

Under this authority, EPA proposes to settle with a number of potentially responsible parties at the C&D Recycling Company, Inc. Superfund Site, each of whom is responsible for less than one percent of the volume of hazardous substance disposed of at the Site. EPA issued a draft settlement proposal to the *de minimis* parties on June 14, 1995 and invited comments and challenges to the volumetric ranking. On September 28, 1995, EPA issued a final settlement proposal embodied in an Administrative Order on Consent which included several modifications made in response to comments by *de minimis* parties in letters to EPA and during negotiations with the Agency. The proposed settlement reflects and was agreed upon based on conditions known to parties on September 28, 1995. *De minimis* settling parties will be required to pay their volumetric share of the Government's and a Potentially Responsible Party's past response costs and the estimated future response costs at the C&D Recycling Company, Inc. Superfund Site excluding any federal claims for natural resource damages or any State claims.

The settlement as it is now proposed includes an adjustment to the volumetric share of an eligible *de minimis* party; this adjustment was made prior to the final settlement proposal being sent to all eligible parties on September 28, 1995, in response to information provided by this party to EPA. The party affected is New York Transit Authority, Inc.

The Environmental Protection Agency will receive written comments relating to this Agreement for thirty (30) days from the date of publication of this Notice. Moreover, pursuant to Section 7003(d) of the Solid Waste Disposal Act, 42 U.S.C. § 6973(d), the public may request a meeting in the affected area. A copy of the proposed Administrative Order on Consent can be obtained from the Environmental Protection Agency, Region III, Office of Regional Counsel, (3RC32), 841 Chestnut Building, Philadelphia, Pennsylvania, 19107 by contacting Yvette Hamilton-Taylor at (215) 597-3233.

Stanley L. Laskowski,

Acting Regional Administrator, U.S.
Environmental Protection Agency, Region III.

[FR Doc. 96-8479 Filed 4-4-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5454-3]

**State Program Requirements;
Application to Administer the National
Pollutant Discharge Elimination
System (NPDES) Program; Louisiana**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval of the Louisiana Pollutant Discharge Elimination System.

SUMMARY: The State of Louisiana has submitted a request for approval of the Louisiana Pollutant Discharge Elimination System (LPDES) Program pursuant to Section 402 of the Clean Water Act. If EPA approves the LPDES program, the State will administer that program *in lieu* of the National Pollutant Discharge Elimination System (NPDES) program now administered by EPA in Louisiana. Today, EPA proposes to approve the State's request and provides notice of a public hearing and comment period on that proposal. EPA will either approve or disapprove the State's request after considering all comments it receives.

DATES: EPA Region 6 will hold a public hearing on May 9, 1996 beginning at 7:00 p.m. for submission of verbal or written comments on EPA's program approval proposal. A public discussion for questions and answers will be held prior to the hearing from 3:00 p.m. until 5:00 p.m. To ensure issues brought up during the meeting from 3:00 to 5:00 are considered in EPA's decision, they should be made in writing to EPA, or on record during the public hearing later that evening. EPA Region 6 will continue to accept written comments through May 20, 1996 at its office in Dallas, Texas. Copies of such written comments should also be provided to LDEQ.

ADDRESSES: The May 9, 1996, public hearing will be held at the Maynard Ketcham Building, 7310 Bluebonnet, Jimmy Swaggart Bible College Campus, Baton Rouge, Louisiana. Specific directions will be posted on the LDEQ headquarters building at 7290 Bluebonnet, adjacent to the Maynard Ketcham Building.

Written comments must be submitted to: Ms. Ellen Caldwell (6WQ-O), Water Quality Protection Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

A copy of each comment should be submitted to: Ms. Barbara Bevis, Office of Water Resources, LDEQ, P.O. Box 82215, Baton Rouge, Louisiana, 70884-2215.

Copies of documents Louisiana has submitted in support of its program

approval request may be reviewed during normal business hours, Monday through Friday, excluding holidays, at:

EPA Region 6
12th Floor Library
1446 Ross Avenue
Dallas, Texas 75202
(214) 665-7513

LDEQ Headquarters
7290 Bluebonnet
Baton Rouge, LA 70884-2215
(504) 765-2740

LDEQ Acadiana Regional Office
100 Asma Blvd., Suite 151
Lafayette, LA 70508
(318) 262-5584

LDEQ Bayou Lafourche Regional Office
104 Lococo Drive
Raceland, LA 70394
(504) 532-6206

LDEQ Capitol Regional Office
11720 Airline Highway
Baton Rouge, LA 70817-1720
(504) 295-8583

LDEQ Kisatchie Central Regional Office
402 Rainbow Drive, Bldg. 402
Pineville, LA 71360
(318) 487-5656

LDEQ Northeast Regional Office
804 31st Street, Suite D
Monroe, LA 71211-4967
(318) 362-5439

LDEQ Northwest Regional Office
1525 Fairfield, Room 11
Shreveport, LA 71101-4388
(318) 867-7476

LDEQ Southeast Regional Office
3501 Chateau Boulevard-West Wing
Kenner, LA 70065
(504) 471-2800

LDEQ Southwest Regional Office
3519 Patrick Street, Room 265A
Lake Charles, LA 70605
318 475-8644

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Caldwell at the address listed above or by calling (214) 665-7513 or Ms. Barbara Bevis at the address listed above or by calling (504) 765-2740.

Part or all of the State's submission (which comprises approximately 1930 pages) may be copied at the LDEQ office in Baton Rouge, or EPA office in Dallas, at a minimal cost per page. A copy of the entire submission may be obtained from the LDEQ office in Baton Rouge for a \$108.36 fee.

Part of the State's program submission and supporting documentation should be available electronically within two weeks of this notice at the following internet address: <http://WWW.DEQ.STATE.LA.US>—select Office of Water Resources.

SUPPLEMENTARY INFORMATION: Section 402 of the Clean Water Act (Act) created

the NPDES program under which EPA may issue permits for the discharge of pollutants to waters of the United States under conditions required by the Act. Section 402 also provides that EPA may authorize a State to administer an equivalent state program upon a showing the State has authority and a program sufficient to meet the Act's requirements.

The basic requirements for state program approval are listed in 40 CFR Part 123. EPA Region 6 considers the documents submitted by the State of Louisiana complete at the time of this notice and believes they comply with the regulations found at 40 CFR 123. It thus proposes to approve the LPDES program as described by the Louisiana Department of Environmental Quality. EPA will consider final approval after all public comments have been considered.

On November 2, 1995, the Governor of Louisiana requested NPDES program approval and submitted a program description (including funding, personnel requirements and organization, and enforcement procedures), an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator or EPA Region and the Secretary of LDEQ. As a result of discussions between EPA and LDEQ staff, minor changes and additions have been made to some of those documents for the sake of clarity. Supplemental documents and consultation agreements under the Endangered Species Act and National Historic Preservation Act were added to the record on March 21, 25, 26, and April 1, 1996.

EPA's Regional Administrator is required to approve the submitted program within 90 days of submittal unless it does not meet the requirements of section 402(b) of the Act and EPA regulations. To obtain such approval, the State must show, among other things, that it has authority to issue permits which comply with the Act, authority to impose civil and criminal penalties for permit violations, and authority to ensure that the public is given notice and opportunity for a hearing on each proposed permit. The 90 day time frame has been extended by mutual agreement between EPA Region 6 and LDEQ (40 CFR 123.21) to allow for contemporaneous notice of consultation agreements under the Endangered Species Act and National Historic Preservation Act. After close of the comment period, EPA's Regional Administrator will decide to approve or disapprove the LPDES program for

implementation *in lieu* of the federal NPDES program.

EPA's final decision to approve or disapprove the LPDES program will be based on the requirements of section 402 of the CWA and 40 CFR Part 123. If she approves the Louisiana program, the Regional Administrator will so notify the State. Notice will be published in the Federal Register and, as of the date of program approval, EPA will suspend issuance of NPDES permits in Louisiana (except for: sewage sludge permits under CWA § 405 and 40 CFR 503). The State's LPDES program will implement federal law and operate *in lieu* of the EPA-administered NPDES program. EPA will, however, retain the right to object to LPDES permits proposed by LDEQ, and if the objections are not resolved, issue the permit itself. If EPA's Regional Administrator disapproves the LPDES program, she will notify LDEQ of the reasons for disapproval and of any revisions or modifications to the program which are necessary to obtain approval.

PUBLIC HEARING PROCEDURES: The following procedures will be used at the May 9, 1996 public hearing:

1. The Presiding Officer shall conduct the hearing in a manner which will allow all interested persons wishing to make oral statements an opportunity to do so; however, the Presiding Officer may inform attendees of any time limits during the opening statement of the hearings.

2. Any person may submit written statements or documents for the record.

3. The Presiding Officer may, in his discretion, exclude oral testimony if such testimony is overly repetitious of previous testimony or is not relevant to the decision to approve or require revision of the submitted State program.

4. The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record submitted to the Regional Administrator.

5. The hearing record shall be left open until the deadline for receipt of comments specified at the beginning of this Notice to allow any person time to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing.

Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for use of the Hearing Panel and other interested persons. Statements should summarize any extensive written materials. All comments received by EPA Region 6 by the deadline for receipt of comments, or presented at the public

hearing, will be considered by EPA before taking final action on the Louisiana request for NPDES program approval.

Summary of the Louisiana Pollution Discharge Elimination System (LPDES) Permitting Program

Louisiana's LPDES program generally covers all discharges of pollutants subject to the federal NPDES program, but does not regulate the disposal of sewage sludge. If it approves the State program, EPA will thus continue to regulate sewage sludge disposal in Louisiana in accordance with Section 405 of the Act and 40 CFR Part 503.

The LPDES program is fully described in documents the State has submitted in accordance with 40 CFR 123.21, i.e., a Memorandum of Agreement (MOA) for execution by LDEQ and EPA; a Program Description outlining the procedures, personnel and protocols that will be relied on to run the state's permitting program; a Statement signed by the Attorney General that describes the legal authority which the state has adopted to administer a program equivalent to the federal NPDES program; and several agreements under which LDEQ will coordinate with the State Historic Preservation Officer and the U.S. Fish and Wildlife Service for the protection of antiquities and endangered species. The content of those documents is summarized below.

I. The EPA/LDEQ MOA

The requirements for MOAs are found in 40 CFR 123.24. A Memorandum of Agreement is a document signed by each agency, committing them to specific responsibilities. A MOA specifies these responsibilities and provides structure for the State's program management and EPA's program oversight.

The MOA submitted by the State of Louisiana has been signed by The Secretary of the Department of Environmental Quality. The Regional Administrator of U.S. EPA Region 6 will sign the document after the program has been determined approvable and all comments received during the comment period (including comments received at the public hearing) have been considered. The MOA submitted by LDEQ includes the following items:

Section 1 contains general statements describing the purpose of the MOA, partnership and responsibilities of LDEQ and EPA Region 6, and the scope of the LPDES program.

Section II describes the alternate responsibilities of the two agencies and agency jurisdiction over permits.

Section III describes all agreements on the review and issuance of LPDES permits. It covers LDEQ's responsibilities to issue permits, the transfer of EPA files to the State, and the State's application review and permit development process. Included are such things as procedures for permit modification or reissuance, and EPA's review of LPDES drafted individual and general permits. This section includes the State's commitment for responding to public concerns and providing public participation in connection with public hearings, evidentiary hearing, and administrative and judicial enforcement actions.

Section IV describes summary agreements between EPA and LDEQ that provide EPA with oversight of the LPDES enforcement program. These include those commitments on LDEQ's compliance monitoring, reviews, and inspections. LDEQ agrees to take penalty actions in accordance with the spirit of the EPA Penalty Policy.

Section V Describes how LDEQ will implement a pretreatment program. Specific implementation features include categorical determinations, removal credits, and variances from categorical standards.

Additional sections address such matters as submitting information from one agency to the other, performing program reviews, calculating time under the MOA, and EPA's independent powers.

II. Program Description

A program description submitted by a state seeking program approval must meet the minimum requirements of 40 CFR 123.22. It must provide a narrative description of the scope, structure, coverage and processes of the state program; a description of the organization, staffing and position descriptions for the lead state agency; and itemized costs and funding sources for the program. It must describe all applicable state procedures (including administrative procedures for the issuance of permits and administrative or judicial procedures for their review) and include copies of forms used in the program. It must further contain a complete description of the State's compliance and enforcement tracking program.

Parts I through IV describe the organization and structure of LDEQ, and list the qualification and duties of LDEQ staff.

Part V describes the legal authority for the LPDES system, the legal representation, and permitting processes for both individual permitting and general permitting. This part of the

Program Description contains a flow chart of the permit processes from application to issuance, including EPA's review of the draft.

Part VI describes the program costs for two years, the resource needs and staffing requirements. It analyzes the program workload by major and minor permits, the pretreatment unit, the application verification unit, enforcement and surveillance inspections.

Part VII describes general administrative procedures for permitting and the administrative and judicial procedures for their review. It describes the procedures for the publication of rules, the procedures for holding public hearings and information requests and availability. It lists considerations for permitting prioritization. This part also describes many of the State's water quality planning procedures. Procedures for reviewing, revising, and updating the State program are listed, as well as requirements for annual report submission to EPA.

Part VIII describes specific procedures for permitting, and permit review. Descriptions include the application forms, permit writer review of application information, permit drafting, notice of permits, EPA review of draft permits, and public notice, comment and hearing procedures associated with EPA objections. It outlines the procedures which apply to administrative and judicial review of permit decisions, including District Court review, appellate court review, and citizen suits. This part also describes citizen notification and hotline availability.

Part IX describes compliance tracking and enforcement procedures for monitoring, inspections, and sampling. It describes pretreatment compliance inspection processes and all compliance tracking processes. This part of the Program Description is supplemented by the Enforcement Management System, which is a separate document prepared by the State containing the actual process details of permit enforcement and compliance tracking.

Part X describes LDEQ's pretreatment program procedures. The pretreatment program applies to those municipal wastewater treatment plants which receive industrial wastewater, and those industries which discharge to Publicly Owned Treatment Works. This part describes how municipalities are assessed for pretreatment requirements and pretreatment program approvals by the State.

Part XI describes LDEQ general permitting procedures; how and when a

Notice of Intent will be required for coverage under LPDES general permits. While LDEQ and EPA do not follow the same procedures in issuing general permits, EPA regards the State's general permitting program functionally equivalent to its own. If the State determines to amend its LPDES program to issue permits by rule, these revisions will be made in accordance with 40 CFR 123.62(b).

III. Enforcement Management System (EMS)

States seeking authorization of their permitting and enforcement program under NPDES have the option of adopting EPA's enforcement policies, procedures, and guidance; or provide in their program package a complete description of their enforcement authority and compliance evaluation program (40 CFR 123.26 and 123.27). Louisiana elected to develop its own enforcement management system. An EMS outlines the ways the State systematically and efficiently identifies instances of noncompliance and provides timely and appropriate enforcement actions to achieve the final objective of full compliance by the permittee with the Clean Water Act. An EPA memo dated October 2, 1989, titled "Final Version of the Revised Enforcement Management System," describes seven basic principals that are common to an effective EMS:

- Maintain a source inventory that is complete and accurate;
- Handle and assess the flow of information available in a systematic and timely basis;
- Accomplish a pre-enforcement screening by reviewing the flow of information as soon as possible after it is received;
- Perform a more formal enforcement evaluation where appropriate, using systematic evaluation screening criteria;
- Institute a formal enforcement action and follow-up whenever necessary;
- Initiate field investigations based on a systematic plan; and,
- Use internal management controls to provide adequate enforcement information to all levels of organization.

The LDEQ's Enforcement Management System (EMS) is a written outline or guide which discusses the procedures that will be followed to ensure that both federal and state regulatory requirements and goals are accomplished in a timely and appropriate manner.

The inspection and enforcement functions of the Office of Water

Resources reside in the Water Quality Management Division's Surveillance and Enforcement Sections. The Surveillance Section is headed by an Environmental Quality Program Manager and along with its administrative support is headquartered in Baton Rouge. It has field staff in each of the eight regional offices strategically located throughout the state (listed with addresses in this notice). Each Regional Surveillance Office is supervised by an Environmental Quality Coordinator.

The Surveillance Section is responsible for inspecting all permitted and unpermitted facilities which have or are believed to have a surface water discharge. The Surveillance Section is also responsible for the investigation of all citizen complaints involving waters of the State.

At this time LDEQ does not have a civil penalty policy for deriving administrative penalty amounts or reaching compromises. However, the State has committed to the development and implementation of a penalty policy. LDEQ will propose their policy by October 31, 1996, with finalization targeted for April 1, 1997. While the adoption of a penalty policy is highly recommended, it is not mandatory [40 CFR 123.27(c)], and is therefore not required prior to EPA authorization of the LPDES program. LDEQ is adopting a penalty policy to ensure the consistent assessment and collection of administrative penalties in their state.

In contrast to the compliance orders EPA issues under CWA § 309(a)(3), LDEQ's Compliance Orders (COs) are subject to appeal, a factor which has the potential to delay compliance.

IV. Attorney General's Statement

An Attorney General's Statement is required and described in regulations found at 40 CFR 123.23. Legal counsel representing the State must certify that the State has lawfully adopted statutes and regulations which provide the State agency with the legal authority to administer a permitting program in compliance with 40 CFR Part 123. The Attorney General's Statement from Louisiana certifies the State does indeed have the legal authority to administer the LPDES program in accordance with the regulations in 40 CFR 123; and correlates the State regulations and statutes to corresponding federal requirements.

Comments on the Described Program

The program submitted by the State of Louisiana has been determined to be complete in accordance with the regulations found at 40 CFR 123. EPA and LDEQ want to encourage public

participation in this authorization process so that the citizens of Louisiana will understand the program in their state. Therefore, EPA requests that the public review the program that LDEQ has submitted and provide any comments they feel are appropriate. EPA and the State want the public to be able to effectively coordinate with LDEQ on LPDES permitting and enforcement actions. EPA will consider all comments on the LPDES program and/or its authorization in its decision.

Other Federal Statutes

A. National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires that all federal agencies must consult with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) on all federal undertakings which may affect historic properties or sites listed or eligible for listing in the National Register of Historic Places. Regulations outlining the requirements of a Section 106 consultation on a federal undertaking are found at 36 CFR Part 800. Approval of the State permitting program under section 402 of the Clean Water Act is a federal undertaking subject to this requirement, but the State's subsequent issuance of LPDES permits is not. EPA has thus consulted in accordance with Section 106 of the NHPA to assure equivalent protection of eligible properties will be provided in connection with State permit actions. In that consultation, EPA, the SHPO and LDEQ outlined procedures by which LDEQ and the SHPO would confer on permit actions likely to affect historic properties. These processes are reflected in a Memorandum of Understanding between those two State agencies. In addition, an agreement was signed by EPA and the SHPO on EPA's oversight role and objection procedures when the two state agencies could not agree on the protection of antiquities in Louisiana. A statement in the EPA/LDEQ MOA for program approval provides EPA an additional opportunity to object to the issuance of a permit which would adversely affect a site on which the SHPO and LDEQ disagree. These consultation documents are available with the program package for public review and comment.

B. Endangered Species Act

Section 7 of the Endangered Species Act (ESA) requires that all federal agencies consult on federal actions which may affect federally listed species to insure they are unlikely to jeopardize the continued existence of those species

or adversely modify their critical habitat. Regulations controlling consultation under ESA Section 7 are codified at 50 CFR Part 402. The approval of the State permitting program under section 402 of the Clean Water Act is a federal action subject to this requirement, but the State's subsequent LPDES permit actions are not. EPA is in the process of informal consultation with both the U.S. Fish and Wildlife Service (FWS or the Service) and the National Marine Fisheries Service (NMFS or the Service). In the course of consultation, EPA, the Services, and LDEQ have outlined procedures by which LDEQ and FWS, and/or NMFS will confer on permits which are likely to affect listed species. These processes are reflected in draft Memoranda of Understanding between the State and those federal agencies. In addition, an agreement between EPA and both Services has been drafted on EPA's oversight role and objection procedures when LDEQ and FWS and/or NMFS cannot agree on the protection of species in an individual State permit action. A statement in the EPA/LDEQ MOA for program approval provides EPA an additional opportunity to object to the issuance of a permit which would adversely affect a protected species or critical habitat when Services and LDEQ disagree. These draft documents are available with the program package for public review and comment.

C. Regulatory Flexibility Act

After review of the facts presented in this document, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this proposal will not have a significant impact on a substantial number of small entities. The approval of the Louisiana NPDES permit program would merely transfer responsibilities for administration of the NPDES permit program from Federal to State government.

I hereby propose to authorize the LPDES program in accordance with 40 CFR part 123.

Dated: April 1, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96-8458 Filed 4-4-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5454-7]

Reopening of the Public Comment Period for Proposed General NPDES Permit for Placer Mining in Alaska

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Reopening of the Public Comment Period.