
- Generation of monthly reports from RCRAInfo;
- Database development for fiscal accountability;
- Accounts management including the production of balance sheets; and
- Managing data related to hazardous waste enforcement in Departmental data bases.

4. Groundwater Support and Site Cleanup Support

Support services for enforcement cases involving groundwater issues are provided by various staff in the Land Restoration Program. An organizational chart for this Program is presented in Figure 6. The support provided ranges from technical advice on developing cases to project management responsibilities for cases where contaminant remediation is underway.

Staff geologists in the Land Restoration Program are able to provide technical support on an as-needed basis for enforcement cases. The Geologist Supervisor reporting directly to the Program Manager of the Land Restoration Program also has expertise in quantitative risk assessment and toxicology.

The CHS Enforcement Division in the Land Restoration Program provides case management for enforcement actions involving remediation of contamination. These are cases being handled under a formal enforcement document such as an order or settlement agreement. (Note that this Division is also engaged in remedial oversight for non-RCRA sites.)

The Voluntary Cleanup group provides project oversight for sites that have enrolled in the State’s Voluntary Cleanup (VCP) Program. The Federal Installation Restoration Program Support group provide project oversight for cleanups at Department of Defense (DoD) facilities through the DoD’s Defense State Memorandum of Agreement (DSMOA) program. Some of the facilities at which the State is providing oversight of cleanups through the VCP and DSMOA programs are included in EPA’s RCRA corrective action universe. The State’s activities with respect to cleanups at these facilities assist EPA with meeting EPA’s corrective action goals.

Table IV-6 lists the general duties these staff members perform in their support role for hazardous waste enforcement activities.

TABLE IV-6

GROUNDWATER SUPPORT STAFF RESPONSIBILITIES

Geologist – Employees in this classification may perform the following activities:

- Provides technical support to inspectors, who serve as project managers for specific groundwater projects;
- Serves as project manager for groundwater cases;
- Reviews technical reports;

- Provides findings from facility reviews;
- Arrives at conclusions on information in reports;
- Makes recommendations for action;
- Conducts CMEs and O&Ms; and
- Assists in maintaining files in database.

Maryland’s hazardous waste regulations require the facilities to conduct most of their own sampling, with the State performing oversight and review of the work. This oversight may be performed by Groundwater Support personnel, inspectors from the Hazardous Enforcement Section, or permit writers from the Resource Management Program.

5. Waste Minimization/Pollution Prevention

Waste minimization and pollution prevention activities related to Subtitle C of RCRA are the responsibility of the Planning and Recycling Unit in the Resource Management Program’s Waste Diversion Division. One Regulatory and Compliance Engineer (RCE) position is assigned primary responsibility for these activities. The Chief of the Waste Diversion Division performs supervisory functions, while overall direction is provided by the Program Manager of the Resource Management Program. Specific activities to be performed by the State in a given federal fiscal year are determined through annual negotiations with EPA Region 3 personnel. The specific activities performed reflect EPA’s national RCRA program goals, adapted to State-specific needs. Table IV-7 summarizes staff responsibilities.

TABLE IV-7

WASTE MINIMIZATION/POLLUTION PREVENTION – STAFF RESPONSIBILITIES

Program Manager, Resource Management Program - responsibilities include:

- Planning and overall management of the Pollution Prevention/Waste Minimization Program related to hazardous waste (note – this function is only a small part of the Program Manager’s overall duties).

Environmental Program Manager/Chief, Waste Diversion Division – responsibilities include:

General supervision of staff activities, and assistance with program planning (note: these functions are only a small part of the Environmental Program Manager’s overall duties.)

Regulatory and Compliance Engineer – responsibilities include:

Serves as primary implementer of waste minimization/pollution prevention activities agreed to be performed by the State through the grant negotiation process with EPA.

Activities may include data collection and analysis, public education and outreach, report development, compliance assistance, and interaction with staff of EPA and other states.

6. Environmental Crimes Unit

As described in Section III, as part of the Office of the Secretary, the Environmental Crimes Unit provides the Department with a criminal investigation and prosecution capability. This unit provides support for all programs within MDE. Staffing and funding responsibility for the Environmental Crimes Unit is a Departmental rather than a Program concern.

SECTION V. STATE PROCEDURES

This section outlines some of the major activities and procedures of the State's hazardous waste regulatory program. Included are discussions of: the regulatory development process, notification of hazardous waste activity, certification of transporters, international shipments, manifest tracking, biennial reporting, facility permitting, interim status, enforcement, groundwater monitoring inspections, pollution prevention, mixed waste, universal waste, and the comparable fuels exclusion. Each is discussed in a separate section below. In general, the State has modified the procedures described in its base program Program Description (as modified in subsequent authorization applications) to reflect the changes described in Tables II-1 and II-2, and the adoption of interim status requirements.

A. Regulatory Development

The authority for the State regulations on hazardous waste management is derived from Title 7, Subtitle 2 of the Environment Article, Annotated Code of Maryland. The State's hazardous waste regulations are found in Chapters .01 through .10 of Title 26, Subtitle 13 of the Code of Maryland Regulations (COMAR 26.13.01 – 26.13.10). The State's hazardous waste regulations have been structured to be at least as stringent as the federal hazardous waste regulatory program.

The Resource Management Program has the primary responsibility within the Maryland Department of the Environment for hazardous waste regulatory development. The process begins with the preparation of a draft of the intended regulatory amendment. If the amendment is based on a federal regulation, the federal regulation is evaluated to determine if there are elements for which the State sees a need to be more stringent or broader in scope than the federal regulation. Such a need may be the result of State statutory requirements, or for policy reasons.

Once a decision has been made on the intended scope of the proposed regulation, staff prepares draft regulatory language. The draft amendment is prepared in accordance with style requirements established by the Maryland Division of State Documents, the agency of State government that serves as the custodian of the State's regulations. The draft may involve rewriting of the federal regulatory text, incorporation by reference of federal regulations, or a combination of both. For incorporation of federal regulations by reference, the State has the authority to either incorporate the federal provision as of a specific date, or use "prospective incorporation by reference", which has the effect of automatically adopting subsequent changes the federal government makes to the regulation incorporated by reference.

In drafting regulations, the State seeks to make the regulation as clear and understandable as possible, subject to State style requirements. This may require additions or modifications to the federal regulation. For example, the State may add a definition for a term used in the federal regulation if doing so will help clarify the scope or intent of the regulation, or will help clarify the particular use of the term in the context of the regulation. The State may also incorporate provisions into a regulation that reflect discussions in Federal Register preambles if the State believes that doing so helps clarify the intent of the regulation.

Before formally proposing such changes, the State discusses its intentions with EPA personnel to assure that the State does not inadvertently make its regulation less stringent than the federal regulation, inconsistent with the federal regulation, or otherwise in conflict with the intent of the federal regulation.

After an initial draft is prepared, and appropriate supervisory review has occurred, a preliminary draft of the regulation is discussed with the Controlled Hazardous Substance Advisory Council. This is an advisory body established by State statute to advise the Department on proposed regulations concerning hazardous waste and low level radioactive waste. The Council is appointed by the Governor. There are three public members, and 10 other members representing various interests (particular State agencies, generators of hazardous waste, hazardous waste management companies, etc.). The specifics of the Council's authority and structure are found in Sections 7-211 through 7-215 of the Environment Article, Annotated Code of Maryland.

Depending on the topics covered by the regulation, additional stakeholders may also be engaged at this stage in the process. This could include entities that would be directly affected by the regulations, County governments, or public or professional organizations.

After reviewing the comments made by these groups, a formal draft is prepared for submission to the Maryland Register. The formal draft is reviewed by the Office of the Attorney General for legal sufficiency, and is routed through Department staff for signature by the Secretary. The text of the regulations is accompanied by a Statement of Purpose which summarizes the proposed action, a Comparison to Federal Standards, an Estimate of Economic Impact, a Statement of Economic Impact on Small Businesses, a statement of opportunity for Public Comment, and an Impact Statement, which states the effects on the promulgating agency. Once the proposal is approved by the Secretary, it is submitted to the Maryland Division of State Documents (DSD) through an electronic filing system.

If the draft regulation includes provisions that are more stringent than corresponding federal regulations, the DSD's electronic filing system forwards the proposal to the Maryland Department of Business and Economic Development (DBED), in accordance with Governor Parris Glendening's February 1, 1996 Executive Order on Regulatory Standards and Accountability. The submittal to DBED includes a statement by the Department that provides the Department's justification for why more stringent standards are needed.

For regulations that are more stringent than corresponding federal regulation, DBED forwards the justification prepared by the promulgating agency and a copy of the promulgating agency's proposed regulation to the Governor's Office for review (the Governor's Office of Legal Counsel and Regulatory Affairs, and the Governor's Legislative Office). The Governor's Office and the promulgating agency then resolve any concerns the Governor's Office may have. Upon notification that concerns of the Governor's Office have been addressed, DSD allows the promulgating agency to continue with the administrative process.

If the draft regulation would have an impact on environmental hazards affecting children, a copy of the proposal is provided to the Children's Health and Protection Advisory Council, an advisory committee established by Maryland statute. This group does not have a formal veto authority over the draft regulation. The draft regulation is provided to the group to make sure that they are aware of forthcoming regulations that are relevant to the group's scope of interests.

The draft is next submitted to the Joint Committee on Administrative, Executive and Legislative Review (AELR), a standing committee of the Maryland General Assembly, for their review. The AELR Committee does not have veto power over proposed regulations unless the regulations are being adopted on an emergency basis. However, State agencies attempt to address concerns raised by the AELR.

If MDE and the AELR Committee are unable to agree on changes the Committee would like to see made, the Committee may formally vote to oppose the adoption of the regulation. The Governor is

notified and further negotiations take place. If the issue cannot be resolved, the Department may still adopt the regulation, but only with the explicit approval of the Governor.

After review by the Administrative Executive Legislative Review (AELR) Committee, the regulations are reviewed by staff of the Division of State Documents for conformance to style requirements. Revisions may have to be made in response to comments of the Division of State Documents. Once any concerns are addressed, the proposed regulations are published in the Maryland Register, a biweekly State publication that serves the same function that the Federal Register serves for federal regulations. There is a minimum 30-day comment period. The comment period includes a minimum of 15 days notice for a public hearing, if a public hearing is going to be held. (A public hearing is not mandatory, but may be held at the discretion of the Department.)

Comments received during the comment period are reviewed and responses to all substantive comments are prepared. If no substantive changes are required in response to the comments, a Notice of Final Action containing the proposed regulations is prepared for publication in the Maryland Register. The regulation becomes effective 10 days after publication of the Notice of Final Action, unless the Secretary specifies a later date. If substantive changes are made to the proposal, the regulations must be formally repropounded, following the same process as a new proposal. A time line for the State regulatory development process is shown in Table V-1.

Once the State regulations have been adopted, the State seeks EPA authorization for the amendments. The State follows the procedures outlined in the EPA's State RCRA Authorization Manual and the regulations of 40 CFR Part 271.

TABLE V-1 REGULATORY DEVELOPMENT PROCESS

<u>Action</u>	<u>Time Required</u>
· Regulations development	Variable
· Preliminary review by the Attorney General's Office	2-3 weeks
· Preliminary draft distributed to Counties, interested parties, Governor's Controlled Hazardous Substances Advisory Council and EPA Region III for review	30-45 days
· Revisions to preliminary draft made, drafts put into format required by Division of State Documents, proposal reviewed and approved by AG's office and the Secretary	Variable
· Review by DBED	10 days max.
· Review by AELR	16 days min.
· Review by Division of State Documents	variable
· Publication in Maryland Register, Opportunity for public comment, Public hearing	30 days
· Comments on proposal addressed	Variable
· Preparation of Notice of Final Action	Variable
· Review and approval by AG's Office and the Secretary	4-6 weeks typical
· Review by Division of State Documents	10 days
· Publication in Maryland Register	
· Action becomes effective (minimum)	10 days

B. Notification of Hazardous Waste Activity

Except as provided in State and federal regulations, any person who intends to generate, transport, treat, store, recycle or dispose of a Controlled Hazardous Substance (CHS) must notify the Secretary of MDE and the Administrator of EPA, in accordance with Section 3010 of RCRA. The proper procedure is for the notifier to submit a completed Notification of Hazardous Waste Activity form (EPA Form 8700-12) to MDE. The Department of the Environment has been authorized by EPA to implement the notification program, including the issuance of identification numbers in Maryland on behalf of EPA.

Upon receipt of a notification, the Department enters the information from the notification form into the Department's TEMPO data base. The handler information is then uploaded into EPA's

RCRAInfo data base. Quality assurance checks are then conducted by MDE on the information. Finally, the permanent identification number is issued by MDE in accordance with the terms of the Performance Partnership Agreement between MDE and EPA. The whole Notification of Hazardous Waste Activity process typically takes two weeks to complete, although the turnaround time can extend to 30 days at times of increased work load or in cases when the application is incomplete. A detailed listing of the Standard Operating Procedures (SOP) established for notification of hazardous waste activity is included in Appendix B.

The Department also issues temporary site identification numbers (EPA ID numbers) in situations where there is a one-time need to ship hazardous waste and the site has not previously been issued a temporary ID number. This could be the case when there has been a spill of material that now must be disposed of as hazardous waste, or when a business is closing and will be making a one-time shipment of a large amount of waste.

Initial inquiries from persons seeking a temporary ID number generally are by phone or email. When a person requests a temporary ID number, a staff member checks a data base maintained by the Department to verify that the site has not previously been issued a temporary ID number. If it has, the person requesting the ID number is instructed to follow the notification procedure for a permanent number. If a temporary ID number has not previously been issued, and the person requesting the number does not anticipate the need for an ID number in the future, the number can be issued once the person requesting the number has made arrangements with a waste contractor for pick-up and disposal of the waste. A blank form that lists the information needed by the Department is provided to the person who is seeking the ID number. Once the information has been provided to the Department, a unique number is issued that meets EPA's format for valid numbers, with the prefix of the number being "MDP". Information associated with the issued number is entered into a data base, where it is available for future reference.

C. Certification of Hazardous Waste Transporters

Certification of hazardous waste haulers and vehicles is an aspect of the State's program that is broader in scope than the federal program. Under Maryland law, a person may not transport CHS from a source within the State or to a destination within the State unless the transport vehicle has been certified by the Department. The company that owns the vehicle (the "hauler") must also obtain a certification from the Department. There are specific application forms for each authorization.

The standard operating procedures (SOP) for obtaining hauler certifications and vehicle certifications, as well as the SOP for processing applications for the certifications are presented in Appendix B. Copies of the applications for hauler certification and vehicle certification are found in Appendix C.

D. International Shipments

MDE requires that persons responsible for exporting CHS outside of the United States submit copies of the Notification of Intent to Export to the Department and to EPA. This notification details:

- the primary exporter
- the waste intended for export
- the method of export
- the receiving country, and
- any countries that the waste may pass through on the way.

MDE further requires that the exporter use an EPA Acknowledgement of Consent form to obtain written consent of the receiving country. This form accompanies the shipment, along with the manifest or shipping paper.

E. Manifest Tracking System

A manifest is the shipping document originated and signed by the generator of CHS that contains the information required by COMAR 26.13.03.04. The Department has adopted regulations requiring generators to use the uniform hazardous waste manifest (EPA form 8700-22) for all shipments of hazardous waste requiring a manifest. A generator may use a manifest from any source approved by EPA to print the manifest under the provisions of 40 CFR 262.21(c) and (e).

Information on the number and distribution of manifest copies is provided in COMAR 26.13.03.04D. The manifest consists of six preprinted copies plus whatever photocopies are needed to comply with other states' distribution requirements. Manifest copies are distributed as follows:

- The generator shall keep a copy, in accordance with COMAR 26.13.03.04D(2)(a).
- Each transporter shall keep a copy in accordance with COMAR 26.13.04.02C;
- The designated facility shall keep a copy in accordance with COMAR 26.13.05.05B;
- The designated facility shall forward one copy to the generator in accordance with COMAR 26.13.05.05B(1)(d)
- The designated facility for waste generated in Maryland shall forward one copy to the Department in accordance with COMAR 26.13.03.04D(2)(d)(ii) and 26.13.05.05B(1)(e)(i);
- The designated facility shall forward a copy to a generator state other than Maryland if the generator state requires it;
- A designated facility located in Maryland that receives waste from out of state shall forward a copy to the Department.
- The generator is not required to submit a copy to the Department; the generator must determine whether a consignment state other than Maryland requires the generator to submit a copy of the manifest to the consignment state.

The Hazardous Waste Certifications/Manifest Section of the Technical Services and Operations Program receives the copy of the manifest required to be submitted by the designated facility. The Hazardous Waste Certifications/Manifest Section processes and reviews the manifest, and enters data from the manifest into the State's computer database. The various procedures followed by the Section are:

- Receipt of manifests – When the manifests are received by mail, they are forwarded to a staff person for sorting and processing.
- Processing the manifests – The manifest copies for the current year and the two preceding years are filed by year in numeric order in filing cabinets in the Division's offices where they

are easily retrievable. These procedures are explained in detail in the SOP presented in Appendix B.

- Review of manifest forms – A review of each manifest is performed when a staff member enters information into the State’s manifest database. If information is incomplete, missing or incorrect, the manifest is set aside and given to the Section Head for further review and resolution of any issues.

F. Annual/Biennial Reporting

The State, at the time of base program authorization, required all Generators and Treatment, Storage, and Disposal Facilities to file an annual report. In 1996, this requirement was changed to be equivalent to the federal biennial reporting requirements. The State’s established procedures for processing and reviewing the annual reports have been adapted for processing and reviewing the biennial reports. The Hazardous Waste Certifications/Manifest Section of the Technical Services and Operations Program is responsible for biennial report processing. The various procedures followed by the Section are as follows:

- Manifests received over the preceding 12-18 months are reviewed to determine which Maryland generators are shipping hazardous waste. Information from this review is used to develop a mailing list for the biennial report packages. Persons on the mailing list are mailed a cover letter that discusses the reporting requirement. The mailing also includes information on Maryland-specific requirements, a list of State waste codes, and information specifying who must file the report. Forms and instruction booklets are no longer included with the mailing. Instead, the mailing directs persons to the specific EPA website where the forms and instructions are available for downloading. Note that the reporting obligation applies to a generator independent of whether the generator has been included on the State’s biennial report mailing list. A generator who fails to file a report of hazardous waste activity for a reporting year may not use as a defense a lack of being notified by the Department of the generator’s obligation to report.
- Receipt – Upon receiving the reports, staff members log the reports into a database according to the EPA ID number, the report year and the date received at MDE.
- Technical Review – All individual forms are reviewed for completeness and accuracy. Any discrepancies and/or questions are noted, and addressed to the submitter. Accurate and complete reports are sent to the data entry staff for input into database software that will allow the data to be transmitted to EPA’s data management system. Submitters are contacted for all Hazardous Waste Reports that did not pass the reviews. Note that the Department has been the BRS database developed by the State of Florida, but beginning with the 2015 biennial report, MDE will be using the commercially available EzTrack Database.
- Data submission – data from the reports is collected and submitted to EPA in accordance with protocols and schedules established by EPA headquarters.

G. Facility Permitting

1. Permitting Overview

The Resource Management Program is responsible for the permitting of CHS treatment, storage, and disposal (TSD) facilities in the State. CHS facility permits are issued for both operating facilities and for closed facilities required to provide post-closure care. Although these are the most frequent types of permits issued, the State's regulations provide for several other types of CHS permits. These include:

- Post-closure permits for closed land disposal units at which hazardous waste remains after the cessation of active operations;
- Emergency permits to address situations where there is an imminent and substantial threat to human health or the environment;
- Research, Development and Demonstration (RD&D) Permits for innovative and experimental treatment technologies or processes;
- Short-term and phased permits for land treatment units; and
- Limited facility permits for persons burning hazardous waste for energy recovery.

The State also requires a storage facility permit for sites where hazardous waste is kept on vehicles for periods longer than 72 hours, and facilities where hazardous waste is transferred from one vehicle to another.

Table V-2 summarizes the overall steps in the State of Maryland's permitting process. These steps are discussed in detail later in this section. The list of permitted hazardous waste facilities can be found in Appendix D.

TABLE V-2

PERMITTING PROCESS

- The applicant complies with pre-application requirements concerning pre-application public meetings if the applicant is seeking an initial permit for a hazardous waste management unit or renewal of a permit for a hazardous waste management unit for which the applicant is proposing a change in operations that would qualify as a Class 3 permit modification under 40 CFR 270.42. (The pre-application requirements do not apply to permits for post-closure care.)
- The applicant files a Notification of Regulated Waste Activity with the Department if the site has previously not been assigned an EPA identification number.
- The applicant submits Parts A and B of permit application.
- The State begins its process for public participation by publishing a notice that an application has been received. The notice includes an opportunity to request a public informational meeting on the application. The State also adds information on the application to a data base of applications under review. This data base is available to the public for viewing on the Department's web site.
- Concurrently with the publication of the notice of receipt of the application, the State makes the application available for public review by placing the application and any supporting documents in a location accessible to the public near the facility and at the Department's offices.
- A public informational meeting on the application is held if requested, or, in the absence of a request, if the State believes that holding one would be beneficial.
- The State conducts a completeness review of the application.
- If applicable, the State issues a Notice of Deficiency (NOD) to applicant, identifying deficiencies in the application.
- The State conducts a technical review of the complete application.
- The State sends a second NOD identifying the deficiencies revealed by the technical review; if required.
- The State prepares a draft permit or Notice of Denial.
- The State advertises this action and gives the public a minimum of 45 days to comment. Public notice is given by publication of notices in consecutive weeks in a newspaper of general circulation that serves the community where the site is located, and by radio announcements.
- If the State believes there is sufficient interest to warrant one, or if requested to by the public, the State conducts a public hearing. Notice of the hearing is published at least 30 days before the date of the hearing.
- The State makes a final decision to issue or deny the permit. If adverse comments on the Tentative Determination were received, it publishes a Notice of Final Determination. Otherwise, the tentative determination becomes the final decision.
- If a Notice of Final Determination is published, it is subject to judicial review in accordance with Section 1-601 of the Environment Article, Annotated Code of Maryland. A party has 30 days after publication of the Notice of Final Determination to file a petition for judicial review. Section V.G.6 describes the provisions for judicial review.
- If the Final Determination is to issue the permit, and a petition for judicial review has not been granted, the State issues the permit. The standard term for hazardous waste facility permits is 10 years, but the

Department may issue a permit for a shorter term.

- EPA issues a permit for Corrective Action or other elements of the federal program for which EPA is the implementing authority in Maryland. The EPA permit has a 10-year term.
- The two parts of application from the State and EPA are combined to form the RCRA permit.

2. Pre-application Activities and Permit Application

Before submitting an application for a CHS facility permit, the applicant may be required to conduct a number of pre-application activities as part of the public participation process. These pre-application requirements apply to an applicant who is seeking an initial permit for a hazardous waste management unit or an applicant who is seeking to renew a CHS facility permit for which the applicant is proposing a change in operations that would qualify as a Class 3 permit modification under 40 CFR 270.42. The pre-application requirements do not apply to permits for post-closure care, nor do they apply to permit modifications.

If subject to the pre-application requirements, the prospective applicant must hold one or more pre-application public meetings in order to solicit questions from the community and to inform the community of proposed hazardous waste activities. The prospective applicant is responsible for providing public notice for the meeting through a newspaper advertisement, the posting of a sign at or near the site of the proposed facility, and a broadcast media announcement. The prospective applicant must also provide copies of the pre-application meeting notice to the Department, any other units of State government having authority with respect to construction or operation of the facility, and any unit of local government having jurisdiction over the site where the facility is located. The pre-application meeting notices must contain certain information specified in the State's regulations (see COMAR 26.13.07.19-1C(5)).

In order to obtain a permit, the facility owner or operator must first submit a completed Notification of Regulated Waste Activity form to the Department if the owner/operator has not previously done so. Then the owner/operator has to submit a two-part state application. Part A is a standard EPA form that provides general facility information. Part B includes detailed site-specific information. Part B also incorporates the specific information requirements listed in COMAR 26.13.07.02 through 26.13.07.02-11 and 26.13.07.03, as well as information that demonstrates how the applicant will comply with the substantive requirements of COMAR 26.13.05. A copy of the application is provided to EPA. The information required by the State in Parts A and B is equivalent to the information required by the federal program.

Before an application is submitted, a permit writer offers to meet with the prospective applicant to explain the requirements for submitting a complete application, and to provide guidance in satisfying the requirements. The applicant is informed of the relevant sections of the Code of Maryland regulations that the applicant will have to address in the application. The applicant is also made aware of the technical guidance documents that are available for reference. Applicants are invited to visit the offices of the Department to review material useful in completing an application, and also to meet with the permitting staff for assistance in completing applications.

Once the Department receives the permit application, the Department publishes a public notice announcing receipt of the application. The notice will either offer an opportunity to interested persons to request a public informational meeting on the application, or will provide the date, time and location of a

public meeting if the Department elects to schedule a meeting without waiting for a request. As with all notices associated with the administrative process for CHS facility permits, the notice is published at least once in each of two consecutive weeks.

The Department also maintains a data base of all permit applications that are under review. This data base is available for review by the public through the Department's web site.

Concurrently with the publication of the notice of receipt of the application, the State makes the application available for public review by placing the application and any supporting documents in a location accessible to the public near the facility and at the Department's offices. The Department may require the applicant to establish and maintain an information repository for the facility depending on factors such as the level of public interest, the type of facility, and the proximity of the place where the repository would be located to the nearest copy of the administrative record for the permit application.

Additional information on the State's public participation process is provided in Section V.G.7, below.

3. The Permit Review Process – Initial Review

When the permit application is received, the permit writer reviews it for completeness. The application is compared to the specific application requirements outlined in COMAR 26.13.07.02 through 26.13.07.02-11 and technical requirements in COMAR 26.13.05. Although the focus of the initial review is to determine whether the application is complete, if technical inadequacies are evident, the permit writer makes note of them for future action.

After the permit writer has become familiar with the material in the permit application, a site visit is scheduled. The permit writer discusses the facility with enforcement personnel who are familiar with the facility. The permit writer also reviews enforcement files for relevant information. The permit writer may be accompanied on the site visit by the enforcement staff member who is assigned to the facility. The primary purpose of this visit is to verify the completeness and accuracy of information in the application. While at the site, the permit writer also notes any evident technical problems with the proposed waste management activities.

4. Permit Review – Notice of Deficiency

Based on the review of the application and information obtained during the site visit, the permit writer drafts a Notice of Deficiency (NOD). A NOD is a letter addressed to the applicant that clearly identifies all deficiencies discovered in the initial review of the application. It provides guidance on how to address these deficiencies. A final review of the application and the NOD is made by the permit writer's supervisor who makes any necessary modifications to the NOD.

Generally, the applicant is given 45 to 60 days to address the issues raised in the NOD. The applicant is encouraged to meet with the permitting staff to seek clarification on any issue related to the permit, and to lessen the chances of misunderstanding the State's requirements.

The permit writer reviews the applicant's response to the NOD and prepares notes on any outstanding issues. The permit writer also identifies any technical issues that the applicant must address to demonstrate capability to operate the facility in accordance with regulatory requirements. The permit writer may raise issues with the applicant by e-mail, or if the scope or number of issues of concern is significant enough, the issues may be communicated to the facility in a second NOD. The applicant is

again encouraged to meet with the permitting staff to resolve issues, thereby resulting in quick processing of the application.

If the applicant's response to the second NOD does not address all issues raised by the State, a third NOD may become necessary. If the applicant does not resolve all outstanding issues, the State could take one of two courses of action:

- Imposing certain conditions in the permit to obtain the required degree of protection; or
- Denial of the permit application.

Unless there are extenuating circumstances, the state expects that the applicant's response to the third NOD will resolve all outstanding issues.

Once the permit applicant has addressed all concerns raised by the State in reviewing the application, the permit writer prepares a draft CHS facility permit. This is a draft of what will be, on issuance, a legally binding document that identifies the requirements the applicant must comply with in managing CHS at the permitted facility.

5. The Draft Permit

The draft permit is comprised of a main body and a series of attachments.

Main Body of the Permit.

The main body of the permit consists of the standard conditions and general conditions that are applicable to all hazardous waste facilities, and special conditions designed specifically for the particular facility. The standard conditions are conditions that are administrative in nature, such as requirements defining the effect of the permit, requirements on document retention, and generalized duties to which the permittee is held. The general conditions implement the general facility standards imposed on hazardous waste treatment, storage and disposal facilities by the regulations.

Special conditions include:

1. identification of the waste codes of the wastes that are permitted to be managed;
2. quantities of wastes that may be managed; and,
3. processes that may be used to manage wastes.

The special conditions also include any provisions needed to address special hazards posed by the particular wastes managed at the facility or any conditions necessitated by the particular circumstances of facility operations (restrictions on hours of operations, special testing or certification requirements, etc.).

The special conditions are generally organized so that special conditions applicable to a particular process are grouped within a discrete section of the permit. For example, conditions specific to operation of an incinerator would all be grouped together in a separate section, and conditions on all regulated units associated with the incinerator (such as feed tanks) would be included in that section.

Permit Attachments.

The attachments to the permit include detailed descriptions of the facility design and

construction, and how the facility will be operated to comply with the State's hazardous waste regulations. Examples of materials included as permit attachments include facility descriptions, waste analysis plans, contingency plans, training plans, inspection schedules and checklists, plans and specifications of waste management units, groundwater monitoring plans, treatability demonstration plans, trial burn plans, construction quality assurance/quality control plans, special requirements for managing ignitable or reactive wastes, and closure plans. Other attachments may be included depending on the nature of the regulated activity.

The bulk of the information in the permit attachments comes from the permit application. However, information from the application may be modified by the permit writer to assure that information that is made a part of the permit is adequate from both a technical and regulatory standpoint.

When the draft permit is completed, the permit writer prepares a fact sheet for the draft permit. The fact sheet describes the facility, summarizes the conditions in the draft permit, and lists the regulatory basis for each permit condition.

The permit writer submits the permit draft to the supervisor (Technical Specialist/RCE Supervisor) for review. The supervisor notes any concerns and instructs the permit writer to address them. This could involve redrafting of permit language, obtaining additional information from the applicant, or demonstrating the appropriateness of permit conditions.

Once the supervisor's concerns have been addressed, the supervisor forwards copies of the draft permit to the Compliance Division of the Solid Waste Program for review. When all concerns of the reviewers have been addressed, the supervisor forwards the draft permit to the Program Manager of the Resource Management Program for review and approval. After any required changes have been made, a Tentative Determination to issue the permit is prepared and forwarded to the Director of the LMA for approval. Once the Director approves the draft permit, the supervisor arranges for publication of a public notice, distribution of copies of the draft permit, including a copy to EPA, scheduling of any public hearings or public informational meetings, and notification of persons on the mailing list for the facility.

The Resource Management Program also arranges to have the draft permit made available for public review at the time the Notice of Tentative Determination is published. A copy of the draft permit and fact sheet is generally placed in a public library in the vicinity of the facility that is the subject of the draft permit. Copies are also available for review in the offices of the Department. The public notice includes information on where and when the draft permit may be reviewed.

A tentative determination to deny a permit application follows the same steps as a tentative decision to issue a permit. However, instead of preparing a draft permit, the Resource Management Program prepares a "basis for denial" which explains why the Program believes that denial of the application is appropriate. The "basis for denial" takes the place of the draft permit in the procedures discussed above. The decision to deny the permit application would be subject to public comment, and any aggrieved party eligible to do so could appeal a final decision by petitioning for judicial review.

6. Administrative Procedures for Permitting

In 1993, the Maryland legislature revised the administrative procedures applicable to various permits issued by the Department, including Controlled Hazardous Substance permits. The main effects of the statutory revisions were to involve the public in the permitting process at an earlier stage, provide

for additional public notice of permitting activities, and clarify requirements for adjudication of permit decisions.

In 2009, the legislature made additional revisions to the statutory provisions affecting administrative procedures for permits. The principal change was to modify the appeal procedures for permit decisions. The contested case process, under which parties aggrieved by a permit decision could seek a Contested Case Hearing before the State's Office of Administrative Hearings, was eliminated. Instead, the recourse for persons who object to a final determination on a CHS facility permit is to seek judicial review before the circuit court for the county where the activity covered by the permit application was proposed to occur.

The State has revised its regulations to reflect the 1993 statutory changes. The State has also revised its regulations to reflect changes EPA has made to the federal public participation procedures (60 FR 63417, 12/11/1995). The statutory changes made in 2009 are not yet reflected in the Department's regulations, but are being implemented as a matter of State law.

The specific statutory provisions concerning public participation are described in the next section.

7. Public Participation

This section briefly discusses the procedures that the Department follows to involve the public in hazardous waste permitting decisions. These procedures are required by Title 1, Subtitle 6 of the Environment Article, Annotated Code of Maryland and the provisions of COMAR 26.13.07.19-1 through 26.13.07.20-6.

In certain cases, a prospective permit applicant is responsible for conducting pre-application activities to inform the potentially effected public of the prospective applicant's plans. These procedures are described in Section V.G.1, above.

When a hazardous waste facility permit application is received by the Department, the Department is required to publish a notice announcing receipt of the application and offering an opportunity for a public informational meeting. The Department is also required to make the application available for public inspection.

The Department is required to hold an informational meeting on the permit application if a written request is received within 10 working days after the publication of the notice of application received. The Department may also, at its discretion, schedule an informational meeting in the absence of a request. The informational meeting provides an opportunity for the public to learn more about what the permit applicant is proposing. The meeting includes a discussion of the permit application itself, as well as a discussion of the entire permit review process, including a tentative schedule for review process completion. The meeting is used to advise the public of all opportunities to participate in the permitting process.

The statute gives the Department authority to require an applicant to attend informational meetings on the permit application. If the applicant fails to appear as required, the Department has the authority to deny the permit.

When an applicant is applying to the Department for more than one type of permit for a facility simultaneously, it is MDE's policy to combine informational meetings whenever possible. By combining

informational meetings, the applicant and the public will be better able to discuss all aspects of a particular facility. These meetings require careful coordination across the Department's air, waste, and water management programs. The respective administrations will designate an individual who is responsible for maintaining this coordination.

Once the draft permit is prepared, the public is notified through a newspaper notice. The public notice is published a minimum of twice (once in each of two consecutive weeks) in a newspaper of general circulation serving the area where the facility is located. An abbreviated public notice is also broadcast on a radio station serving the general area where the facility is located, generally twice on a given day.

The newspaper notice:

- Provides a brief summary of activities that are the subject of the draft permit;
- Provides an opportunity for public comment;
- Describes procedures for submitting comments;
- Offers an opportunity for a public hearing if one has not already been scheduled; and
- Identifies an agency contact person as a source for further information.

A minimum 45-day period allows time for public comment on the draft permit. The draft permit and fact sheet are made available for review in the offices of the LMA and in a public library close to the facility.

During the comment period, the public may request a hearing on the draft permit. If a request is made, the hearing must be held. A hearing may also be held without a request from the public if the Department feels that one is warranted. Notice of a public hearing is published in a newspaper of general circulation serving the area where the facility is located, and summaries of the notice are given on radio announcements. This notice must be published at least 30 days before the scheduled date of the hearing. If a public hearing is held, the time allowed for public comments is extended to at least 5 days after the close of the hearing.

Once a hearing is scheduled, the LMA designates a hearing officer whose duty is to conduct the public hearing. Any person is allowed to submit oral or written statements and data concerning the draft permit at the hearing. The hearing officer may extend the comment period by so stating at hearing. A written transcript of the hearing is made part of the administrative record and is made available for the public to review.

After the comment period ends, responses to public comments are prepared. Based on a review of the permit file and public comments, the hearing officer makes a recommendation to issue the permit as drafted, modify the draft permit, or deny the draft permit. The final decision on action on the permit is made by the Director of the LMA.

If no adverse comments were received on the draft permit during the comment period, the permit becomes effective on the date designated by the Director.

Adverse Comments/Permit Appeals: If adverse comments are received during the comment

period, the LMA publishes a “Notice of Final Determination.” Within 30 days after publication of the Notice of Final Determination, a party may file a petition for judicial review. The statute limits the parties eligible to petition for judicial review to any person that “meets the threshold standing requirements under federal law”; and is either the applicant, or a person who participated in a public participation process through the submission of written or oral comments.

The statute provides that judicial review shall be on the administrative record before the Department and limited to objections raised during the public comment period, unless the petitioner demonstrates that: (i) the objections were not reasonably ascertainable during the comment period; or (ii) grounds for the objections arose after the comment period. A party may not challenge a facility's compliance with zoning and land use requirements in petitioning for judicial review of a permit decision.

By providing citizens with early opportunities to participate in the permitting process, the Department strives to limit the need for parties to petition for judicial review. By working closely with the applicant and interested parties throughout the permitting process, the Department attempts to settle disagreements over factual issues before reaching this stage in the permitting process. However, filing a petition for judicial review remains an option for citizens who believe that a final determination by the Department was made in error.

To keep the public informed of and involved in permitting decisions, the Environment Article, Annotated Code of Maryland requires the Department or the applicant to “publish notice” throughout the permit review process. In either case, the applicant would incur all costs associated with having notices published. The Department will have a public notice published when a draft permit has been prepared or in the event that a permit application is denied. Public Notice is not required, however, when a request for permit modification, revocation and reissuance, or termination is denied.

The Environment Article, Annotated Code of Maryland also requires that each notice be published at least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located. The Department may also require the applicant to send notices directly to each person requesting a meeting or hearing, and may require that the notice be posted at the site or at other public facilities in the area of the proposed facility.

8. Permit Modifications

Revision Checklist 54 addresses the rule on permit modifications for hazardous waste facilities that was finalized by EPA on September 28, 1988 and amended on October 24, 1988. The final rule identified three classes of modifications. In the preamble to the rule, EPA affirmed that authorized states are not required to modify their programs to adopt requirements equivalent to the provisions of the rule. Also in the preamble, EPA gives States the option of retaining the minor/major process for permit modifications, and adopting selected portions of the rule.

The State of Maryland has not adopted all provisions of this rule. The State has a system of two types of permit modifications, minor or major, a system of classification that is somewhat more stringent than federal requirements. “Minor” indicates a class of State permit modification that is equivalent to the EPA Class I. All other permit modifications are designated as “Major” under the State system.

Minor modifications are those modifications that involve minor changes to keep the permit current with routine changes to the facility or its operation, do not require substantial alterations of permit conditions, and do not reduce the capacity of the facility to protect human health and the

environment. Minor modifications under the State’s regulations are equivalent to Class I modifications under 40 CFR 270.42. Additionally, under COMAR 26.13.07.13-3, a person may request that other modifications be considered and processed as minor. Minor permit modifications are processed through agency correspondence without the public participation requirements of major modifications.

Major modifications follow the same administrative procedures as applications for new permits or renewal of existing permits. An example of a major modification is a request for an increase in the amount of waste that may be managed at the facility.

9. Interaction with Enforcement Personnel

There is a day-to-day interaction between permitting and enforcement personnel. The enforcement personnel are continually working to identify non-notifiers and handlers of CHS that are operating without a permit. This information is provided to the permit staff. Permit writers assist enforcement personnel in the interpretation of permit conditions and regulatory requirements. Enforcement personnel inform permitting staff of changes in facility operations that may require permit modifications and ambiguous situations that require clarification. Enforcement personnel also advise permit writers on the enforceability of draft permit conditions, and may suggest additions or modifications to draft permits to address issues that they have identified through facility inspections.

10. Routine Review of Facility Operation

Permit writers review the closure cost estimate that the facility is required to update annually. The permit writer also verifies that the facility has the required financial assurance mechanism in place to cover the cost of closure or post-closure care. The permit writer for a facility reviews the facility's biennial report of hazardous waste activities to assess its accuracy and completeness. If a facility is required to conduct periodic groundwater monitoring by the permit, the permit writer will review monitoring reports and may observe groundwater sampling events.

11. Permitting Reports Required by RCRA Grant

The Resource Management Program routinely provides EPA with the reports listed in Table V-3. The RCRAInfo Permitting Information is not provided as a report *per se*, but, rather, is in the form of entries made by the State in the RCRAInfo permitting module.

The Permit Tracking Chart lists all permitted facilities and facilities for which permit applications have been received, and summarizes the current status and projected timelines for permits and permit actions. This report is provided to EPA on a quarterly basis as a condition of the State’s Performance Partnership Grant work plan.

TABLE V-3
TYPES OF REPORTS AND DUE DATES

REPORT NAME	FREQUENCY/DUE DATES
RCRAInfo Permitting Information	Monthly by the 5th
Permit Tracking Chart	Quarterly (by January 15, April 15, July 15 and October 15)

12. Miscellaneous Units – Subpart X Permits

COMAR 26.13.05.16-1 establishes management standards for “miscellaneous units”. Miscellaneous units are waste management units for which specific technical standards have not been established in COMAR 26.13.05 (i.e., is not a container, tank, surface impoundment, etc.) The management standards for miscellaneous units are in the form of general performance standards, requiring that the units be located, designed, constructed, operated, maintained and closed in a manner that will ensure protection of human health and the environment.

To draft a permit for this type of facility, the permit writer first reviews the regulations for any similar standards applicable to the particular miscellaneous unit under consideration. EPA is then consulted for any specific guidelines for permitting the miscellaneous unit. Guidance documents, technical reports, and independent technology assessments may be consulted in evaluating the permit application.

In reviewing the application, the permit writer uses best engineering judgment to assess whether the applicant can operate the unit in accordance with the performance standards established in the miscellaneous unit regulations. The permit writer then drafts the permit to incorporate any relevant guidelines, and any Departmental concerns, taking into account recommendations made by EPA.

Permit conditions are drafted to assure that the general performance standards established in the regulations for miscellaneous units will be met. This could include such things as limitations on types or quantities of wastes managed in the unit, specification of pollution control equipment, establishment of treatment criteria that the units must achieve, specification of operating limits on critical process parameters, establishment of specific inspection and maintenance requirements, monitoring requirements, etc. For innovative treatment technologies, the permit may specify that performance must be successfully demonstrated in trial tests before full-scale operations are allowed.

Once the permit has been drafted, further processing of the permit follows the administrative process previously described.

13. Joint Permitting

The State and EPA are involved in joint permitting for corrective action permits. The amount of joint involvement varies depending on the facility and the permit needed. In general, EPA has primary authority to issue corrective action permits. However, for some facilities, MDE will agree to draft the corrective action permit under the annual federal grant work plan, and to send the draft to EPA for review. EPA may also include conditions in the permit relating to federal regulations promulgated under authority of the Hazardous and Solid Waste Amendments of 1984 for which the State has not yet received authorization to implement in lieu of EPA. The State may also incorporate into its permit specific conditions related to a facility’s site-wide corrective action obligations under federal law. EPA will then reference the State permit in EPA’s Statement of Basis for corrective action at the site. The corrective action conditions that the State includes in its permit are enforceable by the State as a matter of State law. EPA retains its independent corrective action enforcement authority for the corrective action conditions.

H. Interim Status

1. Background

The federal hazardous waste regulatory program includes a concept called “interim status”. It addresses existing operations that become newly subject to permitting requirements because of a change in regulations or a statutory change. By complying with the interim status requirements, a facility is allowed to continue to operate as if it had a permit until the permit is either issued or denied (or the facility closes or has its interim status revoked.)

At the time of Base Program Authorization, the State did not have a direct analog to the federal interim status regulations (40CFR Part 265, and 40 CFR Part 270 Subpart G, among others). In situations where, under federal regulations, a generator would have had to comply with the requirements of 40 CFR Part 265 in order to temporarily be allowed to continue a particular activity, Maryland generators were required to comply with the State analog to the final permitting standards of 40 CFR Part 264. This was generally handled by issuing a Consent Order to the generator which allowed the generator to operate as if it had a hazardous waste facility permit, provided that the generator complied with the State’s standards for permitted facilities. This was the process used when the State’s regulatory program for hazardous waste first took effect and no permits had yet been issued.

Although this approach was adequate at the time of Base Program Authorization, as the State’s regulatory program has matured, some difficulties have become evident. For example, ambiguities can arise because the regulations for permitted facilities sometimes require the owner or operator to do something in accordance with conditions specified in the facility’s permit. Such a requirement could cause confusion for a facility that has been temporarily sanctioned to operate without having been issued a permit.

2. Revisions to the Base Program

The State has modified its regulations to eliminate potential problems in the State’s hazardous waste regulatory program with respect to interim status facilities. The State’s regulations now more closely follow federal regulations. This has been accomplished by adding a new Chapter 6 (Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities) to COMAR 26.13 as the analog to 40 CFR Part 265, and by adding the provisions of COMAR 26.13.07.23 to serve as the analog to 40 CFR Part 270 Subpart G. Minor changes were also made to other parts of COMAR 26.13 to maintain consistency with the federal interim status standards.

In general, the State attempted to be equivalent to the federal interim status program. There are areas where the State is more stringent, however. For example, the State requires interim status facilities that manage hazardous waste in containers to maintain secondary containment around the containers to capture spills or leaks, as permitting standards would require. Areas where the State’s regulations are more stringent than the corresponding federal regulations are identified on the regulatory checklists that were part of the State’s application for program authorization when it sought authorization for the interim status requirements.

In writing its regulations for interim status facilities, the State took three main approaches. If the final permitting standards and the interim status standards for a given regulation were nearly the same, the regulation in COMAR 26.13.06 (interim status standards) was written to make a cross-reference to the corresponding regulation in COMAR 26.13.05 (permitted facility standards), with the addition of whatever qualifiers were needed. If there were major differences between final permitting standards and

interim status standards, and it was felt that the regulation would affect a small number of facilities, the regulation in COMAR 26.13.06 was written to incorporate, by reference, the corresponding federal regulation in 40 CFR Part 265. (Examples include the requirements for land treatment in COMAR 26.13.06.21, requirements for thermal treatment and open burning in COMAR 26.13.06.24, and requirements for chemical, physical and biological treatment in COMAR 26.13.06.25.) In instances where the State felt the different interim status requirements affected a significant number of facilities (e.g., closure and post-closure rules), the corresponding federal regulation was rewritten in the style required by the Maryland Division of State Documents for incorporation into COMAR 26.13.

3. Implementation of the Interim Status Program

General Considerations.

Interim Status could become an issue for a regulated entity in a number of ways. First, the facility could currently be managing a waste that becomes newly regulated as a hazardous waste, with the existing management activity being one that is now subject to permit requirements. Second, additional regulatory requirements affecting a permitted unit could become effective, making modification of the facility's permit necessary, with interim status standards applying until such modification is completed. Finally, the facility could be operating a unit that, because of new regulations, suddenly becomes subject to permit requirements.

In these instances, unless some provision were made, a facility would have to cease operations that it had previously conducted until permit issues are resolved. The interim status program is a way of addressing this problem. By qualifying for Interim Status and complying with the applicable regulations, a facility can continue operations, pending final action on a permit for the facility or until the Department otherwise terminates the facility's interim status.

To qualify for interim status under the State's regulations, a person must do the following:

- Comply with notification requirements under Section 3010(a) of RCRA;
- Meet requirements in COMAR 26.13.06 concerning submission of a permit application ("Part A" permit application requirements); and
- Comply with the management standards of COMAR 26.13.06 (the analog to 40 CFR Part 265).

Note that the State is not retroactively applying the notification requirement to facilities that were covered by the procedures that the State followed as an alternative to interim status prior to October 16, 2000 (the effective date of the State's interim status regulations). Similarly, the State is not retroactively applying the requirement that facilities submit a Part A permit application. However, the State's regulations do not absolve a facility of its responsibility to have complied with federal notification requirements for regulations that EPA promulgated or will promulgate under authority of the 1984 Hazardous and Solid Waste Amendments.

At some point, the Department will request that a facility operating under interim status submit an application for an operating permit (or permit modification, if appropriate). This request will specify a deadline for submitting the application. Failure to submit an application by the deadline may be grounds for the Department to terminate the facility's interim status. This would require the facility to cease the operations that are the subject of the interim status requirements in question and comply with applicable closure standards.

The decision to request the submission of a permit application depends on the specifics of the situation. Examples of things that may be considered in making such a decision include the environmental benefit of the final permitting standards versus the interim status standards for a given rule, general policy considerations defining the priority for permitting the affected class of facilities, and the permitting workload of the Resource Management Program.

Review of the permit application is conducted as described in the sections of this document dealing with permitting. The standard administrative procedures that are followed, including those involving public participation, are also described in the sections of this document dealing with permitting.

Interim status for a facility terminates when a final operating permit is issued, a request for a permit for the activities covered by interim status is denied, the facility closes, or the Department revokes the facility's interim status. Interim status could be revoked if the facility fails to submit a Part B application by the deadline specified by the Department in its request for the application. Interim status may also be lost by a facility if a given rule provides for a loss of interim status in situations where a facility fails to take some specified action (e.g., install a liner for a waste management unit by some specified date.)

Implementation.

Implementing interim status requirements for a new rule involves the following activities: education and outreach concerning new requirements, identification of the affected facilities, determination of whether requirements to obtain interim status have been met, and compliance assistance/enforcement activities.

Effective education and outreach concerning new regulatory requirements is essential in obtaining maximum compliance. Since generalizations cannot be made about who will be affected by any given regulation, an outreach strategy must be developed on a case-by-case basis for each new regulation. Outreach can take many forms.

For example, in developing the regulation, the Department (or EPA) may have consulted industry trade associations or other groups and may have asked them to comment on the prospective requirements. This allows these organizations to provide early notification to their membership that new requirements are on the horizon.

The Department may also generate publicity concerning the new requirements through press releases, notices on the Department's web site, presentations at various conferences or meetings, and articles in the Department's newsletter.

Another option is the direct approach. Mailings may be targeted at the affected members of the regulated community explaining the new requirements and what must be done to comply. The Department may also sponsor its own seminars or training sessions on new regulatory requirements.

Information that may be used in educational efforts includes guidance documents or compliance guides prepared by EPA. The State may also prepare its own educational material, especially if there are elements of the regulations that are more stringent than the corresponding federal regulation.

There are a variety of means through which the Department can identify the members of the regulated community affected by a new regulation. Analysis of the regulation may identify the affected

parties as being some clearly identified subset of the regulated community, allowing the Department to perform searches of the various data bases to which the Department has access. For example, interim status provisions of a new regulation may only affect permitted facilities managing F-listed solvents in aboveground tanks. The affected facilities could be gleaned from the Department's permit information or biennial report information. Other means that are employed are the same ones used to identify members of the regulated community, as discussed in Section VI A (Compliance Tracking and Enforcement, Identification of Members of the Regulated Community.)

Once the affected parties have been identified, and appropriate outreach has been conducted, the Solid Waste Program's Compliance Division has the responsibility of determining whether requirements to obtain interim status have been met. The method used will vary depending on the nature of the regulation that triggered requirements to comply with interim status standards. In some instances, assessing compliance would involve a search of the Department's files to determine if facilities have made proper notifications, with site visits made as needed to determine if requirements are being met. In other cases, the regulation may involve facility operating requirements, which would require a facility inspection to assess compliance.

Various strategies may be used to target facilities for checks of compliance. For example, if the regulation affects a single industry with a limited number of facilities, a special initiative to inspect all the facilities at an early date may be undertaken. If the regulation involves a large number of facilities that are not concentrated in any particular industry, compliance may just be checked as part of routine compliance inspections. If these routine inspections turn up patterns of violations, special initiatives can be undertaken to target likely violators.

I. Enforcement--General Inspections

Each year, as part of the federal grant process, the Solid Waste Program develops a set of inspection priorities for the next federal fiscal year. These inspection targets are chosen to meet State priorities, inspection mandates under RCRA and priorities identified by EPA through its RCRA implementation plan and initiative process.

The Solid Waste Program reviews all of the facilities that it regulates to identify those facilities that should be accorded the highest priority for inspection. The following characteristics are used to determine those facilities that require special attention:

- Sites at which an aquifer has been contaminated, especially when it is utilized as a drinking water resource. These sites are assigned the highest priority, since contaminated aquifers may create an acute threat to the public health, requiring immediate attention and remedial action.
- Sites at which contaminants are being discharged to surface waters in excess of limits set by NPDES permits; and
- Sites at which there have been major enforcement actions and/or repeated noncompliance. These sites include facilities that are currently the target of significant enforcement actions, including remedial action, permit revocation, and major fines; and/or facilities demonstrating frequent noncompliance and patterns of violation.

Additionally, the Solid Waste Program assigns a high priority to activities in support of the

Department's efforts focused on protecting and restoring the Chesapeake Bay. The Solid Waste Program also continues to support efforts in multi-media enforcement, Environmental Justice, and Pollution Prevention.

The RCRA Work Plan describes how inspection priorities are set for facilities that do not warrant special attention under the above criteria. According to the biennial Office of Enforcement and Compliance Assistance MOA and the RCRA Statute, the State has the following inspection commitments: core activities, national priority sectors, community based sectors, and media specific activities that are reflected in the State work plan. Specifically, the State currently has the following annual inspection goals:

- Inspect all TSDFs that were not inspected in the previous year, including any newly regulated TSDF.
- Inspect any federal TSDF that has a CEI due.
- Inspect annually commercial TSDFs accepting CERCLA waste.
- Inspect state and local TSDFs that were not inspected in the previous year, or have not returned to compliance.
- Inspect all LDFs not inspected (CME or O&M) in the previous 2 years.
- Accompany EPA on large quantity BIF inspection to receive on-the-job training.
- Continue efforts towards inspecting every LQG that has never received a CEI with a particular focus in Federal LQGs.
- Conduct delisting inspections as required.
- Annually inspect all hazardous waste incinerators in Maryland.

In addition, the Department adapts its inspection program to priorities identified annually by EPA. Examples from recent years include sector-based initiatives (electroplating and coating), geographic initiatives (the Chesapeake Bay), and community-based initiatives (the Anacostia watershed.)

The Solid Waste Program also is involved in compliance assistance activities and has developed compliance incentives. Currently, compliance assistance activities focus on newly regulated handlers, handlers subject to new regulations, small businesses in the priority industrial sectors, and other small businesses with compliance problems. Compliance incentives include the encouragement of the regulated community to voluntarily discover, disclose, and correct violations before being identified by the regulatory agencies. The Department's Environmental Audit Guidance, revised 5/15/2006, can be found in the Department's Annual Enforcement and Compliance Report for State Fiscal Year 2014, as well as in Appendix I of this document. Under conditions specified in the Environmental Audit Guidance, the Department may reduce a civil or administrative penalty for violations of environmental requirements that are voluntarily disclosed.

The Department recognizes the importance of the environmental objectives developed by EPA in response to the Government Performance and Results Act (GPRA). Activities performed by the Solid Waste Program's Compliance Division support the following objective from GPRA Objective 3.1: ensure

proper management of waste at facilities in ways that prevent releases.

The Enforcement Division makes provisions for its inspectors to receive the training they need to be effective. The following courses are routinely provided to new inspectors:

- Basic Inspector Training (Fundamentals of Environmental Compliance Monitoring Inspections);
- Region 3 Hazardous Waste Inspector Forum
- OSHA 40-Hour Hazardous Waste Cleanup Course; and
- Advanced RCRA Inspector Institute.

As the need arises, the inspectors get training for the various courses provided by EPA's National Enforcement Training Institute (NETI) (<http://www.epa.gov/compliance/training/neti/>), and also from training courses offered by universities and other organizations. The new inspectors also get an opportunity to accompany experienced inspectors on visits to various facilities to conduct inspections. This process provides on the job training to new inspectors.

Training is also provided on new regulations that are a significant expansion of the State's regulatory program. This may be either training offered by EPA or in-house training.

J. Groundwater Monitoring Inspections

Various types of Groundwater Monitoring Inspections have been developed by EPA. Of these, the State has focused on two. They are the Comprehensive Groundwater Monitoring Evaluation (CME) and the Operation and Maintenance Inspection (O&M)

The Comprehensive Groundwater Monitoring Evaluation (CME) is a detailed evaluation of the adequacy of the design and operation of ground water monitoring systems at RCRA facilities. The various activities involved in this inspection are:

- Pre-CME Planning
- CME Office Evaluation
- CME Field Evaluation
- CME Report Preparation
- Review of CME Report
- Follow-up Inspection

The personnel involved in the various activities associated with a CME are technical enforcement staff, geologists, field inspectors, hydrogeologists and geotechnical engineers.

Operation and Maintenance (O&M) inspections are conducted once the monitoring system at a site is shown to be adequate by means of a CME. O&M inspections are performed once every three years to evaluate the performance of the monitoring system. The O&M inspection focuses on how owners and operators conduct operations and maintain their ground water monitoring systems. An O&M inspection involves review of records, inspection of wells, and verification that the sampling crew follow the "Sampling and Analysis Plan" while collecting ground water samples.

The sampling procedure is different for each of the two inspections. For more information on either of these procedures, the details are provided in the EPA manual "Final RCRA Comprehensive Ground-Water Monitoring Evaluation (CME) Guidance Document", OSWER Directive 9950.2 (December, 1986). Other documents that are used as references by the inspectors in checking for compliance are the "Ground-Water Monitoring Guidance for Owners and Operators of Interim Status Facilities", OMB clearance No. 2000-0423 (1982), and the RCRA Ground-Water Monitoring Technical Enforcement Guidance Document, OSWER-9950.1 (September, 1986).

When appropriate, the enforcement personnel will split samples with the facility owner or collect samples to verify the levels of contaminants present.

Enforcement personnel conduct follow-up inspections to verify that recommendations from previous inspections have been carried out. Failure by the facility to implement any requirements may provide the basis for enforcement action.

The adoption of Checklist 55 has required more groundwater sampling to take place, but Maryland regulations require the facilities to conduct most of their own sampling. The Department has staff geologists available to provide technical support to the Solid Waste Compliance Division personnel performing oversight and review of the facilities' work.

K. Waste Minimization/Pollution Prevention Program

COMAR 26.13.03.06B(1)(d) and B(4), in keeping with §3002 of RCRA (and in addition to EPA requirements), requires generators of CHS to identify in their biennial reports of hazardous waste activities the efforts they have undertaken to reduce volume and toxicity of waste generated and the reductions in volume and toxicity that have actually been achieved. Moreover, generators are required by COMAR 26.13.03.04F to certify on their manifests that they have a waste reduction program in place to reduce the volume or toxicity of waste as far as economically practicable.

Personnel from the LMA's Resource Management Program provide support on waste minimization/pollution prevention activities. Specific activities to be performed are established through the process of negotiating grant commitments with EPA. Current activities are focused on encouraging reduction in amounts disposed of "priority chemicals" designated by EPA, with a special emphasis on mercury.

Personnel of the Resource Management Program also work to support EPA's Sustainable Materials Management initiatives. Specific activities are determined through negotiation of work plans with EPA as part of the grant process.

Other activities the Department undertakes in support of Pollution Prevention/Waste minimization include requiring generators to submit information on their waste reduction efforts as part of their biennial reporting requirements, and considering the use of Supplemental Environmental Improvement Projects (SEIPs) as an element of settlement agreements for enforcement actions.

L. Mixed Waste

"Mixed waste" refers to waste that meets the definition of hazardous waste but also has a radioactive component. Maryland's hazardous waste regulatory program provides for the regulation of

the hazardous component of mixed waste under the State's general statutory authority to regulate hazardous waste. The fact that mixed waste has a radioactive component does not limit or restrict the Department's ability to regulate the hazardous component of the waste.

The State also has regulatory responsibilities concerning radioactive wastes and radioactive materials. However, these functions are beyond the scope of the RCRA program and are not to be considered part of the State's authorized program for the purposes of 40 CFR Part 271. These responsibilities include:

- Issuance of radioactive material users licenses to non-federal facilities (as an Agreement State with the U.S. Nuclear Regulatory Commission);
- Coordination with other states on regional low-level radioactive waste issues as a member of the Appalachian States Low-Level Radioactive Waste Commission established through a Congressionally approved interstate compact among Maryland, Delaware, Pennsylvania and West Virginia;
- Regulating the packaging for shipment of low-level radioactive waste; and
- Implementing requirements on waste classification and reporting applicable to generators of low-level radioactive waste.

The licensing of users of radioactive material is the responsibility of MDE's Radiological Health Program, a unit of the Department's Air and Radiation Management Administration. The Resource Management Program implements the State's regulations concerning classification, packaging, and reporting for low-level radioactive waste.

The Resource Management Program and the Solid Waste Program's Compliance Division follow the same procedures with respect to mixed waste as they do with respect to general hazardous waste. Personnel from the Department's Radiological Health Program may be consulted on technical questions concerning radioactive materials.

The universe of mixed waste generators consists primarily of medical and research institutions, biotechnology firms, Department of Defense installations, and the State's only nuclear power plant. Approximately 150 generators of low-level radioactive waste (LLRW) are known to the Resource Management Program. Most of these generate LLRW in relatively small quantities, with a significant number generating waste with a half-life short enough to allow the waste to be stored on-site until the radioactivity decays to background levels. Three generators of LLRW have hazardous waste storage facility permits that include provisions for mixed waste storage (the National Institutes of Health, Bethesda, MD; Towson University, Towson, MD; and the University of Maryland, College Park, MD).

The Department identifies generators of low-level radioactive waste by using information from the Department's Radiological Health Program on holders of radioactive materials user's licenses, from U.S. Department of Energy information on shipments of LLRW for disposal or treatment, and through a State-required annual report by LLRW generators..

M. Universal Waste

In 40 CFR Part 273, EPA has promulgated standards for the management of "universal waste". "Universal wastes" are certain well-defined classes of hazardous waste that EPA has determined warrant

an alternate set of management standards in order to encourage their collection, recycling and proper disposal.

EPA has established general criteria that are considered in deciding whether to classify a particular waste as universal waste. Among these criteria are the following:

- The waste is not exclusive to a particular industry or group of industries
- The waste is typically generated by a wide variety of types of establishments
- The waste is generated by a large number of generators, frequently in relatively small quantities by each generator
- Systems to be used for managing the waste would ensure close stewardship of the waste
- The risk posed by the waste during accumulation and transport is relatively low compared to other hazardous wastes
- The use of alternate management standards will increase the likelihood that the waste will be diverted from nonhazardous waste management systems to recycling, treatment or disposal in compliance with Subtitle C of RCRA.

EPA has established 4 categories of universal waste under federal regulations. These are: hazardous waste batteries; mercury-containing equipment; pesticides, including pesticides that are recalled under certain conditions and unused pesticides that are collected and managed as part of a waste pesticide collection program; and hazardous waste lamps.

The Maryland Department of the Environment has adopted universal waste regulations for the categories of universal waste identified in the federal regulations. In addition, as allowed by federal regulation, the Department has added as an additional category of universal waste “PCB-containing light ballasts”. (Note that the Department is currently not seeking program authorization for the elements of the State’s program dealing with hazardous waste lamps. The Department will seek authorization for these elements of the program once issues concerning the crushing of fluorescent lamps are resolved with EPA.)

The State’s regulations concerning universal waste are equivalent to federal regulations with the exception of the addition of PCB-containing light ballasts as an additional category of universal waste, and the addition of conditions under which a person could use equipment to crush fluorescent lamps.

The Department does not have any unique procedures associated with the implementation of the State’s universal waste regulations. The main functions that must be performed and the responsible groups are as follows:

<u>FUNCTION</u>	<u>RESPONSIBLE PARTY</u>
Provide guidance on regulations	Resource Management Program
Evaluate petitions to add universal wastes	Resource Management Program
Process notifications	Technical Services and Operations Program
Inspect universal waste handlers, transporters and destination facilities	Solid Waste Program Compliance Division

Copies of inspection checklists are included in Appendix G, Enforcement Forms.

N. Comparable Fuels Exclusion

Maryland has adopted a provision equivalent to the federal “comparable fuels” exclusion of 40 CFR 261.4(a)(16). This exclusion states that certain secondary materials that are burned as fuels are not regulated as solid waste if certain conditions are met. The underlying consideration is that a secondary material that is being burned for energy recovery should not be regulated as a waste if the levels of hazardous constituents associated with the material are “comparable” to the levels of hazardous constituents that are found in fossil fuels that would otherwise have to be burned. The exclusion addresses both “comparable fuels” and synthesis gas fuels.

Maryland’s regulations were equivalent to the corresponding federal regulations, except that the State’s regulations were more stringent concerning notification requirements. The State’s regulations, like the federal regulations, required prospective burners of fuels seeking the exclusion to publish a public notice. The State’s regulations were more stringent than the federal regulations in requiring the prospective burner to provide the Department with a copy of the text of the proposed notice and information on when and where the notice will be published. This information was to be provided to the Department before the notice is published.

In response to various legal challenges of the federal regulations on comparable fuels, the United States Court of Appeals for the District of Columbia Circuit vacated the federal regulations in a decision issued June 27, 2014. The Court stayed the mandate for the vacatur until March 30, 2015 to allow affected facilities time to come into compliance with regulatory requirements made applicable as a result of the vacatur.

The State will be modifying its regulations to remove the comparable fuels provisions to be consistent with the federal hazardous waste regulatory program. Currently, the State is not aware of any Maryland facilities that are operating under Maryland’s comparable fuels regulations.

Until the Maryland regulations are formally repealed, any person seeking to operate under the State’s comparable fuel regulations will be advised that doing so would put the person in conflict with federal hazardous waste regulations, and subject to federal enforcement action. If the person were to operate under the Maryland comparable fuels regulations despite being advised that the regulations are in conflict with federal requirements, the State would refer the case to EPA for possible enforcement action.

