EPA-APPROVED LOUISIANA STATUTORY AND REGULATORY REQUIREMENTS APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM

Part 2 of 6

EPA-Approved Louisiana Hazardous Waste Regulatory Requirements:

Table of Contents and LAC Title 33, Part V, Chapters 1 through 11, as of 12/31/06

October 2007

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007

Louisiana Administrative Code, Title 33, Part V, Hazardous Waste and Hazardous Materials, revised as of December 31, 2006

Louisiana Administrative Code, Title 33, Part V, Hazardous Waste and Hazardous Materials, revised as of December 31, 2004 (Selected provisions)

Louisiana Administrative Code, Title 33, Part V, Hazardous Waste and Hazardous Materials, revised as of June 1995 (Selected provisions)

Louisiana Administrative Code, Title 33, Part VII, Solid Waste revised as of June 20, 2000 (Selected provisions)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

TABLE OF CONTENTS
EPA APPROVED LOUISIANA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
October 2007 (cont'd)

Copies of the Louisiana regulations that are incorporated by reference can be obtained from the Office of the State Register, P. O. Box 94095, Baton Rouge, LA 70804-9095; Phone: (225) 342-5015; Website: http://doa.louisiana.gov/osr/lac/lac.htm..

E N V I R O N M E N T A L
R E G U L A T O R Y
C O D E

Title 33
ENVIRONMENTAL QUALITY

Part V. Hazardous Waste
Subpart 1

Revised as of December 31, 2006

2007 Edition

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Preface

In 1979, the Environmental Affairs Act, Act 449, was enacted to maintain a "healthful and safe environment in Louisiana." It created the Office of Environmental Affairs within the Department of Natural Resources as well as the Environmental Control Commission to carry out its purposes. In 1983, Act 449 was renamed the Environmental Quality Act, and Act 97 provided for the creation of the Department of Environmental Quality. These changes affected only the structure and organization of the agency; the purposes and policies of environmental protection in the state remained unchanged, and the charge to adopt and promulgate rules and regulations and to develop standards was directed to the secretary of the department. In 1991, Act 735 mandated that the department begin publishing the Environmental Regulatory Code and update it on a quarterly basis.

Title 33, Part V. Subpart 1. Hazardous Waste has been prepared and published according to R.S. 49:950. This 2007 edition of the Environmental Regulatory Code is being published pursuant to R.S. 49:954.3 and includes regulations adopted by the department as of December 31, 2006.

Brenda Hayden, Editor
Environmental Regulatory Code

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Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 1. General Provisions and Definitions

§101. Authority

A. Rules and regulations for a hazardous waste management system are hereby established by the Department of Natural Resources as mandated by Act 449 of the 1979 Legislature as amended, which is the state's response to P.L. 94-580, the Resource Conservation and Recovery Act of 1976 (RCRA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§103. Purpose

A. These rules and regulations serve a fourfold purpose:

1. first, to protect the health and well-being of the people of the state of Louisiana and to prevent damage to property or to the environment by the improper management of hazardous waste;

2. second, to provide incentives for the maximum recovery and reuse of substances in hazardous waste streams that are possible through the use of the most advanced technology;

3. third, to carefully consider the impact of the program on the economic vitality of the state and to achieve a proper balance that protects the health of the citizens and the environment of the state while meeting the needs of industry; and

4. fourth, to establish minimum state standards that define the acceptable management of hazardous waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. Notification of Hazardous Waste Activity

1. Within 90 days after the promulgation of these regulations anyone subject to these regulations who has not previously notified the department on the Notification of Hazardous Waste Activity Form HW-1, or whose notification on Form HW-1 is not approved, must notify the Office of Environmental Services, Water and Waste Permits Division, using Form HW-1. Within 90 days after changes in waste characteristics or changes in these regulations that result in changes in the notification, interim status facilities must revise their notification form by resubmitting a corrected copy of Form HW-1.

2. All notifications received must be in accordance with EPA notification procedures and must receive an EPA identification number issued through the state of Louisiana.

3. All facilities with an active EPA identification number shall be subject to requirements in LAC 33:V.Subpart 1.

B. Classification of Hazardous Wastes. Hazardous wastes are classified into two categories.

1. Category I wastes are those known chemicals and process streams whose hazardous nature has been prescribed by prior determination and which are presented in LAC 33:V.Chapter 49.

2. Category II wastes are those wastes possessing any of the characteristics of the hazard classes listed in LAC 33:V.Chapter 49. Hazard classes of concern for these wastes are ignitability, corrosivity, reactivity and toxicity.

C. Control of Wastes. Wastes generated, transported, treated, stored, and/or disposed of in Louisiana are controlled by the state of Louisiana according to the appropriate statutes of the state of Louisiana as follows, and provided that nothing contained herein shall limit the authority granted to the Department of Natural Resources (hereinafter referred to as the department) under Title 30 of the Louisiana revised statutes or to its successor (scheduled to be the Department of Environmental Quality after February 1, 1984).

1. The department's hazardous waste program is responsible for the following, subject to these rules and regulations and to Title 30 of the Louisiana Revised Statutes:

a. surface installations and areas associated with the disposal of wastes in injection wells, excluding the injection well proper;

b. all wastes listed as hazardous in LAC 33:V.Chapter 49 or having the hazardous characteristics identified in LAC 33:V.Chapter 49, which are generated, treated, stored, and/or disposed of in Louisiana.

2. The Office of Environmental Services, Water and Waste Permits Division, is responsible for nonhazardous solid wastes treated, stored and/or disposed of in public and private solid waste facilities.

3. The Department of Natural Resources, Office of Conservation, which is under the authority of the commissioner, is subject to rules and regulations promulgated by the Office of Conservation. Their responsibilities include:

a. salt water injection wells including related surface installations, mud pits, and other areas associated with the exploration and production of oil and gas; and

b. injection wells, less related surface installations and areas, for industrial on-site or commercial disposal of hazardous wastes, until the effective date of Act 97 of 1983 (scheduled to be February 1, 1984), after which time they shall be regulated by the Department of Environmental Quality in accordance with the provisions of Title 30 of the Louisiana Revised Statutes.

4. The department is responsible for radioactive materials.

5. The Louisiana Department of Public Safety (LDPS) is responsible for transportation of wastes.

6. The Department of Agriculture is responsible for waste pesticides, including pesticide containers at point of mixing, loading, application, equipment cleansing or base of operation.

D. Exclusions

1. Materials That Are Not Solid Wastes. The following materials are not solid wastes for the purpose of this Subpart:

a.i. domestic sewage; and

ii. any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment. *Domestic Sewage* means untreated sanitary wastes that pass through a sewer system;

b. industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended;

[Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.]

c. irrigation return flows;

d. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;

e. material subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process;

f. pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are *accumulated speculatively* as defined in LAC 33:V.109.*Solid Waste*;

g. spent sulfuric acid used to produce virgin sulfuric acid, unless it is *accumulated speculatively* as defined in LAC 33:V.109.*Solid Waste*;

h. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

i. only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

ii. reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

iii. the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

iv. the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal;

i.i. spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose;

ii. wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood; and

iii. prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in Clauses D.1.i.i and ii of this Section, so long as they meet all of the following conditions:

(a). the wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(b). prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(c). any unit used to manage wastewaters and/or spent wood preserving solutions, prior to reuse, can be visually or otherwise determined to prevent such releases;

(d). any drip pad used to manage the wastewaters and/or spent wood preserving solutions, prior to reuse, complies with the standards in LAC 33:V.Chapter 43.Subchapter S, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(e). prior to operating pursuant to this exclusion, the plant owner or operator submits to the Office of

Environmental Services, Water and Waste Permits Division, a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language:

> "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation."

The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the administrative authority for reinstatement. The administrative authority may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur;

j. EPA Hazardous Waste Numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic (TC) specified in LAC 33:V.4903.E when, subsequent to generation, these materials are recycled to coke ovens, or to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens, tar recovery, or refining processes, or mixed with coal tar;

k. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery;

l.i. oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911—including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)) unless the material is placed on the land or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this Paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in Clause D.1.l.ii of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this Subsection, where such materials as generated would have otherwise met a listing under LAC 33:V.Chapter 49, are designated as F037 listed wastes when disposed of or intended for disposal;

ii. recovered oil that is recycled in the same manner and with the same conditions as described in Clause D.1.l.i of this Section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in LAC 33:V.Chapter 49; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include *used oil* as defined in LAC 33:V.4001;

m. excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled;

n. shredded circuit boards being recycled provided that they are:

i. stored in containers sufficient to prevent a release to the environment prior to recovery; and

ii. free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries;

o. condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates;

p. *spent materials* (as defined in LAC 33:V.109) (other than hazardous wastes listed in LAC 33:V.Chapter 49) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

i. the spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

ii. the spent material is not accumulated speculatively;

iii. except as provided in Clause D.1.p.iv of this Section, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of nonearthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the nonearthen portion) and have a roof suitable for diverting rainwater away from the foundation; a tank must be freestanding, not be a *surface impoundment* (as defined in LAC 33:V.109), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate that may be subject to wind dispersal, the owner/operator must operate these units in a manner that controls fugitive dust. Tanks, containers, and buildings must be designed,

constructed, and operated to prevent significant releases to the environment of these materials;

iv. the administrative authority may make a site-specific determination, after public review and comment, that only solid mineral processing spent materials may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decision-maker must affirm that pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion:

(a). the decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway;

(b). pads must meet the following minimum standards: be designed of nonearthen material that is compatible with the chemical nature of the mineral processing spent material; be capable of withstanding physical stresses associated with placement and removal; have run-on/runoff controls; be operated in a manner which controls fugitive dust; and have integrity assurance through inspections and maintenance programs;

(c). before making a determination under this Subsection, the administrative authority must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers or broadcasting notice over local radio stations;

v. the owner or operator provides notice to the Office of Environmental Services, Water and Waste Permits Division, providing the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

vi. for purposes of Subparagraph D.2.h of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste;

q. comparable fuels or comparable syngas fuels (i.e., comparable/syngas fuels) that meet the requirements of LAC 33:V.4909;

r. petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

i. the oil is hazardous only because it exhibits the characteristic of *ignitability* (as defined in LAC 33:V.4903.B) and/or toxicity for benzene (LAC 33:V.4903.E, waste code D018); and

ii. the oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An *associated organic chemical manufacturing facility* is a facility: where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. *Petrochemical recovered oil* is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes;

s. spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce creslyic or naphthenic acid, unless the material is placed on the land or *accumulated speculatively,* as defined in LAC 33:V.109;

t. hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:

i. hazardous secondary materials used to make zinc micronutrient fertilizers must not be *accumulated speculatively,* as defined in LAC 33:V.109;

ii. generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(a). submit a one-time notice to the Office of Environmental Services, Water and Waste Permits Division, that contains the name, address, and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

(b). store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building

used for this purpose must be an engineered structure made of non-earthen materials that provide structural support and must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

(i). have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;

(ii). provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and

(iii). prevent run-on into the containment system;

(c). with each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this Subparagraph;

(d). maintain, at the generator's or intermediate handler's facility, for no less than three years, records of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the following information:

(i). the name of the transporter and the date of the shipment;

(ii). the name and address of the facility that received the excluded material and documentation confirming receipt of the shipment; and

(iii). the type and quantity of excluded secondary material in each shipment;

iii. manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(a). store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in Subclause D.1.t.ii.(b) of this Section;

(b). submit a one-time notification to the Office of Environmental Services, Water and Waste Permits Division, that at a minimum, specifies the name, address, and EPA ID number of the manufacturing facility and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

(c). maintain, for a minimum of three years, records of all shipments of excluded hazardous secondary materials received by the manufacturer that must, at a minimum, identify for each shipment the name and address of the generating facility, the name of the transporter, the date the materials were received, the quantity received, and a brief description of the industrial process that generated the material; and

(d). submit to the Office of Environmental Services, Water and Waste Permits Division, an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which they were generated;

iv. nothing in this Section preempts, overrides, or otherwise negates the provision in LAC 33:V.1103 that requires any person who generates a solid waste to determine if that waste is a hazardous waste; and

v. interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in Subclause D.1.t.iii.(b) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this Subparagraph, are not subject to the closure requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37 and 43;

u. zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under this Paragraph, provided that:

i. the fertilizer meets the following contaminant limits:

(a). for metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

(b). for dioxin contaminants, the fertilizer must contain no more than 8 parts per trillion of dioxin, measured as toxic equivalent (TEQ);

ii. the manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every 6 months, and for dioxins no less than every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at a concentration above the applicable limit. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce; and

iii. the manufacturer maintains, for no less than three years, records of all sampling and analyses performed for purposes of determining compliance with the requirements of Clause D.1.u.ii of this Section. Such records must, at a minimum, include:

(a). the dates and times product samples were taken and the dates the samples were analyzed;

(b). the names and qualifications of the persons taking the samples;

(c). a description of the methods and equipment used to take the samples;

(d). the name and address of the laboratory facility at which analyses of the samples were performed;

(e). a description of the analytical methods used, including any cleanup and sample preparation; and

(f). all laboratory analytical results used to determine compliance with the contaminant limits specified in this Subparagraph.

2. Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:

a. household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused. *Household waste* means any material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Subpart if such facility:

i. receives and burns only:

(a). household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(b). solid waste from commercial or industrial sources that does not contain hazardous waste; and

ii. such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility;

b. solid wastes generated by any of the following and which are returned to the soils as fertilizers:

i. the growing and harvesting of agricultural crops; and

ii. the raising of animals, including animal manures;

c. mining overburden returned to the mine site;

d. fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

e. drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;

f. wastes that fail the test for the toxicity characteristic because chromium is present or are listed in LAC 33:V.Chapter 49, due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent, or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or waste generators that:

i. the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

ii. the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii. the waste is typically and frequently managed in nonoxidizing environments;

g. specific wastes which meet the standard in Clauses D.1.f.i, ii and iii (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

i. chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

ii. chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

iii. buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue;

iv. sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

v. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling;

vi. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing

industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue;

vii. waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and

viii. wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process;

h. solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste:

i. for purposes of this Paragraph, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching;

ii. for the purpose of this Paragraph, solid waste from the processing of ores and minerals includes only the following wastes as generated:

(a). slag from primary copper processing;

(b). slag from primary lead processing;

(c). red and brown muds from bauxite refining;

(d). phosphogypsum from phosphoric acid production;

(e). slag from elemental phosphorus production;

(f). gasifier ash from coal gasification;

(g). process wastewater from coal gasification;

(h). calcium sulfate wastewater treatment plant sludge from primary copper processing;

(i). slag tailings from primary copper processing;

(j). fluorogypsum from hydrofluoric acid production;

(k). process wastewater from hydrofluoric acid production;

(l). air pollution control dust/sludge from iron blast furnaces;

(m). iron blast furnace slag;

(n). treated residue from roasting/leaching of chrome ore;

(o). process wastewater from primary magnesium processing by the anhydrous process;

(p). process wastewater from phosphoric acid production;

(q). basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;

(r). basic oxygen furnace and open hearth furnace slag from carbon steel production;

(s). chloride process waste solids from titanium tetrachloride production; and

(t). slag from primary zinc processing;

iii. a residue derived from coprocessing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under Subclause D.2.h.iii.(b) of this Section if the owner or operator:

(a). processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and

(b). legitimately reclaims the secondary mineral processing materials;

i. cement kiln dust waste, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

j. solid waste that consists of discarded arsenical-treated wood or wood products which fails the test for the toxicity characteristic for Hazardous Waste Codes D004-D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials' intended end use;

k. petroleum-contaminated media and debris that fail the test for the toxicity characteristic (Hazardous Waste Numbers D018-D043 only) and are subject to the corrective action regulations under underground storage tanks rules and regulations (LAC 33:XI);

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903 and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after

March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

i. operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

ii. a copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460;

m. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use;

n. non-terneplated used oil filters that are not mixed with wastes listed in LAC 33:V.4901 if these oil filters have been gravity hot-drained using one of the following methods:

i. puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

ii. hot-draining and crushing;

iii. dismantling and hot-draining; or

iv. any other equivalent hot-draining method that will remove used oil; and

o. used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products;

p. leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

i. the solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing;

ii. the solid wastes described in Clause D.2.p.i of this Section were disposed prior to the effective date of the listing;

iii. the leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

iv. discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under Sections 307(b) or 402 of the Clean Water Act; and

v. as of February 13, 2001, the leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this Clause after the emergency ends.

3. Hazardous Wastes That Are Exempted from Certain Regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

4. Samples

a. Except as provided in Subparagraph D.4.b of this Section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, when:

i. the sample is being transported to a laboratory for the purpose of testing; or

ii. the sample is being transported back to the sample collector after testing; or

iii. the sample is being stored by the sample collector before transport to a laboratory for testing; or

iv. the sample is being stored in a laboratory before testing; or

v. the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

vi. the sample is being stored temporarily in the laboratory after testing for a specific purpose (e.g., until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

b. In order to qualify for the exemption in Clauses D.4.a.i-ii of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

i. comply with Louisiana Department of Public Safety (LDPS), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

ii. comply with the following requirements if the sample collector determines that LDPS, USPS, or other shipping requirements do not apply to the shipment of the sample:

(a). assure that the following information accompanies the sample:

(i). the sample collector's name, mailing address, and telephone number;

(ii). the laboratory's name, mailing address, and telephone number;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample; and

(b). package the sample so that it does not leak, spill, or vaporize from its packaging.

c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in Subparagraph D.4.a of this Section.

5. Treatability Study Samples

a. Except as provided in Subparagraph D.5.b of this Section, persons who generate or collect samples for the purpose of conducting *treatability studies* as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 9, 11, 13, or 49, or to the notification requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.108 and 1109.E.7 when:

i. the sample is being collected and prepared for transportation by the generator or sample collector; or

ii. the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

iii. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

b. The exemption in Subparagraph D.5.a of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies, provided that:

i. the generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute hazardous waste, 1,000 kg of nonacute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;

ii. the mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

iii. the sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment, and the requirements of Subclause D.5.b.iii.(a) or (b) of this Section are met:

(a). the transportation of each sample shipment complies with the shipping requirements of the LDPS and USPS, or any other applicable shipping requirements; or

(b). if the LDPS, the USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(i). the name, mailing address, and telephone number of the originator of the sample;

(ii). the name, address, and telephone number of the facility that will perform the treatability study;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample, including its EPA Hazardous Waste Number;

iv. the sample is shipped to a laboratory or testing facility that is exempt under Paragraph D.6 of this Section or has an appropriate LAC 33:V.Subpart 1 permit or interim status;

v. the generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(a). copies of the shipping documents;

(b). a copy of the contract with the facility conducting the treatability study; and

(c). documentation showing:

(i). the amount of waste shipped under this exemption;

(ii). the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(iii). the date the shipment was made;

(iv). whether or not unused samples and residues were returned to the generator; and

vi. the generator reports the information required under Subclause D.5.b.v.(c) of this Section in its biennial report.

c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-

case basis for quantity limits in excess of those specified in Clauses D.5.b.i and ii and Subparagraph D.6.d of this Section for up to an additional 5,000 kg of media contaminated with nonacute hazardous waste, 500 kg of nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste:

i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;

ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment; and

iii. the additional quantities and time frames allowed in Clauses D.5.c.i and ii of this Section are subject to all the provisions in Subparagraph D.5.a and Clauses D.5.b.iii-vi of this Section. The generator or sample collector must apply to the Office of Environmental Services, Water and Waste Permits Division, and provide in writing the following information:

(a). the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(b). documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(c). a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(d). if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(e). such other information that the administrative authority considers necessary.

6. Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to LAC 33:V.Subpart 1 requirements) are not subject to any requirement of LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, and 43 or to the notification requirements of Subsection A of this Section, provided that the following conditions are met. A mobile treatment unit may qualify as a testing facility subject to Subparagraphs D.6.a-k of this Section. Where a group of mobile treatment units is located at the same site, the limitations specified in Subparagraphs D.6.a-k of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit:

a. no less than 45 days before conducting treatability studies, the facility notifies the Office of Environmental Services, Water and Waste Permits Division, in writing that it intends to conduct treatability studies under this Subsection;

b. the laboratory or testing facility conducting the treatability study has an EPA identification number;

c. no more than a total of 10,000 kg of "as received" media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector;

d. the quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of nonacute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste;

e. no more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility;

f. the treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste;

g. the facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

i. the name, address, and EPA identification number of the generator or sample collector of each waste sample;

ii. the date shipment was received;

iii. the quantity of waste accepted;

iv. the quantity of "as received" waste in storage each day;

v. the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

vi. the date the treatability study was concluded; and

vii. the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number;

h. the facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study;

i. the facility prepares and submits a report to the Office of Environmental Services, Water and Waste Permits Division, by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

i. the name, address, and EPA identification number of the facility conducting the treatability studies;

ii. the types (by process) of treatability studies conducted;

iii. the names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);

iv. the total quantity of waste in storage each day;

v. the quantity and types of waste subjected to treatability studies;

vi. when each treatability study was conducted; and

vii. the final disposition of residues and unused sample from each treatability study;

j. the facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under LAC 33:V.109.*Hazardous Waste* and, if so, are subject to LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, 43, and 49, unless the residue and unused samples are returned to the sample originator under the Paragraph D.5 of this Section exemption; and

k. the facility notifies the Office of Environmental Services, Water and Waste Permits Division, by letter when the facility is no longer planning to conduct any treatability studies at the site.

7. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:

a. batteries as described in LAC 33:V.3803;

b. pesticides as described in LAC 33:V.3805;

c. thermostats as described in LAC 33:V.3807;

d. lamps as described in LAC 33:V.3809; and

e. antifreeze as described in LAC 33:V.3811.

8. PCB Wastes Regulated under Toxic Substance Control Act. PCB-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated by the United States Environmental Protection Agency under 40 CFR 761, and that are hazardous only because they fail the test for the toxicity characteristic (Hazardous Waste Numbers D018-D043 only) are exempt from regulation under LAC 33:V.Subpart 1.

9. Dredged Material That Is Not a Hazardous Waste. Dredged material that is subject to the requirements of a permit that has been issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413) is not a hazardous waste. For this Subsection, the following definitions apply:

a. the term *dredged material* has the same meaning as defined in 40 CFR 232.2; and

b. the term *permit* means:

i. a permit issued by the U.S. Army Corps of Engineers (Corps) or an approved state under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

ii. a permit issued by the Corps under Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

iii. in the case of Corps civil works projects, the administrative equivalent of the permits referred to in Clauses D.9.b.i and ii of this Section, as provided for in Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

E. Judicial Review. Any person has the right to file a lawsuit to reverse any act or failure to act by the administrative authority pursuant to these regulations or the act in accordance with the provisions of the Administrative

Procedure Act (R.S. 49:951 et seq.) or any other applicable provision of law.

F. Relationship to Interim Status Standards. A facility owner or operator who has fully complied with the requirements for interim status must comply with these regulations until final administrative disposition of his permit application is made. After the effective date of these regulations, the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit (standard or interim). The administrative authority may provide for the continued operation of an existing facility which meets the requirements of these regulations and certain conditions until final administrative disposition of the owner's or operator's permit application is made.

G. Imminent Hazard Action. Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to the Act.

H. General Procedures to Petition the Administrative Authority. The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9 and other applicable chapters in this Subpart.

I. Petitions for Equivalent Testing or Analytical Methods

1. Any person seeking approval of equivalent testing or analytical method may petition for a regulatory amendment under LAC 33:V.105.I and LAC 33:I.Chapter 9. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that the proposed method is equal to or superior to the corresponding method prescribed in Method 1311, in 40 CFR Part 268, Appendix 1, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

2. In addition to the information required by LAC 33:I.Chapter 9, each petition must include:

a. a full description of the proposed method, including all procedural steps and equipment used in the method;

b. a description of the types of wastes or waste matrices for which the proposed method may be used;

c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication Number SW-846 as incorporated by reference at LAC 33:V.110;

d. an assessment of any factors which may interfere with or limit the use of the proposed method; and

e. a description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method.

3. After receiving a petition for an equivalent method, the administrative authority may request any additional information on the proposed method which it may reasonably require to evaluate the method.

J. Discharge Reporting Requirements

1. Emergency Conditions. For any unauthorized discharge of a Hazardous Waste, in contravention of the Louisiana Hazardous Waste Control Law (R.S. 30:2171 et seq.) or of the regulations, or of the terms and conditions of a permit or license issued thereunder, which results or threatens to result in an emergency condition (a condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water or air environment, or cause severe damage to property), the discharger shall immediately, but in no case later than one hour, notify the Department of Public Safety 24-hour Louisiana Emergency Hazardous Materials Hotline at (225) 925-6595 (collect calls accepted 24 hours a day) and in accordance with other provisions of LAC 33:I.Chapter 39.

2. Non-Emergency Conditions. For any unauthorized discharge of a hazardous waste that does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within 24 hours of learning of the discharge and in accordance with other provisions of LAC 33:I.Chapter 39.

K. Variance to be Classified as a Boiler

1. Variance to be Classified as a Boiler. In accordance with the standards and criteria in LAC 33:V.109.*Boiler* and the procedures in Paragraph K.2 of this Section, the administrative authority may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in LAC 33:V.109 after considering the following criteria:

a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. the extent to which the combustion chamber and energy recovery are of integral design; and

c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. the extent to which exported energy is utilized; and

e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

f. other factors, as appropriate.

2. Procedures for Variances from Classification as a Solid Waste or to be Classified as a Boiler. The administrative authority will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers as provided in this Subsection:

a. the applicant must apply to the administrative authority. The application must address the relevant criteria contained in this Subsection; and

b. the administrative authority will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and/or radio broadcast in the locality where the recycler is located. The administrative authority will accept comment on the tentative decision for 30 days and may also hold a public hearing upon request or at his discretion. The administrative authority will issue a final decision after receipt of comments and after a hearing (if any).

L. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

1. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4145 should be regulated under LAC 33:V.4105.B and C. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the administrative authority will consider the following factors:

a. the types of materials accumulated or stored and the amounts accumulated or stored;

b. the method of accumulation or storage;

c. the length of time the materials have been accumulated or stored before being reclaimed;

d. whether any contaminants are being released into the environment, or are likely to be so released; and

e. other relevant factors.

2. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4145 under the provisions of LAC 33:V.4105.B and C, rather than under the provisions of LAC 33:V.4143:

a. if a generator is accumulating the waste, the administrative authority will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of LAC 33:V.1101, 1109.A, 1111.A, and 1113.A. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the administrative authority will hold a public hearing. The administrative authority will provide notice of the hearing to the public and allow public participation at the hearing. The administrative authority will issue a final order after the hearing stating whether or not compliance with LAC 33:V.Chapter 11 is required. The order becomes effective 30 days after service of the decision unless the administrative authority specifies a later date or unless review by the administrative authority is requested. The order may be appealed to the administrative authority by any person who participated in the public hearing. The administrative authority may choose to grant or to deny the appeal. Final department action occurs when a final order is issued and department review procedures are exhausted; and

b. if the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of these regulations. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than 180 days of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the administrative authority's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the administrative authority's decision was proper will remain open for consideration during the public comment period discussed under LAC 33:V.707 and in any subsequent hearing.

M. Petitions to Exclude a Waste Produced at a Particular Facility

1. Any person seeking to exclude a waste at a particular generating facility from the lists in LAC 33:V.4901 may petition for a regulatory amendment under this Subsection and LAC 33:I.Chapter 9. To be successful:

a. the petitioner must demonstrate to the satisfaction of the administrative authority that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste;

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903; and

c. facilities that have successfully petitioned are listed in LAC 33:V.4999.Appendix E.

2. If the waste is listed with codes "I", "C", "R", or "E", in LAC 33:V.4901:

a. the petitioner must show that the waste does not exhibit the relevant characteristic for which the waste was listed as defined in LAC 33:V.4903 using any applicable methods prescribed therein. The petitioner also must show that the waste does not exhibit any of the other

characteristics defined in LAC 33:V.4903 using any applicable methods prescribed therein;

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903.

3. If the waste is listed with Code "T" in LAC 33:V.4901:

a. the petitioner must demonstrate that the waste:

i. does not contain the constituent or constituents (as defined in LAC 33:V.4901.G, Table 6) that caused the administrative authority to list the waste, using the appropriate test methods prescribed in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

ii. although containing one or more of the hazardous constituents (as defined in LAC 33:V.4901.G, Table 6) that caused the administrative authority to list the waste, does not meet the criterion of LAC 33:V.4907.A.3 when considering the factors used by the administrative authority in LAC 33:V.4907.A.3.a-k under which the waste was listed as hazardous; and

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

c. the petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in LAC 33:V.4903 using any applicable methods prescribed therein;

d. a waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903.

4. If the waste is listed with the code "H" in LAC 33:V.4901:

a. the petitioner must demonstrate that the waste does not meet the criterion of LAC 33:V.4907.A.2; and

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that additional factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

c. the petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in LAC 33:V.4903 using any applicable methods prescribed therein;

d. a waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903.

5. The procedures in LAC 33:V.105.M and LAC 33:I.Chapter 9 may also be used to petition the administrative authority for a regulatory amendment to exclude from LAC 33:V.109.*Hazardous Waste*.2.c or 4, a waste which is described in LAC 33:V.109.*Hazardous Waste*.2.c or 4 and is either a waste listed in LAC 33:V.4901, or is derived from a waste listed in LAC 33:V.4901. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by LAC 33:V.105.M.1. Where the waste is a mixture of solid waste and one or more listed hazardous wastes or is derived from one or more hazardous wastes, his demonstration must be made with respect to the waste mixture as a whole. Analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by LAC 33:V.4903.

6. Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.

7. Each petition must include, in addition to the information required by LAC 33:I.Chapter 9:

a. the name and address of the independent laboratory facility, accredited by the state of Louisiana in accordance with LAC 33:I.Subpart 3, performing the sampling or tests of the waste;

b. the names and qualifications of the persons sampling and testing the waste;

c. the dates of sampling and testing;

d. the location of the generating facility;

e. a description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

f. a description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

g. pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the factors in LAC 33:V.4907.A.3;

h. a description of the methodologies and equipment used to obtain the representative samples;

i. a description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

j. a description of the tests performed (including results):

i. during the first sampling round, these tests must include the Toxicity Characteristic Leaching Procedure (TCLP) analysis of all the groundwater monitoring constituents listed in LAC 33:V.3325, Table 4 and analysis of total volatiles, semi-volatiles, and metals;

ii. all four sampling rounds must include analyses of dioxins and furans;

iii. all lab data, including instrument tuning, method blanks, field blanks, trip blanks, calibration data, chromatograms, duplicates, matrix spikes, and matrix spike duplicates, must be included;

k. the names and model numbers of the instruments used in performing the tests;

l. a report indicating that the data was reviewed by an independent data validator before being submitted to the department; and

m. the following statement signed by the generator of the waste or his authorized representative:

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

8. After receiving a petition for an exclusion, the administrative authority may request any additional information which he may reasonably require to evaluate the petition.

9. An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.

10. The administrative authority may exclude only part of the waste for which the demonstration is submitted where he has reason to believe that variability of the waste justifies a partial exclusion.

N. Petitions to Amend LAC 33:V.Chapter 38 to Include Additional Hazardous Wastes

1. Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of LAC 33:V.Chapter 38 may petition for a regulatory amendment under LAC 33:I.Chapter 9 and LAC 33:V.Chapter 38.

2. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that regulation under the universal waste regulations of LAC 33:V.Chapter 38:

a. is appropriate for the waste or category of waste;

b. will improve management practices for the waste or category of waste; and

c. will improve implementation of the hazardous waste program.

3. The petition must include the information required by LAC 33:I.Chapter 9. The petition should also address as many of the factors listed in LAC 33:V.3883 as are appropriate for the waste or category of waste addressed in the petition.

4. The administrative authority will grant or deny a petition using the factors listed in LAC 33:V.3883. The decision will be based on the weight of evidence showing that regulation under LAC 33:V.3883 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

5. The administrative authority may request additional information needed to evaluate the merits of the petition.

O. Variances from Classification as a Solid Waste

1. Variances from Classification as a Solid Waste. In accordance with the standards and criteria below, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste:

a. materials that are *accumulated speculatively* without sufficient amounts being recycled, as defined in LAC 33:V.109;

b. materials that are reclaimed and then reused within the original production process in which they were generated; and

c. materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered.

2. Standards and Criteria for Variances from Classification as a Solid Waste

a. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The administrative authority's decision will be based on the following criteria:

i. the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (e.g., because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

ii. the reason that the applicant has accumulated the material for one or more years without recycling 75

percent of the volume accumulated at the beginning of the year;

iii. the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

iv. the extent to which the material is handled to minimize loss; and

v. other related factors.

b. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

i. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

ii. the prevalence of the practice on an industry-wide basis;

iii. the extent to which the material is handled before reclamation to minimize loss;

iv. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;

v. the location of the reclamation operation in relation to the production process;

vi. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

vii. whether the person who generates the material also reclaims it; and

viii. other relevant factors.

c. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

i. the degree of processing the material has undergone and the degree of further processing that is required;

ii. the value of the material after it has been reclaimed;

iii. the degree to which the reclaimed material is like an analogous raw material;

iv. the extent to which an end market for the reclaimed material is guaranteed;

v. the extent to which the reclaimed material is handled to minimize loss; and

vi. other relevant factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006).

§107. Enforcement

A. Failure to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the Act.

B. Investigations into Reports of Violations

1. Upon the receipt of any information concerning a violation of the requirements of the Act or these regulations, the administrative authority shall cause an investigation to be conducted into the alleged violation within seven days.

2. All facts concerning any violation developed in such an investigation shall be fully documented in a report of investigation and presented to the administrative authority within seven days of completion of the investigation. A copy of this report shall be furnished to the Louisiana Department of Justice for use in any civil or criminal proceedings under the Act.

C. Upon receipt of any report of investigation which substantiates a violation of the requirements of the Act or these regulations, the administrative authority shall commence enforcement proceedings under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kg of hazardous waste in that month.

B. Except for those wastes identified in Subsections E, F, G, and J of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Chapters 3-37, 41, 43, and 53, except for LAC 33:V.3105, Table 1, provided the generator complies with the requirements of Subsections F, G, and J of this Section.

C. When making the quantity determinations of this Section and LAC 33:V.Chapter 11, the generator shall include all hazardous waste that it generates, except hazardous waste that:

1. is exempt from regulation under LAC 33:V.105.D.3-6 and 8, 109.*Empty Container*.1, and 4105.A; or

2. is managed immediately upon generation only in on-site *elementary neutralization units*, *wastewater treatment units*, or *totally enclosed treatment facilities* as defined in LAC 33:V.109; or

3. is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under LAC 33:V.4105.D; or

4. is used oil managed under the requirements of LAC 33:V.4105.A.3 and Chapter 40; or

5. is spent lead-acid batteries managed under the requirements of LAC 33:V.4145; or

6. is universal waste managed under LAC 33:V.105.D.7 and Chapter 38.

D. In determining the quantity of hazardous waste generated, a generator need not include:

1. hazardous waste when it is removed from on-site storage; or

2. hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste, so long as the hazardous waste that is treated was counted once; or

3. spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

E. If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under the notification requirements of LAC 33:V.105.A and LAC 33:V.Chapters 3-37, 41, 43, 51, and 53:

1. a total of one kg of acute hazardous wastes listed in LAC 33:V.4901.B, C, or E; or

2. a total of 100 kg of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in LAC 33:V.4901.B, C, or E.

[Comment: *Full regulation* means those regulations applicable to generators of greater than 1,000 kg of non-acutely hazardous waste in a calendar month.]

F. In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in Paragraph E.1 or 2 of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1. LAC 33:V.1103;

2. the generator may accumulate acute hazardous wastes on-site. If he accumulates at any time acute hazardous wastes in quantities greater than those set forth in Paragraph E.1 or 2 of this Section, all of those accumulated wastes are subject to regulation under the applicable notification requirements of LAC 33:V.105.A and LAC 33:V.Chapters 3-37, 41, 43, 51, and 53. The time period of LAC 33:V.1109.E, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit;

3. a conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:

a. permitted under 40 CFR 270, LAC 33:V.Chapters 3-7, or a RCRA approved hazardous waste program of any other state;

b. in interim status under 40 CFR 270 and 265, LAC 33:V.Chapters 3-7 and 43, or a RCRA approved hazardous waste program of any other state;

c. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;

d. permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR 258;

e. permitted, licensed, or registered by a state to manage nonmunicipal, nonhazardous waste and, if managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5-257.30; or

f. a facility which:

i. beneficially uses or reuses, or legitimately recycles or reclaims, its waste; or

ii. treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38;

4. notify the department in accordance with LAC 33:V.105.A; and

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid.

G. In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kg of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1. LAC 33:V.1103;

2. the conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1000 kg of its hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of LAC 33:V.Chapter 11 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of LAC 33:V.Chapters 3-9, 13-37, 41, 43, 51, and 53, and the applicable notification requirements of LAC 33:V.105.A. The time period of LAC 33:V.1109.E for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kg; and

3. a conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:

a. permitted under 40 CFR 270, LAC 33:V.Chapters 3-7, or a RCRA approved hazardous waste program of any other state;

b. in interim status under 40 CFR 270 and 265, LAC 33:V.Chapters 3-7 and 43, or a RCRA approved hazardous waste program of any other state;

c. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;

d. permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR 258;

e. permitted, licensed, or registered by a state to manage nonmunicipal, nonhazardous waste and, if managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5-257.30; or

f. a facility that:

i. beneficially uses or reuses, or legitimately recycles or reclaims, its waste; or

ii. treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38;

4. notify the department in accordance with LAC 33:V.105.A; and

~~5. any and all fees required to be paid by conditionally~~ exempt small quantity generators in accordance with ~~LAC 33:V.5137 must be paid.~~

H. Hazardous waste subject to the reduced requirements of this Section may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous waste identified in LAC 33:V.4903.

I. If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

J. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to LAC 33:V.Chapter 40. Any material produced from such a mixture by processing, blending, or other treatment is also subject to LAC 33:V.Chapter 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:706, 716 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 32:606 (April 2006).

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Aboveground Tank—a device meeting the definition of *tank* in this Section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

Accumulated Speculatively—a material is *accumulated speculatively* if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating

the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under LAC 33:V.105.D.3 are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

Act—Act 449 of the 1979 Louisiana Legislature which established Sections 1051 et seq., Title 30 of the Louisiana Revised Statutes of 1950 and any subsequent amendments to these sections.

Active Life—of a facility means the period from the initial receipt of hazardous waste at the facility until the administrative authority receives certification of final closure.

Active Portion—that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after August 1, 1979, and which is not a closed portion. (See also *closed portion* and *inactive portion.*)

Active Range—a military range that is currently in service and is being regularly used for range activities.

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Ancillary Equipment—any device including, but not limited to, such devices as piping, fittings, flanges, valves and pumps that is used to distribute, meter, or control the flow or hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

Aquifer—a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

Assets—all existing and all probable future economic benefits obtained or controlled by a particular entity.

Authorized Representative—the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

Barrier—a physical separation by natural or constructed means which prevents or restricts the penetration to adjacent areas of the harmful effects of hazardous wastes.

Basin—any uncovered area constructed to retain hazardous wastes.

Boiler—an enclosed device using controlled flame combustion and having the following characteristics:

1. the unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and:

a. the unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

b. while in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

c. the unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

2. the unit is one which the administrative authority has determined, on a case-by-case basis, to be a boiler, after considering the standards in LAC 33:V.105.K.

By-Product—a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a coproduct that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

Carbon Regeneration Unit—any enclosed thermal treatment device used to regenerate spent activated carbon.

Caretaker Management—management by the administrative authority, through an appointed manager to operate a hazardous waste facility during the time the permit of the facility is revoked.

Category I Wastes—chemicals and process streams whose hazardous nature has been prescribed by prior determination and which are presented in LAC 33:V.Chapter 49, i.e., from non-specific sources, specific sources, acute hazardous wastes and toxic wastes.

Category II Wastes—wastes possessing any of the characteristics of the hazard classes listed in LAC 33:V.Chapter 49. Hazard classes of concern for these

wastes are ignitability, corrosivity, reactivity and toxicity. Analytical protocols are detailed in LAC 33:V.Chapter 49.

~~*Cathode Ray Tube or CRT*—a vacuum tube, composed~~ primarily of glass, that is the video display component of a television or computer monitor. An *intact CRT* means a *CRT* remaining within the monitor, whose vacuum has not been released. A *broken CRT* means a CRT for which the vacuum ~~has been released and cannot be restored.~~

Chemical Agents and Munitions—defined in 50 U.S.C. Section 1521(j)(1).

Closed Portion—that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also *active portion* and *inactive portion.*)

Closure—the act of securing and rendering harmless a site which has been used to treat, store or dispose of a hazardous waste so that it will pose no significant threat to human health or the environment.

Closure Plan—the plan for closure prepared in accordance with the requirements of LAC 33:V.Chapter 35.

Commercial Boiler—an industrial boiler that recycles hazardous waste for a fee by means of combustion.

Commercial Facility—a hazardous waste treatment, storage or disposal facility which receives, treats, stores or disposes of waste for a fee or other consideration.

Commercial Industrial Furnace—an industrial furnace that recycles hazardous waste for a fee by means of combustion.

~~*Competent Authorities*—the regulatory authorities of~~ concerned countries having jurisdiction over transfrontier ~~movements of wastes destined for recovery operations.~~

Compliance Schedule—remedial measures including an enforceable sequence of events, operations, or milestone actions leading to compliance with these rules and regulations and the Act.

Component—either the tank or ancillary equipment of a tank system.

Component—any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

~~*Concerned Countries*—the exporting and importing~~ Organization for Economic Cooperation and Development (OECD) member countries and any OECD member ~~countries of transit.~~

Confined Aquifer—an aquifer bounded above and below by aquicludes or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

~~*Consignee*—(as used in LAC 33:V.1127) the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing~~ country.

Consignee—(as used in LAC 33:V.Chapter 11, except §1127) the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be ~~sent.~~

Constituent or *Hazardous Waste Constituent*—any substance specified as a hazardous waste in any list in these rules and regulations.

Container—any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

Containment Building—a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of LAC 33:V.1801 or 4701.

Contingency Plan—a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

Corrosion Expert—a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing in the state of Louisiana that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

Corrosive Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.B which, because of such properties as acidity or alkalinity, would tend to weaken or erode a common construction material.

~~*Country of Transit*—any designated OECD country in~~ LAC 33:V.1113.I.1.a and b other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

CRT Glass Manufacturing Facility—a facility or part of a facility that uses a furnace to manufacture CRT glass.

CRT Processing—conducting any of the following activities:

1. receiving broken or intact CRTs;

2. intentionally breaking intact CRTs or further breaking or separating broken CRTs;

3. sorting or otherwise managing glass removed from CRTs; or

4. cleaning the coatings off the glass removed from ~~CRTs.~~

Current Assets—cash, other assets, or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

Current Closure Cost Estimate—the most recent of the estimates prepared in accordance with LAC 33:V.3705.

Current Liabilities—obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

Current Plugging and Abandonment Cost Estimates—the most recent cost estimate for plugging and abandonment of disposal wells prepared for 40 CFR 144.62, Office of Conservation, or other substantially equivalent state program(s).

Current Post-Closure Cost Estimate—the most recent of the estimates prepared in accordance with LAC 33:V.3709.

Date of Issuance of the Hazardous Waste Permit—the date shown on the hazardous waste permit as the date of issue.

Department—Department of Natural Resources, or after February 1, 1984, Department of Environmental Quality, pursuant to Act 97 of 1983.

Designated Facility—

1. A *designated facility* is a hazardous waste treatment, storage, or disposal facility that:

a. has received a permit (or interim status) in accordance with the requirements of LAC 33:V.Chapters 1, 3, 5, 7, 27, 31, and 43;

b. has received a permit (or interim status) from a state authorized in accordance with 40 CFR 271; or

c. is regulated under the applicable Sections of 40 CFR 266, LAC 33:V.Chapter 41, or equivalent regulation of other states; and

d. has been designated on the manifest by the generator in accordance with LAC 33:V.105.H.

2. *Designated facility* also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with LAC 33:V.1516.C.

3. If a waste is destined for a facility in an authorized state that has not yet obtained authorization to regulate that particular waste as hazardous, then the *designated facility* must be a facility allowed by the receiving state to accept such waste.

Dike—an embankment, levee, or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids or other materials.

Dioxins and Furans (D/F)—tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

Discarded—a material is *discarded* if it is abandoned (and not used, re-used, reclaimed, or recycled) by being disposed of; or burned or incinerated, except where the material is being burned as a fuel for the purpose of recovering usable energy; or physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of.

Discharge or *Hazardous Waste Discharge*—the placing, spilling, releasing, percolating, draining, seeping, disposing, bypassing, or other escaping of pollutants into the air, waters, subsurface water, or the ground as the result of a prior act or omission; or the placing of pollutants into natural or man-made pits or drums, barrels or similar containers under conditions and circumstances that leaking, seeping, draining or escaping of the pollutants can be reasonably anticipated.

Displacement—the relative movement of any two sides of a fault measured in any direction.

Disposal—the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters of the state.

Disposal Facility—a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which the waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

Disposer—any person or agency who operates a treatment, storage and/or disposal facility.

Domestic Sewage—untreated sanitary wastes that pass through a sewer system.

Drip Pad—an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

Elementary Neutralization Unit—a device that:

1. is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in LAC 33:V.4903.C, or they are listed in LAC 33:V.4901 only for this reason; and

2. meets the definition of *tank, tank system, container, transport vehicle, or vessel* in LAC 33:V.109.

Emergency Action—a situation in which there is no feasible alternative, other than the extraordinary actions authorized, to avoid loss of life, serious injury to human health or the environment, or severe damage to property.

Empty Container—

1.a. any hazardous waste remaining in either of the following is not subject to regulation under LAC 33:V.Chapters 1-29, 31-38, 43, 49, or to the notification requirements of LAC 33:V.105.A:

i. an empty container; or

ii. an inner liner removed from an empty container, as defined in Paragraph 2 of this definition;

b. any hazardous waste in either of the following is subject to regulation:

i. a container that is not empty; or

ii. an inner liner removed from a container that is not empty, as defined in Paragraph 2 of this definition;

2.a. a container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acutely hazardous waste listed in LAC 33:V.4901.B, C, or E, is empty if:

i.(a). all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

(b). no more than 2.5 centimeters (1 inch) of residue remain on the bottom of the container or inner liner; or

ii.(a). no more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(b). no more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size;

b. a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric;

c. a container or an inner liner removed from a container that has held an acutely hazardous waste listed in LAC 33:V.4901.B, C or E, is empty if:

i. the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

ii. the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

iii. in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

~~*EPA Acknowledgement of Consent*—the cable sent to the~~ EPA from the United States Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to ~~the shipment.~~

EPA Hazardous Waste Number—the number assigned by EPA to each hazardous waste (see LAC 33:V.Chapter 49).

EPA Identification Number—the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

Equivalent Method—any testing or analytical method approved by the administrative authority.

Excluded Scrap Metal—processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

Existing Facilities—hazardous waste facilities in operation or for which construction commenced on or before August 1, 1979. A facility has commenced construction if the owner or operator has obtained the federal, state and local approvals or permits necessary to begin physical construction; and either: a continuous on-site, physical construction program has begun; or the owner or operator has entered into contractual obligations (which cannot be canceled or modified without substantial loss) for physical construction of the facility to be completed within a reasonable time.

Existing Hazardous Waste Management (HWM) Facility or *Existing Facility*—a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

1. the owner or operator has obtained the federal, state and local approvals or permits necessary to begin physical construction, and either:

a. a continuous on-site, physical construction program has begun; or

b. the owner or operator has entered into contractual obligations (which cannot be canceled or modified without substantial loss) for physical construction of the facility to be completed within a reasonable time.

Existing Portion—that land surface area of an existing waste management unit, included in the original Part I permit application, on which wastes have been placed prior to the issuance of a permit.

Existing Tank System or *Existing Component*—a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

1. a continuous on-site physical construction or installation program has begun; or

2. the owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

Explosives or Munitions Emergency—a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an

improvised explosive device (IED), other potentially explosive materials or devices, or other potentially harmful military chemical munitions or devices, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

Explosives or Munitions Emergency Response—all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions, and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

Explosives or Munitions Emergency Response Specialist—an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), DOD-certified civilian or contractor personnel, and other federal, state, or local government or civilian personnel similarly trained in explosives or munitions emergency responses.

~~*Exporting Country*: any designated OECD member~~ country in LAC 33:V.1113.I.1.a ~~from which a transfrontier movement of wastes is planned or has commenced.~~

Facilities—a group of units (each an individual facility) on a site operated to treat, store, and/or dispose of hazardous waste.

Facility—

1. all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, etc.); or

2. for the purpose of implementing corrective action under LAC 33:V.3322, all the contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective actions under RCRA Section 3008(h);

3. notwithstanding Paragraph 2 of this definition, a remediation waste management site is not a facility that is subject to LAC 33:V.3322, but is subject to corrective action requirements if the site is located within such a facility.

Facility Mailing List—the mailing list for a facility maintained by the department in accordance with LAC 33:V.717.A.1.e.

Fault—a fracture along which rocks or soils on one side have been displaced with respect to those on the other side.

Federal Agency—any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation, and the Government Printing Office.

Federal, State, and Local Approvals or *Permits Necessary to Begin Physical Construction*—permits and approvals required under federal, state, or local statutes, regulations or ordinances.

Final Closure—means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under LAC 33:V.Chapters 15, 19, 21, 23, 25, 27, 29, 31, 33, 35 and 43 are no longer conducted unless subject to provisions of LAC 33:V.1109.

Final Permit—same as *Permit*.

Food-Chain Crops—tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

Foreign Source—any hazardous waste originating from other than the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, or any other territory or protectorate.

Freeboard—the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

Free Liquids—liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

Fresh-Water Aquifer—water-bearing formations capable of yielding usable quantities of groundwater with dissolved minerals less than 10,000 mg/L to drinking water wells, pumps, springs, or streams.

Functionally Equivalent Component—a component that performs the same function or measurement and that meets or exceeds the performance specifications of another component.

Generator—any person, by site, whose act or process produces hazardous waste identified or listed, or whose act first causes a hazardous waste to become subject to regulation.

Groundwater—water in the saturated zone beneath the land surface.

Hazardous Material—a material designated under Louisiana Department of Public Safety regulations or its successor agency to be capable of posing an unreasonable risk to health, safety, or property when transported.

Hazardous Waste—a *solid waste*, as defined in this Section, is a hazardous waste if:

1. it is not excluded from regulation as a hazardous waste under LAC 33:V.105.D; and

2. it meets any of the following criteria:

a. it exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903. However, any mixture of a waste from the extraction, beneficiation, or processing of ores and minerals excluded under LAC 33:V.105.D.2.h and any other solid waste exhibiting a characteristic of hazardous waste under LAC 33:V.4903 is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred; or if it continues to exhibit any of the characteristics exhibited by the nonexcluded wastes prior to mixture. Further, for the purposes of applying the toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in LAC 33:V.4903.E, Table 5 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture;

b. it is listed in LAC 33:V.4901 and has not been excluded from the lists in LAC 33:V.4901 by the Environmental Protection Agency or the administrative authority;

c. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 or Subparagraphs 4.f and g of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Subparagraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities that have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.B—carbon tetrachloride, tetrachloroethylene, trichloroethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050), crude oil storage tank sediment from petroleum refining operations (EPA Hazardous Waste Number K169), clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations (EPA Hazardous Waste Number K170), spent hydrotreating catalyst (EPA Hazardous Waste Number K171), and spent hydrorefining catalyst (EPA Hazardous Waste Number K172); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed 1 part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.C—wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157)—provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the

facility's wastewater treatment system does not exceed a total of 5 parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156)—provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter; and

d. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.4999.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105, Table 1):

i. the rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed;

ii. the rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units;

3. a solid waste which is not excluded from regulation under LAC 33:V.105.D becomes a hazardous waste when any of the following events occur:

a. in the case of a waste listed in LAC 33:V.4901, when the waste first meets the listing description set forth in LAC 33:V.4901;

b. in the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in LAC 33:V.4901 is first added to the solid waste; and

c. in the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in LAC 33:V.4903;

4. unless and until a hazardous waste meets the criteria of Paragraph 5 of this definition:

a. a hazardous waste will remain a hazardous waste;

b.i. except as otherwise provided in Clause 4.b.ii, Subparagraph 4.f, or Paragraph 6 of this definition, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation runoff) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.);

ii. the following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one or more of the characteristics of hazardous wastes:

(a). waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332);

(b). waste from burning any of the materials exempted from regulation by LAC 33:V.4105.A.1.c and d.i;

(c).(i). nonwastewater residues, such as slag, resulting from High-Temperature Metals Recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces (as defined in Industrial Furnace, Paragraphs 6, 7 and 13, in this Section), that are disposed of in Subtitle D units, provided that these residues meet the generic exclusion levels identified in Tables A and B of this definition for all constituents and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements;

Table A
Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues

Constituent	Maximum for Any Single Composite Sample-TCLP (mg/L)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Table B Generic Exclusion Levels for F006 Nonwastewater HTMR Residues	
Constituent	**Maximum for Any Single Composite Sample-TCLP (mg/L)**
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii). a one-time notification and certification must be placed in the facility's files and sent to the Office of Environmental Services, Water and Waste Permits Division, for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to Subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the Subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

[a]. the name and address of the Subtitle D unit receiving the waste shipments;

[b]. the EPA hazardous waste number(s) and treatability group(s) at the initial point of generation;

[c]. the treatment standards applicable to the waste at the initial point of generation; and

[d]. the certification must be signed by an authorized representative and must state as follows:

> "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

c. biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C: organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157);

d. catalyst inert support media separated from one of the following wastes listed in LAC 33:V.4901.C: spent hydrotreating catalyst (EPA Hazardous Waste Number K171) and spent hydrorefining catalyst (EPA Hazardous Waste Number K172);

e. a hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more characteristics of *ignitability* as defined under LAC 33:V.4903.B, *corrosivity* as defined under LAC 33:V.4903.C, or *reactivity* as defined under LAC 33:V.4903.D is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903. The exclusion also pertains to any mixture of a solid waste and a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.c of this definition, and any solid waste generated from treating, storing, or disposing of a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Clause 4.b.i of this definition. Wastes excluded under this Subparagraph are subject to LAC 33:V.Chapter 22 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal. Any mixture of a solid waste excluded from regulation under LAC 33:V.105.D.2.h and a hazardous waste listed in LAC 33:V.Chapter 49 solely because it exhibits one or more of the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.d of this definition, is not a hazardous waste if the mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.Chapter 49 for which such hazardous waste was listed;

f. hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of LAC 33:V.Chapter 42. This exemption also pertains to any mixture of a solid waste and an eligible radioactive mixed waste and any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste. Waste exempted under this Subparagraph must meet the eligibility criteria and specified conditions in LAC 33:V.4205 and 4207 (for storage and treatment) and in LAC 33:V.4223 and 4225 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste;

5. any solid waste described in Paragraph 4 of this definition is not a hazardous waste if it meets the following criteria:

a. in the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. (However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal);

b. in the case of a waste which is a listed waste under LAC 33:V.4901, contains a waste listed under

LAC 33:V.4901 or is derived from a waste listed in LAC 33:V.4901, and it also has been excluded from Paragraph 4 of this definition under LAC 33:V.105.H and M;

6. notwithstanding Paragraphs 1-4 of this definition and provided the *debris* as defined in LAC 33:V.2203 does not exhibit a characteristic identified at LAC 33:V.4903.B-E, the following materials are not subject to regulation under LAC 33:V.Subpart 1:

a. *hazardous debris* as defined in LAC 33:V.2203 that has been treated using one of the required extraction or destruction technologies specified in LAC 33:V.2299.Appendix, Table 8. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements; or

b. *debris* as defined in LAC 33:V.2203 that the administrative authority, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

Hazardous Waste Management—the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

Hazardous Waste Management Unit—is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

Hazardous Waste Permit—same as *Permit*.

Health Care Waste—infectious or other hazardous waste resulting from operations of a health care facility.

Holocene—the most recent epoch of the quarternary period extending from the end of the Pleistocene to the present.

Home Scrap Metal—scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

Household Waste—any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels).

Ignitable Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.A of such properties as to constitute a potential fire hazard during its management.

~~*Importing Country*—any designated OECD country in~~ LAC 33:V.1113.I.1.a to which a ~~transfrontier~~ movement of wastes is ~~planned or~~ takes place for the purpose of ~~submitting the wastes to recovery operations therein.~~

Inactive Portion—that portion of a facility which is not operated after August 1, 1979. (See also *active portion* and *closed portion.*)

Inactive Range—a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

Incinerator—any enclosed device that:

1. uses controlled flame combustion that neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

2. meets the definition of *infrared incinerator* or *plasma arc incinerator*.

Incompatible Waste—a waste unsuitable for commingling with another waste or material if the commingling might result in the generation of: extreme heat or pressure; fire; explosion or violent reaction; substances which are shock-sensitive, friction-sensitive, or which otherwise have the potential of reacting violently; toxic dusts, mists, fumes, gases, or other chemicals; volatilized ignitable or toxic chemicals due to heat generation in such a manner that the likelihood of contamination of groundwater, or escape of the substances into the environment, is increased; or any other similar reactions, or where its placement in a particular device or facility may cause corrosion or decay of containment materials.

Individual Generation Site—the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the property is contiguous.

Industrial Furnace—any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

1. cement kilns;
2. lime kilns;
3. aggregate kilns;
4. phosphate kilns;
5. coke ovens;
6. blast furnaces;
7. smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces);
8. titanium dioxide chloride process oxidation reactors;
9. methane reforming furnaces;
10. pulping liquor recovery furnaces;

11. combustion devices used in the recovery of sulfur values from spent sulfuric acid;

12. halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3 percent, the acid product is used in a manufacturing process and, except for hazardous waste burned as a fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent as generated;

13. such other devices as the administrative authority, after notice and comment, adds to this list on the basis of one or more of the following factors:

a. the design and use of the device primarily to accomplish recovery of material products;

b. the use of the device to burn or reduce raw materials to make a material product;

c. the use of the device to burn or reduce secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

d. the use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

e. the use of the device in common industrial practice to produce a material product; and

f. other factors as appropriate.

Infectious Waste—a waste which has the potential to endanger humans or other living organisms by the communication of diseases caused by microorganisms and/or viruses.

Infrared Incinerator—any enclosed device that uses electric-powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

Inground Tank—a device meeting the definition of *tank* in LAC 33:V.109 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

Injection Well—those wells, intended or used for disposal of hazardous waste, drilled to a strata below any fresh-water aquifer and permitted, or required to be permitted, by the Office of Conservation or after February 1, 1984, by the Department of Environmental Quality.

In Operation—a facility which is treating, storing or disposing of hazardous waste.

Inner Liner—a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

Installation Inspector—a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

Interim Permit—the hazardous waste permit issued by Louisiana to facilities with interim status.

Interim Status—all facilities that have met the requirements established by §3005e of the Resource Conservation and Recovery Act et seq. and as such has been recognized by the U.S. Environmental Protection Agency (EPA) and approved by the administrative authority in accordance with the Louisiana Environmental Affairs Act.

International Shipment—the transportation of hazardous waste into or out of the jurisdiction of the United States.

Lab Pack—an overpacked container (such as a drum) containing small, tightly-sealed containers of hazardous waste with an absorbent material filling the voids in the outer container (drum).

Lagoon—a shallow sound, channel, or pond near, or communicating with, a larger body of water, either natural or man-made.

Landfarm—a facility for the application of waste onto land and/or incorporation into the surface soil for the purpose of biological reduction and soil attenuation, including the use of such waste as a fertilizer or soil conditioner.

Landfill—a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, land treatment facility, surface impoundment, underground injection well, salt dome formation, salt bed formation, underground mine, cave, or corrective action management unit.

Landfill Cell—a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

Land Treatment Facility—a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

Leachate—any liquid, including any suspended components in the liquid, that has percolated through, or drained from hazardous waste.

Leak-Detection System—a system capable of detecting the failure of either the primary or secondary containment structure by the detection of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or

secondary containment structure by the detection of a release of hazardous waste into the secondary containment structure.

Liner—a continuous layer of natural or man made materials, beneath and on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

Management or *Hazardous Waste Management*—the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

Manifest—the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), originated and signed by the generator or offeror in accordance with the instructions in the Appendix to 40 CFR Part 262 and the applicable requirements of 40 CFR Parts 262 – 265.

Manifest Tracking Number—the alphanumeric identification number that is pre-printed in Item 4 of the manifest.

Military—the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

Military Munitions—all ammunition products and components produced or used by or for the DOD or the U.S. Armed Services for national defense and security, including military munitions under the control of the DOD, the U.S. Coast Guard, the DOE, and National Guard personnel. The term *military munitions* includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

Military Range—designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnances, or weapon systems or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

Mining Overburden Returned to the Mine Site—any material overlying an economic mineral deposit, which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

Miscellaneous Unit—a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well (with appropriate technical standards under 40 CFR Part 146), containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under LAC 33:V.329, or staging pile.

Monitoring—inspection and collection of data following a predesigned schedule and system on operational parameters of the facility or on the quality of the environment including the air, groundwater, surface water or soils.

New Hazardous Waste Management Facility or *New Facility*—a facility which began operation, or for which construction commenced after August 1, 1979.

New Tank System or *New Tank Component*—a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of LAC 33:V.1907.G.2 and 4435, a new tank system is one for which construction commences after July 14, 1986. (See also *Existing Tank System.*)

~~*Notifier*—the person under the jurisdiction of the~~ exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States is the exporting country, notifier is interpreted to mean ~~a person domiciled in the United States~~.

One-Hundred Year Flood—a flood that has a 1 percent chance of being equaled or exceeded in any given year.

One-Hundred Year Floodplain—the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands, including, at a minimum, areas subject to a 1 percent or greater chance of flooding in any given year.

Onground Tank—a device meeting the definition of *tank* in LAC 33:V.109 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

On-Site—the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties, owned by the same person, but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

Open Burning—the combustion of any material without the following characteristics: control of combustion air to maintain adequate temperature for efficient combustion; containment of the combustion reaction in an enclosed

device to provide sufficient residence time and mixing for complete combustion; and control of emission of the gaseous combustion products.

Operator, Owner, Licensee, Manager, etc.—whoever has legal authority and responsibility for a facility that generates, transports, treats, stores or disposes of any hazardous waste.

~~*Organization for Economic Cooperation and Development (OECD) Area*—all land or marine areas under the national jurisdiction of any designated OECD member country in LAC 33:V.1113.I. When the regulations refer to shipments to or from an OECD country, this means OECD area.~~

Owner—the person who owns a facility or part of a facility.

Parent Corporation—a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

Partial Closure—the closure of a hazardous waste management unit in accordance with the applicable closure requirements of LAC 33:V.Chapters 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, and 43 at a facility that contains other active hazardous waste management units. For example, a partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

Permit—the permit issued by the state of Louisiana to a facility to treat, store, and/or dispose of hazardous waste under the conditions specified in the permit and the conditions required by the Act and these regulations.

Person—an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, an interstate body, or the federal government or any agency of the federal government.

Personnel or *Facility Personnel*—all persons who work at or oversee the operations of a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43.

Petition—a written request made to the administrative authority.

Pile—any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

Plasma Arc Incinerator—any enclosed device using a high-intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

Point Source—any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pond—a confined body of standing water usually smaller than a lake, either natural or man-made.

Post-Closure Plan—the plan for the post-closure care prepared in accordance with the requirements of LAC 33:V.Chapter 35.

Potable-Water Aquifer—water-bearing formations capable of yielding usable quantities of groundwater with dissolved minerals less than 10,000 mg/L to drinking water wells, pumps, springs or streams.

~~*Primary Exporter* any person who is required to originate the manifest for a shipment of hazardous waste in accordance with LAC 33:V.1107, which specifies a treatment, storage or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.~~

Processed Scrap Metal—scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses, and related materials which have been agglomerated.

> [NOTE: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (LAC 33:V.105.D.1.n).]

Prompt Scrap Metal—scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

Proper—a qualifying adjective requiring consistency with any operating procedures published by the department.

Public Water Supply Well—a well of piped water for consumption by the public if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

Publicly-Owned Treatment Works or *POTW*—any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by the state, parish, municipality, or other governmental subdivision. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to POTW providing treatment.

Qualified Groundwater Scientist—a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited

university courses that enable that individual to make sound professional judgements regarding groundwater monitoring and contaminant fate and transport.

Reactive Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.C which is normally unstable or which may endanger life or property in the presence of other substances likely to be encountered in the management of waste.

~~*Receiving Country*—a foreign country to which a~~ hazardous waste is sent for the purpose of treatment, storage, or disposal ~~(except short-term storage incidental to transportation).~~

Reclaimed Material—a material is *reclaimed* if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

Reclaimer—any person or agency who processes materials or wastes to recover a usable product or who regenerates materials or wastes.

~~*Recognized Trader*—a person who, with appropriate~~ authorization of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transfrontier movements of wastes destined for ~~recovery operations~~.

~~*Recovery Facility*—an entity which, under applicable~~ domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery ~~operations on them.~~

~~*Recovery Operations*—activities leading to resource~~ recovery, recycling, reclamation, direct reuse or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, First Floor, Arlington, VA 22203 (Docket Number F-94-IEHF-FFFFF) and the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France), which include the following operations.

Code	Recovery Operations
R1	Use as a fuel (other than in direct incineration) or other means to generate energy
R2	Solvent reclamation/regeneration
R3	Recycling/reclamation of organic substances that are not used as solvents
R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation of other inorganic materials
R6	Regeneration of acids or bases
R7	Recovery of components used for pollution control
R8	Recovery of components from catalysts
R9	Used oil re-refining or other reuses of previously used oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Uses of residual materials obtained from any of the operations numbered R1-R10
R12	Exchange of wastes for submission to any of the operations numbered R1-R11
R13	Accumulation of material intended for any operation in Table 2.B of the Annex of OECD Council Decision

Recyclable Material—a recyclable material is a material meeting the definition of a solid waste and which is used, reused, recycled, or reclaimed.

Remedial Action Plan (RAP)—a special form of RCRA permit that a facility owner or operator may obtain instead of a permit issued under LAC 33:V.303-329 and 501-537, to authorize the *treatment*, *storage*, or *disposal* of hazardous remediation waste (as defined in this Section) at a remediation waste management site.

Remediation Waste—all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

Remediation Waste Management Site—a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under LAC 33:V.3322, but is subject to corrective action requirements if the site is located in such a facility.

Replacement Unit—a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed and that is subsequently reused to treat, store, or dispose of hazardous waste. *Replacement unit* does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA- or state-approved corrective action.

Representative Sample—a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

Resource Recovery—recovery of useful material or energy from hazardous waste.

Reused Material—see *Used* or *Reused Material*.

Run-Off—any rainwater, leachate, or other liquid that drains overland from any part of a facility.

Run-On—any rainwater, leachate, or other liquid that drains overland onto any part of a facility.

Rural—all areas zoned rural or not zoned at all by a municipality or parish.

Saturated Zone or *Zone of Saturation*—that part of the earth's crust in which all voids are filled with water.

Scrap Metal—bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators,

scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

SIC—Standard Industrial Classification Code.

Site—land area and appurtenances, thereon and thereto, used for the treatment, storage, and/or disposal of hazardous waste.

Sludge—any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

Sludge Dryer—any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

Small Quantity Generator—a generator who generates less than 1000 kg of hazardous waste in a calendar month.

Solid Waste—

1.a. any discarded material that is not excluded by LAC 33:V.105.D or that is not excluded by a variance granted under LAC 33:V.105.O;

b. a discarded material is any material which is:

i. abandoned as explained in Paragraph 2 of this definition;

ii. recycled as explained in Paragraph 3 of this definition;

iii. considered inherently waste-like, as explained in Paragraph 4 of this definition; or

iv. a military munition identified as a solid waste in LAC 33:V.5303;

2. materials are solid waste if they are abandoned by being:

a. disposed of; or

b. burned or incinerated; or

c. accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated;

3. materials are solid wastes if they are recycled, or accumulated, stored, or treated before recycling, as specified in Subparagraphs 3.a-d of this definition:

a. used in a manner constituting disposal:

i. materials noted with an "*" in Column 1 of Table 1 in this Chapter are solid wastes when they are:

(a). applied to or placed on the land in a manner that constitutes disposal; or

(b). used to produce products that are applied to or placed on the land (in which cases the product itself remains a solid waste);

ii. however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are applied to the land and that is their ordinary manner of use;

b. burning for energy recovery:

i. materials noted with an "*" in Column 2 of Table 1 in this Chapter are solid wastes when they are burned to recover energy, used to produce a fuel, or otherwise contained in fuels (in which case the fuel itself remains a solid waste);

ii. however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are themselves fuels;

c. *reclaimed*—materials noted with an "*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed (except as provided under LAC 33:V.105.D.1.p). Materials noted with a "---" in column 3 of Table 1 are not solid wastes when reclaimed;

d. *accumulated speculatively*—materials noted with an "*" in Column 4 of Table 1 in this Chapter are solid wastes when accumulated speculatively.

4. Inherently Waste-Like Materials. The following materials are solid wastes when they are recycled in any manner:

a. Hazardous Waste Numbers F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028;

b. secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in LAC 33:V.4901 or 4903, except for brominated material that meets the following criteria:

i. the material must contain a bromine concentration of at least 45 percent;

ii. the material must contain less than a total of 1 percent of toxic organic compounds listed in LAC 33:V.3105, Table 1; and

iii. the material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping); and

c. the administrative authority will use the following criteria to add wastes to that list:

i. the materials are ordinarily disposed of, burned, or incinerated; or

ii. the materials contain toxic constituents listed in LAC 33:V.3105, Table 1 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

iii. the material may pose a substantial hazard to human health and the environment when recycled.

5. Materials That Are Not Solid Waste When Recycled

a. Materials are not solid wastes when they can be shown to be recycled by being:

i. used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

ii. used or reused as effective substitutes for commercial products; or

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land. In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at LAC 33:V.105.D.1.p apply rather than this Paragraph.

b. The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (described in preceding paragraphs of this definition):

i. materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

ii. materials burned for energy recovery, used to produce a fuel, or otherwise contained in fuels; or

c. materials accumulated speculatively; or

d. inherently waste-like materials listed in Paragraph 4 of this definition.

6. Respondents in actions to enforce regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

Table 1

	Use Constituting Disposal	**Energy Recovery/ Fuel**	**Reclamation (Except as Provided in LAC 33:V. 105.D.1.p for Mineral Processing Secondary Materials)**	**Speculative Accumulation**
	(1)	(2)	(3)	(4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	.....	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	.....	*
Commercial chemical products (listed in LAC 33: V.4901.E and F)	*	*	.....	.....
Scrap Metal other than excluded scrap metal (see excluded scrap metal)	*	*	*	*

Sorbent—a material that is used to soak up free liquids by either adsorption or absorption, or both. *Sorb* means to either adsorb or absorb, or both.

Spent Material—a *spent material* is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

Spill—the accidental or intentional spilling, leaking, pumping, pouring, emitting or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land, air or water.

Staging Pile—an accumulation of solid, nonflowing *remediation waste* (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the administrative authority according to the requirements of LAC 33:V.2605.

Standards—performance criteria established by department to govern the hazardous waste program.

Storage—the containment of hazardous waste for such time as may be permitted by regulations in such a manner as not to constitute disposal of hazardous waste.

Storage Facility—any environmentally sound facility used to store hazardous waste.

Sump—any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, *sump* means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

Surface Impoundment or *Impoundment*—a facility or part of a facility, which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds and lagoons.

Tank—a stationary device designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

Tank System—a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

Temporary Storage—storage of a generator's waste on-site for less than 90 days.

TEQ—toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

Thermal Treatment—the processing of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also *incinerator* and *open burning.*)

Totally Enclosed Treatment Facility—a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

Toxic Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.D which, by its chemical properties, has the potential to endanger human health or other living organisms by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic, or carcinogenic effects.

Transfer Facility—any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

~~*Transfrontier Movement*—any shipment of wastes destined~~ for recovery operations from an area under the national jurisdiction of one ~~OECD~~ member country to an area under ~~the national jurisdiction of another OECD member country.~~

~~*Transit Country*—any foreign country, other than a~~ receiving country, through which a hazardous waste is ~~transported.~~

Transporter—a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

Transports or *Transportation*—the movement of hazardous waste from the point of generation or storage to the point of treatment, storage or disposal by any means of commercial or private transport. The term does not apply to the movement of hazardous wastes on the premises of a hazardous waste generator or on the premises of a permitted hazardous waste treatment, storage or disposal facility.

Transport Vehicle—a motor vehicle, aircraft, rail freight car, freight container, cargo tank, portable tank, or vessel used for the transportation of hazardous waste. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

Treatability Study—a study in which a hazardous waste is subjected to a treatment process to determine:

1.a. whether the waste is amenable to the treatment process;

b. what pretreatment (if any) is required;

c. the optimal process conditions needed to achieve the desired treatment;

d. the efficiency of a treatment process for a specific waste or wastes; or

e. the characteristics and volumes of residuals from a particular treatment process.

2. Also included in this definition for the purpose of the LAC 33:V.105.D.5 and 6 exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A *treatability study* is not a means of commercially treating or disposing of hazardous waste.

Treatment—(when used in connection with hazardous waste) any method, technique, or process, including neutralization, designed to change the physical or chemical character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

Treatment Zone—a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

Type of Waste—waste description by category as classified in LAC 33:V.Chapter 49 to these rules and regulations.

Underground Injection—the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also *injection well.*)

Underground Source of Drinking Water or *USDW*—an aquifer or its portion:

1. which supplies any public water system; or

2. which contains a sufficient quantity of groundwater to supply a public water system; and

a. currently supplies drinking water for human consumption; or

b. contains fewer than 10,000 mg/L total dissolved solids; and

3. which is not an aquifer exempted by the Department of Natural Resources, Office of Conservation.

Underground Tank—a device meeting the definition of *tank* in LAC 33:V.109 whose entire surface area is totally below the surface of and covered by the ground.

Unexploded Ordnance (UXO)—military munitions that have been primed, fused, armed, or otherwise prepared for action and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

Unfit for Use Tank System—a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

Unsaturated Zone or *Zone of Aeration*—the zone between the land surface and the water table.

Uppermost Aquifer—the geological formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer.

Used Oil—any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities.

Used or *Reused Material*—a material is *used* or *reused* if it is either:

1. employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

2. employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment).

Vessel—any type of watercraft used, or capable of being used, as a means of transportation on the water.

Volatile Waste—hydrocarbon or other waste with a vapor pressure greater than or equal to 1.5 psia.

Washout—the movement of hazardous waste from the active portion of the facility as a result of flooding.

Waste Reduction—in-plant practices that reduce, avoid or eliminate the generation of hazardous or solid waste so as to reduce the risks to human health and the environment.

1. When recycling is environmentally acceptable and is an integral part of the waste-generating industrial process or operation, such as a closed-loop application which returns potential waste as it is generated for reuse within the process, it shall be considered waste reduction. Recycling is not considered waste reduction if waste exits a process, exists as a separate identity, undergoes significant handling, or is transported from the waste-generating location.

2. Actions that reduce waste volume by concentrating the hazardous content of a waste or that reduce hazard level by diluting the hazardous content are not considered waste reduction.

3. Actions that change the chemical composition and the concentrations of the components of the waste, but do not change the degree of hazard of the waste are not considered waste reduction.

Wastewater Treatment Unit—a device that:

1. is part of a wastewater treatment facility that is subject to regulation under either Section 402 or 307(b) of the Clean Water Act or subject to regulation under LAC 33:IX.Chapter 3; and

2. receives and treats or stores an influent wastewater that is a *hazardous waste* as defined in LAC 33:V.109, or that generates and accumulates a wastewater treatment sludge that is a *hazardous waste* as defined in LAC 33:V.109, or treats or stores a wastewater treatment sludge that is a *hazardous waste* as defined in LAC 33:V.109; and

3. meets the definition of a tank or tank system in LAC 33:V.109.

All sludges, floats, oils, residues, recovered organics, and inorganics from such units shall be considered to be hazardous and managed according to the applicable regulations, unless the wastes do not exhibit the characteristics of a hazardous waste, except for those specifically listed as hazardous, or the wastes are excluded under LAC 33:V.105.D.

Well—any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

Zone of Engineering Control—an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006).

§110. References

A. When used in LAC 33:V the following publications are incorporated by reference:

1. "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

2. "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80. D-93-80 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

3. "ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography," ASTM Standard D 1946-82, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

4. "ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method)," ASTM Standard D 2382-83, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

5. "ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," ASTM Standard E 169-87, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

6. "ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis," ASTM Standard E 168-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

7. "ASTM Standard Practice for Packed Column Gas Chromatography," ASTM Standard E 260-85, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

8. "ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," ASTM Standard D 2267-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

9. "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161;

10. "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210;

11. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (Document Number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave, NW, Washington, DC, 20460. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC;

12. "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication Number EPA-450/R-92-019, Environmental Protection Agency, Research Triangle, Park, NC;

13. "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E 926-88, Test Method C—Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103;

14. API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof

Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005; and

15. "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103;

~~16. The OECD Green List of Wastes (revised May~~ 1994), the Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4, and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations). These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register. The materials are available for inspection at: the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, First Floor, Arlington, VA 22203 (Docket Number F-94-IEHF-FFFFF); and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris ~~Cedex 16, France; and~~

17. Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry. Available at NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal, Springfield, Virginia 22161.

B. The references listed in Subsection A of this Section are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. These materials are incorporated as they exist on the date that this Rule is promulgated and a notice of any change in these materials will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1690 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:291 (March 2001).

§111. Use of Number and Gender in These Regulations

A. As used in these regulations:

1. words in the masculine gender also include the feminine and neuter genders; and

2. words in the singular include the plural; and

3. words in the plural include the singular.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

~~§301. Authority~~

~~A. The Louisiana Environmental Affairs Act (Acts 1979, 449) authorizes the department to administer this permit program.~~

~~B. This Chapter establishes general conditions for permit standards applicable to treatment, storage, and disposal (TSD) facilities. LAC 33:V.Chapter 5 establishes the contents of the permit application and LAC 33:V.Chapter 7 establishes the administrative procedures for receipt, evaluation, and issuance of TSD permits. LAC 33:V.Chapter 11 establishes standards applicable to generators of hazardous waste. LAC 33:V.Chapter 13 establishes standards applicable to transporters of hazardous waste. LAC 33:V.Chapter 15 establishes general standards for TSD facilities. LAC 33:V.Chapters 19-32 establish specific technical requirements for various disposal facility components.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.~~

~~HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992).~~

§303. Overview of the Permit Program

A. General Application Requirements

1. Permit Application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Office of Environmental Services, Water and Waste Permits Division, as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services, Water and Waste Permits Division, or through the

department's website. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

3. The administrative authority shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See this Chapter and LAC 33:V.Chapter 5 for permit standards and requirements for the contents of permit applications.

4. Permit applications must comply with the signature and certification requirements of LAC 33:V.507 and 513.

B. Treatment, storage, or disposal of hazardous waste is prohibited by any person who has not received an interim status or a standard permit.

C. A hazardous waste permit application consists of two parts.

1. Part I requirements are listed in LAC 33:V.515.

2. Part II requirements are listed in LAC 33:V.517.

D. No facility may be used to treat, store, and/or dispose of hazardous waste without a permit for the specific activities, procedures, and classification of waste handled as outlined in their permit, or in emergency situations under the direction of the administrative authority as provided in LAC 33:V.701 or 703.

E. Requirements for Existing TSD Facilities

1. Owners and operators of existing TSD facilities must submit Part I of their permit application requirements listed in LAC 33:V.515 to the administrative authority no later than 30 days after the date they first become subject to the permitting standards set forth in LAC 33:V.Subpart 1. Generators generating greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who treat, store, or dispose of these wastes on-site must submit a Part I RCRA permit application by March 24, 1987.

2. The owner or operator of an existing TSD facility may be required to submit a permit application at any time. Any owner or operator shall be allowed at least six months from the date of request to submit the application. Any owner or operator of an existing TSD facility may voluntarily submit the application at any time.

3. The administrative authority may by compliance order extend the date by which the owner or operator of an existing TSD facility must submit a permit application. In no instance will the administrative authority grant an extension of permit submission for more than 180 days.

4. Failure to furnish a requested Part II application on time, or to finish in full the information required by the Part II application, is grounds for termination of interim status under LAC 33:V.Chapter 43.

F. Part II Formal Permit Application. The formal permit application must follow all outline, numbering system, and other format requirements established by the administrative authority.

G. Requirements for Interim Status Facilities. Facility owners and operators with interim status must comply with interim status standards set forth in LAC 33:V.Chapter 43.

H. Requirements for New TSD Facilities. Owners or operators of new TSD facilities must submit Part I and Part II of the permit application at least 180 days before physical construction is expected to commence except as provided in LAC 33:V.303.H.3.

1. No person shall begin physical construction of a new TSD facility or begin major modifications to an existing facility without having submitted Parts I and II of the permit application and received a final effective TSD permit.

2. An application for a permit for a new TSD facility (including both Parts I and II) may be filed any time after promulgation of these standards, applicable to such facility. The application shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

3. Notwithstanding LAC 33:V.303.H.1, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to and after an approval issued by the administrative authority under Section (6)(e) of the Toxic Substances Control Act, and any person owning or operating such a facility shall, at any time after construction or operation of such a facility has begun, file an application for a RCRA permit to incinerate hazardous waste authorizing such facility to incinerate waste identified or listed under LAC 33:V.Chapter 49.

4. A new facility must obtain an EPA identification number. EPA identification numbers will be issued only by the EPA. However, application for an EPA Identification Number shall be made by completing the Hazardous Waste Notification form provided by the Office of Environmental Services, Water and Waste Permits Division.

I. No new facility or major modification of an existing facility may commence treatment, storage, or disposal of hazardous waste until the facility is complete and:

1. the permittee has submitted to the administrative authority by certified mail or hand delivery a letter signed by the permittee and an engineer licensed in Louisiana stating that the facility is complete and built in accordance with terms of the permit; and

2. the facility has been inspected by the department following a "request to make final inspection" by the operator, and an order to proceed is issued.

J. Timely Permit Submission. Failure to furnish a requested application on time or failure to furnish in full the information required by the application is grounds for termination of interim status.

K. Updating Permit Applications

1. If any owner or operator of a TSD facility has filed Part I of the permit application and has not yet filed a Part II permit application, the owner or operator shall file an amended Part I permit application.

2. The owner or operator of a facility who fails to comply with the updating requirements of LAC 33:V.303.K may be subject to termination of interim status with respect to those wastes not reported in duly filed notifications.

L. Incomplete Applications. Applications which lack information necessary for proper evaluation will be returned by the administrative authority to the operator within 60 days of receipt of application with a list of additional data required and the timeframe for submission of additional data.

M. Completeness. The administrative authority shall not issue a permit before receiving a complete application for a permit except for permits by rule, or emergency permits. An application for a permit is complete when the administrative authority receives an application form and any supplemental information which are completed to his or her satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in LAC 33:V.303.P. The administrative authority may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit. Applications which are complete will be accepted for review. Operators will be notified of such acceptance for review within 60 days of receipt of application.

N. Reapplications. Any TSD facility with an effective permit shall submit a new permit application at least 180 days before the expiration date of the effective permit, unless permission for later filing is granted by the administrative authority. (The administrative authority shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

O. Application Submitted. All formal permit applications (Part II) shall be submitted in quintuplicate in the form presented in LAC 33:V.515, 517, 519, and 521 and in conformance with all requirements established by the administrative authority. An additional 15 copies shall be provided for any application upon which an evidentiary hearing is to be held by the administrative authority.

P. Exposure Information

1. After August 8, 1985, any Part II permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

a. reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

b. the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described in LAC 33:V.303.P.1.a; and

c. the potential magnitude and nature of the human exposure resulting from such releases.

2. By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already submitted a Part II application must submit the exposure information required in LAC 33:V.303.P.1.

Q. Other Information. The administrative authority may require a permittee or an applicant to submit relevant information in order to establish permit conditions under LAC 33:V.311.E and 315.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005).

§305. Scope of the Permit

A. A permit is required for the treatment, storage, and disposal of any hazardous waste as identified or listed in LAC 33:V.Chapter 49. The terms *treatment*, *storage*, *disposal*, and *hazardous waste* are defined in LAC 33:V.109. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to LAC 33:V.4387) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under Subsections F and G of this Section, or obtain an enforceable document in lieu of a post-closure permit, as provided under Subsection H of this Section. If a post-closure permit is required, the permit must address applicable groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this Section.

B. Specific Inclusions. Owners and operators of certain facilities require hazardous waste permits as well as permits under other programs for certain aspects of the facility operation. Permits are required for:

1. facilities which treat, store, and/or dispose of hazardous wastes controlled by this program, as listed in LAC 33:V.105, less listed exclusions in LAC 33:V.105.D;

2. all associated surface facilities for injection wells that treat, store, and/or dispose of hazardous waste;

3. treatment, storage, or disposal of hazardous waste at facilities requiring a National Pollution Discharge Elimination System (NPDES) permit;

4. barges or vessels that dispose of hazardous waste under a valid federal permit by ocean disposal and onshore hazardous waste treatment, or storage facilities associated with an ocean disposal operation. However, the facility will be deemed to have a permit for ocean disposal from the barge or vessel itself if it complies with the requirements of LAC 33:V.305.C.

C. Exclusions. The following persons are not required to obtain a hazardous waste permit:

1. facilities with injection wells that dispose of hazardous waste. Those wells are regulated by the Office of Conservation prior to February 1, 1984. After that date, such permits shall be issued by the Department of Environmental Quality pursuant to Act 97 of 1983;

2. generators who accumulate hazardous waste in an environmentally sound manner, on-site for less than the time periods provided in LAC 33:V.1109.E;

3. farmers who dispose of hazardous waste pesticides from their own use as provided in LAC 33:V.1101.D;

4. persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under LAC 33:V.105.D or 108 (conditionally exempt small quantity generator exemption);

5. owners or operators of totally enclosed treatment facilities (see definition in LAC 33:V.Chapter 1);

6. owners and operators of elementary neutralization units or wastewater treatment units (see definitions in LAC 33:V.Chapter 1);

7. transporters storing manifested shipments of hazardous waste in containers meeting all applicable requirements at a transfer facility for a period of 10 days or less, if so approved by the administrative authority (see definition in LAC 33:V.109);

8. persons adding absorbent material to waste in a container and persons adding waste to absorbent material, provided that this action occurs at the time waste is first placed in the container and that the action complies with all applicable sections in LAC 33:V.Chapter 21;

9. a person is not required to obtain a permit for those activities he carries out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste. This exclusion is intended to relieve persons of the necessity of obtaining a RCRA permit where the treatment or storage of hazardous waste is undertaken as part of an immediate response to a spill. After the immediate response activities are completed, any treatment, storage, or disposal of spilled material or spill residue or debris that is undertaken must be covered by interim status, permit or emergency permit;

10. owners and operators of facilities granted a research development and demonstration permit under Section 3005(g) of Subtitle C of RCRA, is so specifically exempted by the administrative authority;

11. *universal waste handlers* and *universal waste transporters* (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the below listed universal wastes:

a. batteries as described in LAC 33:V.3803;

b. pesticides as described in LAC 33:V.3805;

~~c. mercury-containing equipment as described in LAC 33:V.3807;~~

d. lamps as described in LAC 33:V.3809;

e. electronics as described in LAC 33:V.3810; and

f. antifreeze as described in LAC 33:V.3811;

12. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.Subpart 1;

13. a person, not required to obtain an RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

a. a discharge of a hazardous waste;

b. an imminent and substantial threat of a discharge of hazardous waste;

c. a discharge of a material which, when discharged, becomes a hazardous waste;

d. an immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an *explosives or munitions emergency response specialist* as defined in LAC 33:V.109;

14. any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of LAC 33:V.Chapters 3, 5, and 7 for those activities; or

15. in the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

D. RCRA Permits by Rule

1. Notwithstanding any other provision, the following shall be deemed to have a permit if the conditions listed are met.

a. The owner or operator of a barge or other vessel which accepts hazardous waste for ocean disposal, if he or she has a valid federal permit for ocean dumping which is duly authorized and meets permit conditions, hazardous

waste regulations, identification numbers, uses the manifest system, reports manifest discrepancies, operating records, annual reports, and reports of any unmanifested waste. Where required by the administrative authority, evidence of the above conditions must be presented. On-shore storage or treatment facilities shall be permitted as required by LAC 33:V.Subpart 1.

b. The owner or operator of an injection well disposing of hazardous waste if he or she has a valid permit for underground injection issued under LAC 43:XVII.Subparts 1 and 2 and is in compliance with such permit and LAC 43:XVII.203.F, and associated surface facilities are permitted under LAC 33:V.Subpart 1. For underground injection permits issued after November 8, 1984, the owner or operator must comply with LAC 33:V.3322. Where the underground injection well is the only unit at a facility which requires a RCRA permit, the owner or operator must comply with LAC 33:V.516 and with the following information requirements for solid waste management units.

i. The following information is required for each solid waste management unit at a facility seeking a permit:

(a). the location of the unit on the topographic map;

(b). designation of type of unit;

(c). general dimensions and structural description (supply any available drawings);

(d). information on when the unit was operated; and

(e). specification of all wastes that have been managed at the unit, to the extent available.

ii. The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

iii. The owner/operator must conduct and provide the results of sampling and analysis of groundwater, land surface, and subsurface strata, surface water, or air, which may include the installation of wells, where the administrative authority ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

2. Publicly Owned Treatment Works. The owner or operator of a POTW can accept hazardous waste for treatment, if the owner or operator has an NPDES permit, complies with the conditions of that permit, and complies with the following regulations:

a. receives an identification number as provided in LAC 33:V.303.H.4;

b. receives all hazardous waste under a designated manifest system;

c. provides a mechanism by which discrepancies in manifested discharges and receipts can be reconciled;

d. maintains a description and quantity of each hazardous waste received and subsequent treatment including methods and dates;

e. submits annual reports summarizing activities relating to receptions and treatment of each hazardous waste;

f. submits a complete report within five days of any hazardous waste received on an unmanifested basis; and

g. complies with all recordkeeping requirements of LAC 33:V.Subpart 1;

h. for NPDES permits issued after November 8, 1984, complies with LAC 33:V.3322.

3. The owner or operator can accept the hazardous waste if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste and if it is discharged into the POTW through a sewer, pipe, or similar conveyance.

E. Permits for Less Than an Entire Facility. The administrative authority may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

~~F. Closure by Removal. Owners/operators of surface~~ impoundments, land treatment units, and waste piles closing by removal or decontamination under LAC 33:V.Chapter 43 standards must obtain a post-closure permit unless they can demonstrate to the administrative authority that the closure met the standards for closure by removal or decontamination in LAC 33:V.2911, 2719.D.4, or 2315, respectively. The demonstration may be made in the following ways.

1. If the owner/operator has submitted an application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that LAC 33:V.Subpart 1 closure-by-removal standards were met. If the administrative authority believes that LAC 33:V.Subpart 1 standards were met, he or she will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in LAC 33:V.305.G.

2. If the owner/operator has not submitted a Part II application for a post-closure permit, the owner/operator may petition the administrative authority for a determination that a post-closure permit is not required because the closure met the applicable LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, and 37 closure standards.

a. The petition must include data demonstrating that closure met removal or decontamination standards, or it must demonstrate that the unit was closed under state requirements that met or exceeded the applicable ~~LAC 33:V.Subpart 1 closure-by-removal standards~~.

~~b. The administrative authority shall approve or~~ deny the petition according to the procedures outlined in LAC 33:V.305.G.

G. Procedures for Closure Equivalency Determination

1. If a facility owner/operator seeks an equivalency demonstration under LAC 33:V.305.F, the administrative authority will provide the public through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the LAC 33:V.Chapter 43 closure to the LAC 33:V.Chapter 35 closure. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

2. The administrative authority will determine whether the LAC 33:V.Chapter 43 closure met the requirements of LAC 33:V.Chapter 35 closure by removal or decontamination within 90 days of its receipt. If the administrative authority finds that the closure did not meet the applicable LAC 33:V.Chapter 35 standards, he or she will provide the owner/operator with a written statement of the reasons why the closure failed to meet LAC 33:V.Chapter 35 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The administrative authority will review any additional information submitted and make a final determination within 60 days.

~~3. If the administrative authority determines that the facility did not close in accordance with LAC 33:V.Chapter 35 closure-by-removal standards, the facility is subject to post-closure permitting requirements.~~

H. Enforceable Documents for Post-Closure Care. At the discretion of the administrative authority, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of LAC 33:V.4396. *Enforceable document* means an order, plan, or other document issued by EPA or by the department under an authority that meets the requirements of 40 CFR 271.16(e) including, but not limited to, a corrective action order issued by EPA under Section 3008(h), a CERCLA remedial action, or a closure or post-closure plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690, 1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3116 (December 2005).

§307. Effect of a Permit

A. Compliance with a RCRA permit during its term constitutes compliance, for purposes of enforcement, with LAC 33:V.Subpart 1, except for those requirements not included in the permit which:

1. become effective by statute;

2. are promulgated under LAC 33:V.Chapter 22 restricting the placement of hazardous wastes in or on the land;

3. are promulgated under LAC 33:V.Chapters 23, 25, and 29 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans and will be implemented through the procedures of LAC 33:V.321.C Class 1 permit modifications; or

4. are promulgated under LAC 33:V.Chapter 43.Subchapters Q, R, and V limiting air emissions.

B. The issuance of a permit does not authorize any injury to persons or property, or invasion of other private rights, or any infringement of state or local law or regulations.

C. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:435 (March 1999).

§309. Conditions Applicable to All Permits

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

A. Duty to Comply. The permittee must comply with all conditions of this permit except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an

emergency permit. Any permit noncompliance constitutes a violation of the Act and any amendments and is grounds for enforcement action, permit termination, revocation and reissuance or modification, or denial of a permit renewal application.

B. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must reapply for the permit as required in LAC 33:V.303.N. If the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the permit, it shall remain in effect until the administrative authority issues a final decision.

C. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

E. Proper Operation and Maintenance

1. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

2. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

F. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

G. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

H. Duty to Provide Information. The permittee shall furnish to the administrative authority, within a reasonable time, any information which may be requested to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish, upon request, copies of records required to be kept by this permit.

I. Inspection and Entry. The permittee shall allow the administrative authority, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate act, any substances or parameters at any location.

J. Monitoring and Records

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, the certification required by LAC 33:V.1529.B.19, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the administrative authority at any time. The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facilities, and for disposal facilities for the post-closure care period as well.

3. Records of monitoring information shall include:

a. the date, exact place, and time of sampling or measurements;

b. the individual(s) who performed the sampling or measurements;

c. the date(s) analyses were performed;

d. the individual(s) who performed the analyses;

e. the analytical techniques of methods used; and

f. the results of such analyses.

K. Signatory Requirement. All applications, reports, or information submitted to the administrative authority shall be signed and certified (see also LAC 33:V.507).

L. Reporting Requirements

1. Planned Changes. The permittee shall give notice to the Office of Environmental Services, Water and Waste Permits Division, as soon as possible, of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services, Water and Waste Permits Division, of any planned changes

in the permitted facility or activity that may result in noncompliance with permit requirements.

3. For a new facility, the permittee may not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility except as provided in LAC 33:V.321.C until:

a. the permittee has submitted to the administrative authority by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

b. the administrative authority has inspected the newly modified or newly constructed facility and finds it is in compliance with the conditions of the permit or within 15 days of the date of receipt of the letter in LAC 33:V.303.I.1, the permittee has not received notice from the administrative authority of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

4. Transfers. The permit is not transferable to any person except with the written approval of the administrative authority. The administrative authority may require modification, or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary. In some cases, modification, or revocation and reissuance could be mandatory under LAC 33:V.Subpart 1.

5. Monitoring Reports. Monitoring results shall be reported at the intervals specified elsewhere in LAC 33:V.Subpart 1.

6. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule shall be submitted no later than 14 days after each schedule date.

7. The permittee shall report any noncompliance which may endanger health or the environment within 24 hours except as more immediate notification is required by the "Notification Regulations and Procedures for Unauthorized Discharges" (see LAC 33:I.Chapter 39). At a minimum such notification must include:

a. information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;

b. any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, which could threaten the environment or human health outside the facility;

c. the description of the occurrence and its cause shall include:

i. name, address, and telephone number of the owner or operator;

ii. name, address, and telephone number of the facility;

iii. date, time, and type of incident;

iv. name and quantity of material(s) involved;

v. the extent of injuries, if any;

vi. an assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

vii. estimated quantity and disposition of recovered material that resulted from the incident;

d. a written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The administrative authority may waive the five-day written notice requirement in favor of a written report within 15 days.

8. Manifest Discrepancy Report. If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within five days, the permittee must submit a report including a copy of the manifest to the Office of Environmental Services, Environmental Assistance Division.

9. Unmanifested Waste Report. An unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division within five days of receipt of unmanifested waste.

10. Annual Report. An annual report must be submitted to the Office of Environmental Services, Environmental Assistance Division covering facility activities during the previous calendar year.

11. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under LAC 33:V.309.L.1, 2, 6, and 7 at the time monitoring reports are submitted. The reports shall contain the information listed in LAC 33:V.309.L.1 and 7.

12. Other Information. If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the administrative authority, he shall promptly submit such facts or information to the Office of Environmental Services, Water and Waste Permits Division.

M. Information Repository. The administrative authority may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in LAC 33:V.708.C.2. The information repository will be governed by the provisions in LAC 33:V.708.C.3-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005).

§311. Establishing Permit Conditions

~~A. In addition to conditions required in all permits, the~~ administrative authority shall establish conditions, as required on a case-by-case basis, under duration of permits, schedules of compliance, monitoring, for considerations under federal law, ~~and~~ to provide for and assure compliance with all ~~applicable~~ requirements of LAC 33:V.Subpart 1 and ~~its Regulations~~.

B. New or reissued permits, modified, or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in LAC 33:V.309.

~~C. All permit conditions shall be incorporated expressly~~, or with specific citation to the applicable regulations or ~~specific permit requirements~~.

D. All permits for facilities with pre-existing groundwater contamination shall contain a permit condition containing the concentration limits of hazardous constituents established consistent with LAC 33:V.3305, 3307 and 3309. In no case shall other than background concentration limits be listed in the initial permit. Compliance with corrective action programs required in LAC 33:V.3303, 3319 and 3321 of the chapter will constitute a permitted variance. Corrective action programs shall be reviewed annually and may be based on predictive computer modeling. Alternate concentrations provided in LAC 33:V.3309.A or B may be set by permit amendment should the original concentration limits be unattainable within a 36-month timeframe.

E. Each RCRA permit shall include permit conditions necessary to achieve compliance with Subtitle II of Title 30 of the Louisiana Revised Statutes and LAC 33:V.Chapters 9, 15, 17, 19, 21, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 37, and 41. In satisfying this provision the administrative authority may incorporate applicable requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 37, and 41 directly by reference into the permit or establish other permit conditions that are based on these regulations. Each permit issued under Subtitle II of Title 30 of the Louisiana Revised Statutes shall contain terms and conditions as the administrative authority determines necessary to protect human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994).

§313. Requirements for Recording and Reporting of Monitoring Results

A. All permits shall specify:

1. requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

2. required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and

3. applicable reporting requirements based upon the impact of the regulated activity as specified in LAC 33:V.Subpart 1. Reporting shall be no less frequent than specified in the regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992).

§315. Duration of Permit

~~Hazardous waste permits shall be effective for a fixed~~ term not to exceed 10 years. Except as provided in LAC 33:V.315.A, the term of a permit shall not be extended by modification beyond the maximum duration specified in this Section. The administrative authority may issue any permit for a duration that is less than the full allowable term under this Section. Each permit for a land disposal facility shall be reviewed by the administrative authority five years after the date of permit issuance or reissuance and shall be modified, suspended, or terminated, as necessary, as ~~provided in LAC 33:V.323.~~

A. Continuation of Expiring Permits. The conditions of an expired permit continue in force until the effective date of a new permit if:

1. the permittee has submitted a timely application under LAC 33:V.517 and the applicable sections in LAC 33:V.519-533 which is a complete (under LAC 33:V.503) application for a new permit; and

2. the administrative authority through no fault of the permittee, does not issue a new permit with an effective date under LAC 33:V.705 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

B. Effect. Permits continued under this Section remain fully effective and enforceable.

C. Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the administrative authority may choose to do any or all of the following:

1. initiate enforcement action based upon the permit which has been continued;

2. issue a notice of intent to deny the new permit under LAC 33:V.703.C.2. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

3. issue a new permit under LAC 33:V.303 with appropriate conditions; or

4. take other actions authorized by these regulations.

D. An EPA issued permit does not continue in force beyond its expiration date under federal law if at that time a state is the permitting authority. States authorized to administer the RCRA program may continue either EPA or state-issued permits until the effective date of the new permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 20:1000 (September 1994).

§317. Availability and Retention of Records

A. The administrative authority or his representative, upon presentation of proper credentials, shall have access to the premises of all facilities permitted and to all pertinent records, and shall have the right to take samples from any facility or waste stream covered under this permit, as provided in R.S. 30:2012.

B. File copies of all manifests, annual reports, exception reports, waste tests or analyses, and other logs or records required hereunder shall be kept for department inspection for a period of not less than three years from date of completion or receipt, whichever is later.

C. Any information provided to the administrative authority will be made available to the public to the extent and in the manner authorized by the Freedom of Information Act except as provided otherwise in LAC 33:V.319.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990).

§319. Confidentiality

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:84 (February 1987), amended by the Office of the Secretary, LR 22:344 (May 1996).

§321. Modification of Permits

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, and any other change in the site, facility, or operations that materially deviates from a permit or materially increases danger to the public health or the environment must be reported in writing to the Office of Environmental Services, Water and Waste Permits Division, prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. Any operator or ownership change shall be made in accordance with LAC 33:I.Chapter 19.

B. Transfer of Permits

1. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under LAC 33:V.321.B.2 or 323.B.2 to identify the new permittee and incorporate such other requirements as may be necessary.

2. Changes in the ownership or operational control of a facility shall be made in accordance with LAC 33:I.Chapter 19.

C. Permit Modification at the Request of the Permittee

1. Class 1 Modifications

a. Except as provided in LAC 33:V.321.C.1.b, the permittee may put into effect Class 1 modifications listed in LAC 33:V.322 under the following conditions.

i. The permittee must notify the Office of Environmental Services, Water and Waste Permits Division, concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

ii. The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the administrative authority in accordance with LAC 33:V.717.A.1.e, and the appropriate units of state and local government, as specified in LAC 33:V.717.A.1.b and d. This notification must be made within 90 calendar days after the change is put into effect. For the Class 1 modifications that require prior administrative authority approval, the notification must be made within 90 calendar days after the administrative authority approves the request.

iii. Any person may request that the administrative authority review, and the administrative authority may for cause reject, any Class 1 modification. The administrative authority must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

b. Class 1 permit modifications identified in LAC 33:V.322 by a superscript "1" may be made only with the prior written approval of the administrative authority.

c. For a Class 1 permit modification, the permittee may elect to follow the procedures in LAC 33:V.321.C.2 for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the administrative authority of this decision in the notice required in LAC 33:V.321.C.2.a.

2. Class 2 Modifications

a. For Class 2 modifications, listed in LAC 33:V.322, the permittee must submit a modification request to the Office of Environmental Services, Water and Waste Permits Division, that:

i. describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

ii. identifies the modification as a Class 2 modification;

iii. explains why the modification is needed; and

iv. provides the applicable information required by LAC 33:V.515-533, 2707, and 3115.

b. The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the administrative authority and to the appropriate units of state and local government as required in LAC 33:V.717.A.1.b and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the administrative authority evidence of the mailing and publication. The notice must include:

i. announcement of a 60-day comment period, in accordance with LAC 33:V.321.C.2.e, and the name and address of a department contact to whom comments must be sent;

ii. announcement of the date, time, and place for a public meeting held in accordance with LAC 33:V.321.C.2.d;

iii. name and telephone number of the permittee's contact person;

iv. name and telephone number of a department contact person;

v. location where copies of the modification request and any supporting documents can be viewed and copied; and

vi. the following statement:

> "The permittee's compliance history during the life of the permit being modified is available from the department contact person."

c. The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d. The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in LAC 33:V.321.C.2.b and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

e. The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department contact identified in the public notice.

f. No later than 90 days after receipt of the notification request, the administrative authority must do one of the following:

i. approve the modification request with or without changes, and modify the permit accordingly;

ii. deny the request;

iii. determine that the modification request must follow the procedures in LAC 33:V.321.C.3 for Class 3 modifications for the following reasons:

(a). there is significant public concern about the proposed modification; or

(b). the complex nature of the change requires the more extensive procedures of Class 3;

iv. approve the request, with or without changes, as a temporary authorization having a term of up to 180 days;

v. notify the permittee that the administrative authority will decide the request within the next 30 days.

g. If the administrative authority notifies the permittee of a 30-day extension for a decision, the administrative authority must, no later than 120 days after receipt of the modification request, take one of the following actions:

i. approve the modification request, with or without changes, and modify the permit accordingly;

ii. deny the request;

iii. determine that the modification request must follow the procedures in LAC 33:V.321.C.3 for Class 3 modifications for the following reasons:

(a). there is significant public concern about the proposed modification; or

(b). the complex nature of the change requires the more extensive procedures of Class 3;

iv. approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

h. If the administrative authority fails to make one of the decisions specified in LAC 33:V.321.C.2.g by the

120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal department action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of LAC 33:V.Chapter 43. If the administrative authority approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in LAC 33:V.321.C.2.f, g, and h, such action cancels the temporary or automatic authorization.

i. In the case of an automatic authorization under LAC 33:V.321.C.2.h, or a temporary authorization under LAC 33:V.321.C.2.f.iv or C.2.g.iv, if the administrative authority has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

i. the permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

ii. unless the administrative authority acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

j. If the owner/operator fails to notify the public by the date specified in LAC 33:V.321.C.2.i, the effective date of the permanent authorization will be deferred until 50 days after the owner/operator notifies the public.

k. Except as provided in LAC 33:V.321.C.2.m, if the administrative authority does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for up to 180 days. The activities authorized under this Subsection must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of LAC 33:V.Chapter 43.

l. In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the administrative authority must consider all written comments submitted to the department during the public comment period and must respond in writing to all significant comments in his or her decision.

m. With the written consent of the permittee, the administrative authority may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

n. The administrative authority may deny or change the terms of a Class 2 permit modification request under LAC 33:V.321.C.2.f-h for the following reasons:

i. the modification request is incomplete;

ii. the requested modification does not comply with the appropriate requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, and 37 or other applicable requirements;

iii. the conditions of the modification fail to protect human health and the environment.

o. The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the administrative authority establishes a later date for commencing construction and informs the permittee in writing before day 60.

3. Class 3 Modifications

a. For Class 3 modifications listed in LAC 33:V.322, the permittee must submit a modification request to the administrative authority that:

i. describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

ii. identifies the modification as a Class 3 modification;

iii. explains why the modification is needed; and

iv. provides the applicable information required by LAC 33:V.515-535, 537, 2707, and 3115.

b. The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the administrative authority and to the appropriate units of state and local government as required in LAC 33:V.717.A.1.b and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the administrative authority evidence of the mailing and publication. The notice must include:

i. announcement of a 60-day comment period, and a name and address of a department contact to whom comments must be sent;

ii. announcement of the date, time, and place for a public meeting on the modification request, in accordance with LAC 33:V.321.C.3.d;

iii. name and telephone number of the permittee's contact person;

iv. name and telephone number of a department contact person;

v. location where copies of the modification request and any supporting documents can be viewed and copied; and

vi. the following statement:

"The permittee's compliance history during the life of the permit being modified is available from the department contact person."

c. The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d. The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in LAC 33:V.321.C.3.b and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

e. The public shall be provided at least 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department contact identified in the notice.

f. After the conclusion of the 60-day comment period, the administrative authority must grant or deny the permit modification request according to the permit modification procedures of LAC 33:V.Chapter 3. In addition, the administrative authority must consider and respond to all significant written comments received during the 60-day comment period.

4. Other Modifications

a. In the case of modifications not explicitly listed in LAC 33:V.322, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the administrative authority that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

b. The administrative authority shall make the determination described in LAC 33:V.321.C.4.a as promptly as practicable. In determining the appropriate class for a specific modification, the administrative authority shall consider the similarity of the modification to other modifications codified in LAC 33:V.322 and the following criteria.

i. Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health and the environment. In the case of Class 1 modifications, the administrative authority may require prior approval.

ii. Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(a). common variations in the types and quantities of the wastes managed under the facility permit;

(b). technological advancements; and

(c). changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

iii. Class 3 modifications substantially alter the facility or its operation.

5. Temporary Authorizations

a. Upon request of the permittee, the administrative authority may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this Paragraph. Temporary authorizations must have a term of not more than 180 days.

b. The permittee may request a temporary authorization for:

i. any Class 2 modification meeting the criteria in LAC 33:V.321.C.5.d.ii; and

ii. any Class 3 modification that meets the criteria in LAC 33:V.321.C.5.d.ii.(a) or (b), or that meets the criteria in LAC 33:V.321.C.5.d.ii.(c)-(e) and provides improved management or treatment of a hazardous waste already listed in the facility permit.

c. The temporary authorization request must include:

i. a description of the activities to be conducted under the temporary authorization;

ii. an explanation of why the temporary authorization is necessary;

iii. sufficient information to ensure compliance with LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, and 37 standards; and

iv. the permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the administrative authority and to appropriate units of state and local governments. This notification must be made within seven days of submission of the authorization request.

d. The administrative authority shall approve or deny the temporary authorization as quickly as practicable. To issue a temporary authorization, the administrative authority must find the following:

i. the authorized activities are in compliance with the standards of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, and 37; and

ii. the temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(a). to facilitate timely implementation of closure or corrective action activities;

(b). to allow treatment or storage in tanks, containers, or containment buildings in accordance with LAC 33:V.Chapter 22;

(c). to prevent disruption of ongoing waste management activities;

(d). to enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(e). to facilitate other changes to protect human health and the environment.

e. A temporary authorization may be reissued for one additional term of up to 180 days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

i. the reissued temporary authorization constitutes the administrative authority's decision on a Class 2 permit modification in accordance with LAC 33:V.321.C.2.f.iv or C.2.g.iv; or

ii. the administrative authority determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of LAC 33:V.321.C.3 are conducted.

6. Public Notice and Appeals of Permit Modification Decisions

a. The administrative authority shall notify persons on the facility mailing list and appropriate units of state and local government within 10 days of any decision under this Subsection to grant or deny a Class 2 or 3 permit modification request. The administrative authority shall also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect under LAC 33:V.321.C.2.h or k.

b. The administrative authority's decision to grant or deny a Class 2 or 3 permit modification request under this Subsection may be appealed under the permit appeal procedures of R.S. 30:2024.

c. An automatic authorization that goes into effect under LAC 33:V.321.C.2.h or k may be appealed under the permit appeal procedures of R.S. 30:2024; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to R.S. 30:2024, notwithstanding the provisions of LAC 33:V.705.B.2.

7. Newly Listed or Identified Wastes

a. The permittee is authorized to continue to manage wastes listed or identified as hazardous under LAC 33:V.Chapter 49, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if he or she:

i. manages them at a facility that was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

ii. submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

iii. is in compliance with the standards of LAC 33:V.Chapters 41 and 43;

iv. also submits a complete Class 2 or 3 permit modification request within 180 days after the effective date of the rule listing or identifying the waste, or subjecting the unit to RCRA Subtitle C management standards; and

v. in the case of land disposal units, certifies that such unit is in compliance with all applicable requirements of LAC 33:V.4369 and 4397-4413 on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with these requirements, he or she shall lose authority to operate under this Subsection.

b. New wastes or units added to a facility's permit under this Paragraph do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

8. Military Hazardous Waste Munitions Treatment and Disposal. The permittee is authorized to continue to accept waste military munitions, notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

a. the facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

b. on or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

c. the permittee submits a complete Class 2 modification request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

9. Permit Modification List. The administrative authority must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

10. Combustion Facility Changes to Meet 40 CFR Part 63 MACT Standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under LAC 33:V.322.L.9.

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to

October 11, 2000 (see 40 CFR 63, revised as of July 1, 2000) in order to request a permit modification under this Section.

b. If the administrative authority does not approve or deny the request within 90-days of receiving it, the request shall be deemed approved. The administrative authority may, at his or her discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2454 (October 2005).

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. to provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. other changes	2
5. Schedule of compliance:	
a. changes in interim compliance dates, with prior approval of the administrative authority	1[1]
b. extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the administrative authority	1[1]
7. Changes in ownership or operational control of a facility, provided the procedures of LAC 33:V.321.B.2 are followed	1[1]
B. General Facility Standards	
1. Changes to waste sampling or analysis methods:	
a. to conform with agency guidance or regulations	1
b. to incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods	1[1]
c. to incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes	1[1]
d. other changes	2
2. Changes to analytical quality assurance/control plan:	
a. to conform with agency guidance or regulations	1
b. other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. that affect the type or decrease the amount of training given to employees	2
b. other changes	1
6. Contingency plan:	
a. changes in emergency procedures (i.e., spill or release response procedures)	2
b. replacement with functionally equivalent equipment, upgrading, or relocation of emergency equipment listed	1
c. removal of equipment from emergency equipment list	2
d. changes in names, addresses, or phone numbers of coordinators or other persons or agencies identified in the plan	1

Modifications	Class
7. Construction quality assurance plan:	
a. changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications	1
b. other changes	2
8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility) [NOTE: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.]	1[1]
C. Groundwater Protection	
1. Changes to wells:	
a. changes in the number, location, depth, or design of upgradient or downgradient wells of a permitted groundwater monitoring system	2
b. replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1
2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the administrative authority	1[1]
3. Changes in the statistical procedure for determining whether a statistically significant change in groundwater quality between the upgradient and downgradient wells has occurred, with prior approval of the administrative authority	1[1]
4. Changes in point of compliance	2[1]
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. as specified in the groundwater protection standard	3
b. as specified in the detection monitoring program	2
6. Changes to a detection monitoring program as required by LAC 33:V.3317, unless otherwise specified in this Section	2
7. Compliance monitoring program:	
a. addition of compliance monitoring program as required by LAC 33:V.3317 and 3319	3
b. changes to a compliance monitoring program as required by LAC 33:V.3319, unless otherwise specified in this Section	2
8. Corrective action program:	
a. addition of a corrective action program as required by LAC 33:V.3319.I.2, 3321 and 3322	3
b. changes to a corrective action program as required by LAC 33:V.3321.H, unless otherwise specified in this Section	2
D. Closure	
1. Changes to the closure plan:	
a. changes in the estimate of the maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the administrative authority	1[1]
b. changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the administrative authority	1[1]
c. changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the administrative authority	1[1]
d. changes in procedures for decontamination of facility equipment or structures, with prior approval of the administrative authority	1[1]
e. changes in the approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Section	2
f. extensions of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive nonhazardous wastes after final receipt of hazardous wastes under LAC 33:V.3513.D and E	2
~~g. changes in the approved closure plan allowing alternative risk assessment based closure protective of human health and the environment in accordance with LAC 33:I.Chapter 13.~~	~~3~~
2. Creation of a new landfill unit as part of the closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. surface impoundments	3
b. incinerators	3
c. waste piles that do not comply with LAC 33:V.2301.C	3

Modifications	Class
d. waste piles that comply with LAC 33:V.2301.C	2
e. tanks or containers (other than specified in LAC 33:V.322.D.3.f)	2
f. tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the administrative authority	1[1]
g. staging piles	2
E. Post-Closure	
1. Changes in the name, address, or phone number of the contact for the post-closure plan	1
2. Extension of the post-closure care period	2
3. Reduction of the post-closure care period	3
4. Changes to the expected year of final closure, where other permit conditions are not changed	1
5. Changes in the post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure	2
F. Containers	
1. Modification or addition of container units:	
a. resulting in greater than 25 percent increase in the facility's container storage capacity, except as provided in LAC 33:V.322.F.1.c and F.4.a below	3
b. resulting in up to 25 percent increase in the facility's container storage capacity, except as provided in LAC 33:V.322.F.1.c and F.4.a below	2
c. or treatment processes necessary to treat wastes that are prohibited from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in LAC 33:V.Chapter 22, with prior approval of the administrative authority. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027 and 028)	1[1]
2. Other container modifications:	
a. modification of a container unit without increasing the capacity of the unit	2
b. addition of a roof to a container unit without alteration of the containment system	1
3. Storage of different wastes in containers, except as provided in LAC 33:V.322.F.4:	
a. that require additional or different management practices from those authorized in the permit	
b. that do not require additional or different management practices from those authorized in the permit	2
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
4. Storage or treatment of different wastes in containers:	
a. that require addition of units or a change in treatment process or management standards, provided that the wastes are prohibited from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that they are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in LAC 33:V.Chapter 22. This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1[1]
b. that do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
G. Tanks	
1. Modification or addition of tank units:	
a. modification or addition of tank units resulting in greater than 25 percent increase in the facility's tank capacity, except as provided in LAC 33:V.322.G.1.c, G.1.d, and G.1.e	3
b. modification or addition of tank units resulting in up to 25 percent increase in the facility's tank capacity, except as provided in LAC 33:V.322.G.1.d and G.1.e	2
c. addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	2

Modifications	Class
d. after prior approval of the administrative authority, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation or component separation	1[1]
e. modification or addition of tank units or treatment processes necessary to treat wastes that are prohibited from land disposal to meet some or all of the applicable treatment standards, or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in LAC 33:V.Chapter 22, with prior approval of the administrative authority. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1[1]
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ± 10 percent of that of the replaced tank, provided that:	
a. the capacity difference is not more than 1,500 gallons	1
b. the facility's permitted tank capacity is not increased, and	1
c. the replacement tank meets the same conditions in the permit	1
4. Modification of a tank management practice	2
5. Management of different wastes in tanks:	
a. that require additional or different management practices, tank design, different fire protection specifications, or a significantly different tank treatment process than that authorized in the permit, except as provided in LAC 33:V.322.G.5.c below	3
b. that do not require additional or different management practices or tank design, different fire protection specifications, or a significantly different tank treatment process than that authorized in the permit, except as provided in LAC 33:V.322.G.5.d	2
c. that require the addition of units or a change in treatment processes or management standards, provided that the wastes are prohibited from land disposal and are to be treated to meet some or all of the applicable treatment standards or that they are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in LAC 33:V.Chapter 22. The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1[1]
d. that do not require the addition of units or a change in the treatment process or management standards and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027 and 028)	1
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
H. Surface Impoundments	
1. Modification or addition of surface impoundment units that results in increasing the facility's surface impoundment storage or treatment capacity	3
2. Replacement of a surface impoundment unit	3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system	2
4. Modification of a surface impoundment management practice	2
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
a. that require additional or different management practices or different design of the liner or leak detection system than is authorized in the permit	3
b. that do not require additional or different management practices or different design of the liner or leak detection system than is authorized in the permit	2
c. that are wastes prohibited from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in LAC 33:V.Chapter 22, and provided that the unit meets the minimum technological requirements stated in LAC 33:V.2239. This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1

Modifications	Class
d. that are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in LAC 33:V.2239, and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
6. Modifications of unconstructed units to comply with LAC 33:V.2903.J, 2904, 2906, and 2907.E	1[1]
7. Changes in response action plan:	
a. increase in action leakage rate	3
b. change in a specific response reducing its frequency or effectiveness	3
c. other changes	2
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
I. Enclosed Waste Piles. For all waste piles except those complying with LAC 33:V.2301.C, modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with LAC 33:V.2301.C	
1. Modification or addition of waste pile units:	
a. resulting in greater than 25 percent increase in the facility's waste pile storage or treatment capacity	3
b. resulting in up to 25 percent increase in the facility's waste pile storage or treatment capacity	2
2. Modification of waste pile unit without increasing the capacity of the unit	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity that meets all waste pile conditions in the permit	1
4. Modification of a waste pile management practice	2
5. Storage or treatment of different wastes in waste piles:	
a. that require additional or different management practices, different design of the unit	3
b. that do not require additional or different management practices, different design of the unit	2
6. Conversion of an enclosed waste pile to a containment building unit	2
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
J. Landfills and Unenclosed Waste Piles	
1. Modification or addition of landfill units that results in increasing the facility's disposal capacity	3
2. Replacement of a landfill	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system	2
5. Modification of a landfill management practice	2
6. Landfill different wastes:	
a. that require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	3
b. that do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	2
c. that are wastes prohibited from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in LAC 33:V.Chapter 22, and provided that the landfill unit meets the minimum technological requirements stated in LAC 33:V.2239. This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
d. that are residues from the wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in LAC 33:V.2239, and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027 and 028)	1
7. Modifications of unconstructed units to comply with LAC 33:V.2303.C, 2304, 2306, 2309.C, 2503.L, 2504, 2507.D, and 2508.	1[1]
8. Changes in response action plan:	
a. increase in action leakage rate	3
b. change in a specific response reducing its frequency or effectiveness	3

Modifications	Class
c. other changes	2
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
K. Land Treatment	
1. Lateral expansion of or other modification of a land treatment unit to increase areal extent	3
2. Modification of a run-on control system	2
3. Modification of a run-off control system	3
4. Other modifications of land treatment unit component specifications or standards required in the permit	2
5. Management of different wastes in land treatment units:	
a. that require a change in permit operating conditions or unit design specifications	3
b. that do not require a change in permit operating conditions or unit design specifications	2
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
6. Modification of a land treatment unit management practice to:	
a. increase the rate or change the method of waste application	3
b. decrease the rate of waste application	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2
8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans or distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to LAC 33:V.2711.G.2	3
10. Changes in the unsaturated zone monitoring system resulting in a change to the location, depth, or number of sampling points, or replacement of unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, or number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in the land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the administrative authority's prior approval has been received	1[1]
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the administrative authority	1[1]
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration	3
18. Changes in vegetative cover requirements for closure	2
L. Incinerators, Boilers, and Industrial Furnaces	
1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: a thermal feed rate limit a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: a thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	2

Modifications	Class
3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove Hcl/Cl_2, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not be likely to affect the capability of the unit to meet the regulatory performance standards but that would change the operating conditions or monitoring requirements specified in the permit. The administrative authority may require a new trial burn to demonstrate compliance with the regulatory performance standards	2
5. Operating requirements:	
a. modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, or oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls	3
c. modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	2
6. Burning of different wastes:	
a. if the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. if the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit	2
[NOTE: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.]	
7. Shakedown and trial burn:	
a. modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn	2
b. authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the administrative authority	1[1]
c. changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the administrative authority	1[1]
d. changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the administrative authority	1[1]
8. Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit	2
9. Technology changes needed to meet standards under 40 CFR Part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of LAC 33:V.321.C.10 are followed	1[1]
M. Containment Buildings	
1. Modification or addition of containment building units:	
a. resulting in greater than a 25 percent increase in the facility's containment building storage or treatment capacity	3
b. resulting in up to a 25 percent increase in the facility's containment building storage or treatment capacity	2
2. Modification of containment building unit or secondary containment system without increasing the capacity of the unit	2

Modifications	Class
3. Replacement of a containment building with another containment building of the same design, having no increased capacity and that meets all containment building conditions in the permit	1
4. Modification of a containment building management practice	2
5. Storage or treatment of different wastes in a containment building:	
a. in which those wastes require additional or different management practices	3
b. in which those wastes do not require additional or different management practices or different design of the unit	2
N. Corrective Action	
1. Approval of a corrective action management unit in accordance with LAC 33:V.2601	3
2. Approval of a temporary unit or time extension for a temporary unit in accordance with LAC 33:V.2603	2
3. Approval of a staging pile or staging pile operating term extension in accordance with LAC 33:V.2605	2
[1]Class 1 modifications requiring prior administrative authority approval.	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:292 (March 2001).

§323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits

A. When the administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit [see LAC 33:V.309], receives a request for revocation and reissuance under this Section, or conducts a review of the permit file), he or she may determine whether one or more of the causes listed in LAC 33:V.323.B.2.c, and B.3.b for suspension, modification or revocation and reissuance, or termination exist. If cause exists, the administrative authority may suspend, modify or revoke and reissue, or terminate the permit accordingly, subject to the limitations of LAC 33:V.323.A, B.1, B.2.c, d and e, or B.3.b, and may request an updated application, if necessary. Permits may be reviewed for potential modification, suspension, or termination either at the request of any interested person (including the permittee) or upon the administrative authority's initiative. However, permits may be modified, or revoked and reissued, suspended or terminated only for the reasons specified in LAC 33:V.323.A, B.1, B.2.c, and B.3.b, or if the administrative authority receives notification of a proposed transfer of the permit (LAC 33:V.309.L.4). All requests shall be in writing, and shall contain facts or reasons supporting the request.

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Department of Environmental Quality (DEQ), Legal Affairs Division, in accordance with Act 97 of 1983.

1. Suspension

a. The administrative authority may temporarily suspend the operator's right to accept additional hazardous waste to treat, store, or dispose of until violations are corrected. If violations are corrected, the administrative authority may lift the enforcement. Suspension of a permit and/or subsequent corrections of the causes of the suspension by the permittee shall not preclude the administrative authority from terminating the permit, if necessary. The administrative authority shall give notice to the operator, by registered mail, return receipt requested, of violation of the permit or act, listing the specific violations. If the operator fails to comply with this notice by correcting the cited violations within 30 days from date of notice, the administrative authority may issue an order requiring compliance within a specified time, or may commence a civil action in the district court in the parish in which the violation occurred for appropriate relief, including a temporary or permanent injunction. If the operator fails to take corrective action within the time specified in the order, the administrative authority shall assess a civil penalty, and may suspend or terminate the permit, all pursuant to LAC 33:V.Chapter 1 of these regulations and the Act.

b. For major infractions of the terms of the permit, the administrative authority may suspend the permit and require:

i. the operator to cease accepting hazardous waste or contracting for its treatment, storage, or disposal; or

ii. the operator to agree to a caretaker management of operations involving wastes which are being treated, stored, or have been disposed of on-site. The caretaker management shall be selected by the administrative authority from the following:

(a). operator's personnel acting under supervision of the administrative authority; or

(b). independent management firm operating under administrative authority supervision; or

(c). state operation;

iii. the total cost of the caretaker management shall be borne by the operator, by revenues from operation, or by calling upon the closure fund set up for this purpose;

iv. if the operator does not voluntarily agree to the caretaker management, appropriate legal action shall be taken by the administrative authority to institute the management operations to protect the public interest;

v. after exhausting all other remedies, the administrative authority shall request the attorney general to secure court authority to close the site, using closure funds for this purpose.

c. The operator may request reconsideration of the suspension order. The request shall stipulate the form requested: i.e., a staff conference, a public hearing, or an adjudicatory hearing.

2. Modification or Revocation and Reissuance

a. If the administrative authority tentatively decides to modify or revoke and reissue a permit under LAC 33:V.321.C.3 or 323, he or she shall prepare a draft permit under LAC 33:V.703.C incorporating the proposed changes. The administrative authority may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the administrative authority shall require the submission of a new application. When a permit is modified, only the conditions subject to modification are reopened. When a permit is revoked and reissued, the entire permit is reopened and subject to revision, and the permit is reissued for a new term.

b. If a permit modification is requested by the permittee, the administrative authority shall approve or deny the request according to the procedures of LAC 33:V.321.C. Otherwise, a draft permit must be prepared and other procedures followed.

c. The following are causes for modification, but not revocation and reissuance, suspension or termination of permits. The following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:

i. material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

ii. the administrative authority has received information that justifies the application of different permit conditions;

iii. the standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. The owner or operator may request a permit modification for this cause only as follows:

(a). for promulgation of amended standards or regulations, when the administrative authority has revised, withdrawn, or modified that portion of the regulation or on which the permit condition was based, or has approved a state action with regard to standards on which the permit condition was based, and a permittee requests modification in accordance with LAC 33:V.323 within 90 days after notice of the action on which the request is based;

(b). for judicial decisions, a court of competent jurisdiction has remanded and stayed promulgated regulations, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based, and a request is filed by the permittee in accordance with LAC 33:V.323 within 90 days of judicial remand;

iv. the administrative authority determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control, and for which there is no reasonably available remedy.

d. Notwithstanding any other provision in this Section, when a permit for a land disposal facility is reviewed by the administrative authority under LAC 33:V.315, the administrative authority shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in LAC 33:V.Subpart 1.

e. Suitability of the facility location will not be considered a cause for permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

~~3. Termination~~

~~a. If the administrative authority tentatively decides~~ to terminate a permit under LAC 33:V.323.C.2, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under LAC 33:V.703.C. If a permit is terminated, the entire permit is reopened and subject to revision before the permit can be reissued for a new term.

b. The administrative authority may terminate a permit during its term or deny a permit renewal application for the following causes:

i. noncompliance by the permittee with any condition of the permit;

ii. the permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any ~~relevant facts at any time;~~

~~iii. a determination that the permitted activity~~ endangers human health or the environment and can only be regulated to acceptable levels by termination; or

iv. the administrative authority has received notification of a proposed transfer of the permit (see LAC 33:V.309.L.4).

c. The operator may request reconsideration of the termination order. The request shall stipulate the forum requested: i.e., a staff conference, a public hearing, or an ~~adjudicatory hearing~~.

4. For major infractions of the terms of the permit, the administrative authority shall terminate the permit and require:

a. the operator to cease accepting hazardous waste or contracting for its treatment, storage, or disposal; or

b. the operator to agree to a caretaker management of operations involving wastes which are being treated, stored, or have been disposed of on-site. The caretaker management shall be selected by the administrative authority from the following:

i. operator's personnel acting under supervision of the administrative authority; or

ii. independent management firm operating under administrative authority supervision; or

iii. state operation.

c. The total cost of the caretaker management shall be borne by the operator, by revenues from operation, or by calling upon the closure fund set up for this purpose.

~~d. If the operator does not voluntarily agree to the~~ caretaker management, appropriate legal action ~~shall~~ be taken by the administrative authority to institute the management operations to protect the public interest.

e. After exhausting all other remedies, the administrative authority shall request the attorney general to secure court authority to close the site, using closure funds ~~for this purpose.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005).

§325. Compliance Schedule for Facilities Existing on the Effective Date of These Regulations

A. Applicability

1. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and any other regulations. Any schedules of compliance shall require compliance as soon as possible.

2. If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates, except that:

a. the time between interim dates shall not exceed one year; or

b. if the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date; and

c. the permit shall be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee shall notify the administrative authority in writing of its compliance or noncompliance with the interim or final requirements. Surface facilities for hazardous waste UIC wells shall be written to require schedules of compliance not later than one year after the effective date of the permit.

B. Alternate Schedules of Compliance. A permit applicant or permittee may cease conducting regulated activities rather than continue to operate and meet permit requirements as follows.

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

a. the permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

b. the permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will insure timely compliance with applicable requirements.

3. If the permittee is undecided whether to cease conducting regulated activities, the administrative authority may issue or modify a permit to contain two schedules as follows:

a. both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner, if the decision is to continue conducting regulated activities;

b. one schedule shall lead to timely compliance with all applicable requirements; and the second schedule shall lead to cessation of regulated activities by a date which

will ensure timely compliance with all applicable requirements; and

c. each permit containing two schedules shall include a requirement that after the permittee has made a final decision under this Section, it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

4. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the administrative authority, such as a resolution of the board of directors of a corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§327. Fees

A. Fees are established by fee system rules and regulations of the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§329. Research, Development, and Demonstration Permits

A. The administrative authority may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 37, or 41. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

1. shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in LAC 33:V.329.D;

2. shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the administrative authority deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

3. shall include such requirements as the administrative authority deems necessary regarding testing and providing of information to the administrative authority with respect to the operation of the facility.

B. For the purpose of expediting review and issuance of permits under this Section, the administrative authority may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

C. The administrative authority may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

D. Any permit issued under this Section may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994).

Chapter 4. Requirements for Commercial Treatment, Storage, and Disposal Facility Permits

§401. Applicability

A. This Chapter applies to proposed, nonexistent, commercial hazardous waste treatment, storage, and disposal (TSD) facilities. Existing facilities seeking major modification, permit renewal, conversion of noncommercial status to commercial, or interim permit to final permit status are not subject to the requirements in this Chapter. All other requirements in LAC 33:V for hazardous waste facilities also apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:285 (March 2001).

§403. Definitions

A. The definitions used in this Chapter are intended to apply to commercial hazardous waste facilities. Terms not defined herein shall have the meanings given them in LAC 33:V.109.

Aquifer Recharge Zone—a land area in which water reaches the zone of saturation from surface infiltration (e.g., an area where rainwater soaks through the earth to reach an aquifer).

Day Care Center—any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children

operations of the proposed commercial facility and to respond to emergencies that may potentially threaten the health, safety, or welfare of the communities or any of their inhabitants.

B. The secretary shall submit a written request to the appropriate local governmental representative for a report detailing the impact of the proposed facility on the local infrastructure including, but not limited to, roads and transportation systems, schools, medical institutions, police and fire departments, economic development, and such matters as the local government may determine will be impacted by the facility. A copy of the applicant's Commercial Siting Assessment Report, as required by this Chapter, will be provided to the local governmental subdivision. This request shall be made as soon as the permit application is deemed administratively complete and shall allow local government 180 days to provide the Infrastructure Assessment Report. Any revisions made to the "Commercial Siting Assessment Report" by the permit applicant during the technical review process shall be forwarded to the appropriate local governmental representative. The administrative authority may allow local government additional time to submit the report if a written request, which provides justification for the extension, is received prior to the 180-day deadline; however, in no case shall an extension be granted that extends beyond the date of the evidentiary hearing.

C. The Infrastructure Assessment Report may propose alternate siting for the facility and propose actions to mitigate any infrastructure deficiencies found by the report.

D. Any Infrastructure Assessment Report prepared by the local governmental subdivision shall be submitted prior to the evidentiary hearing held in accordance with LAC 33:V.709. The department may request additional supporting information from the local governmental subdivision or permit applicant before using the report for the secretary's assessment of the suitability of the proposed commercial hazardous waste TSD site.

E. The secretary may reimburse the local governmental subdivision for reasonable and necessary costs of preparation of the Infrastructure Assessment Report, provided the reimbursement request is made in writing and supported with documentation of report preparation costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178 and 2182.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001).

§409. Departmental Action on Commercial Hazardous Waste TSD Permit Applications

A. The secretary's report shall be issued in conjunction with the draft permit decision for commercial hazardous waste treatment, storage, or disposal facilities. The report will assess the impact of the location of the facility on the citizens in the surrounding area, the local infrastructure, economic development, and on the environment. The sources of information for the report include the permit application contents required in LAC 33:V, the Infrastructure Assessment Report prepared by the local governmental subdivision, and other information sources as appropriate.

B. Based upon information supplied in the permit application and other information sources, as appropriate, the department shall assess site suitability. Consideration shall be given to the following:

1. the number and density of existing hazardous waste disposal facilities in an area extending 2 miles from the facility property line;

2. the number and density of solid waste disposal facilities in an area extending 2 miles from the facility property line;

3. the number and density of inactive and abandoned hazardous waste sites in an area extending 2 miles from the facility property line;

4. the number and density of existing industrial facilities that discharge hazardous or toxic substances into the air or water in an area extending 2 miles from the facility property line;

5. the existence of any community health problem in the area that may be aggravated by the operation of a commercial hazardous waste disposal facility;

6. the negative impact of the proposed facility on economic development of the area by adjacent businesses or industries;

7. whether the area is environmentally sensitive (see LAC 33:V.405.B.1.a); and

8. whether the proximity of the facility may pose undue health risks (see LAC 33:V.405.B.1.b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division LR 27:287 (March 2001).

Chapter 5. Permit Application Contents

Subchapter A. General Requirements for Permit Applications

§501. Permit Application

A. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit a permit application to the Office of Environmental Services, Water and Waste Permits Division, as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by RCRA permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and

administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

B. When a facility or activity is not owned and operated by one person, it is the operator's duty to obtain a permit. The owner must also sign the permit application.

C. Existing Hazardous Waste Management Facilities and Interim Status Qualifications

1. Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a RCRA permit must submit Part I of their permit application no later than:

a. six months after the date of publication of regulations which first require them to comply with LAC 33:V.Chapters 11, 15, 25, 30, 41 or 43; or

b. thirty days after the date they first become subject to the standards set forth in LAC 33:V.Chapters 11, 15, 25, 30, 41, or 43, whichever first occurs.

2. The owner and operator of an existing hazardous waste management facility may be required to submit Part II of their permit application. The administrative authority may require submission of Part II. Any owner or operator shall be allowed at least 120 days from the date of request to submit Part II of the application. Any owner or operator of an existing hazardous waste management facility may voluntarily submit Part II of the application at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste management facility must submit a Part II permit application in accordance with the dates specified in LAC 33:V.4305. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a RCRA permit must submit a Part II application in accordance with the dates specified in LAC 33:V.4305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005).

§503. Completeness

A. The administrative authority shall not issue a permit before receiving a complete application for a permit except for permits by rule (LAC 33:V.305.D) or emergency permits (LAC 33:V.701). An application for a permit is complete when the administrative authority receives an application form and any supplemental information which are completed to his or her satisfaction. The administrative authority may deny a permit for the active life of a hazardous waste management facility or TSD unit before receiving a complete application for the permit. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in this Section.

1. Any Part II permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

a. reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

b. the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under Subparagraph A.1.a of this Section; and

c. the potential magnitude and nature of the human exposure resulting from such releases.

2. By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already submitted a Part II application must submit the exposure information required in Paragraph A.1 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994).

§505. Recordkeeping

A. Applicants shall keep records of all data used to complete permit applications and of any supplemental information submitted under this Chapter, as required in LAC 33:V.309.J.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

Subchapter B. Signatories to Permit Applications and Reports, Changes of Authorizations, and Certifications

§507. Applications

A. All permit applications shall be signed as follows:

1. for a corporation: by a responsible corporate officer; for the purpose of this Section, a *responsible corporate officer* means:

a. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function,

or any other person who performs similar policy or decision making functions for the corporation; or

b. the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. for a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

3. for a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986).

§509. Reports

A. All reports required by permits, and other information requested by the administrative authority shall be signed by a person described in LAC 33:V.507, or by a duly authorized representative of that person. A person is a duly authorized representative only if: the authorization is made in writing by a person described in LAC 33:V.507; and the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position). The written authorization is submitted to the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992).

§511. Changes in Authorization

A. If an authorization under LAC 33:V.509 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of LAC 33:V.509 must be submitted to the administrative authority prior to or together with any reports, information, or applications to be signed by an authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§513. Certification

A.1. Any person signing a document under LAC 33:V.507 or 509 shall make the following certification.

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. For remedial action plans (RAPs) under LAC 33:V.Chapter 5.Subchapter G, if the operator certifies according to Paragraph A.1 of this Section, then the owner may choose to make the following certification instead of the certification in Paragraph A.1 of this Section.

> "Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B.1. Certification of an owner who is not the operator:

> "I certify that I understand that this application is submitted for the purpose of obtaining a permit to operate a hazardous waste management facility on the property as described. As owner of the property/facility, I understand fully that the facility operator and I are jointly and severally responsible for compliance with both LAC 33:V.Subpart 1 and any permit issued pursuant to those regulations."

2. For owners of land disposal facilities, add:

> "I further understand that I am responsible for providing the notice in the deed to the property required by LAC 33:V.3525."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

Subchapter C. Permit Applications: Parts I and II

§515. Part I Information Requirements

A. All applicants for TSD permits shall provide the following information to the administrative authority using the application form provided. Other formatting requirements may be specified by the administrative authority:

1. date of application;

2. EPA identification number;

3. a brief description of the nature of the business;

4. the activities conducted by the applicant which require it to obtain a TSD permit;

5. name, mailing address, and location of the facility for which the application is submitted;

6. the latitude and longitude of the facility and a legal description of the site;

7. up to four SIC codes which best reflect the principal products or services provided by the facility;

8. an indication of whether the facility is new or existing and whether it is a first or revised application;

9. the operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity;

10. owner's name, address, and phone number if different from operator's;

11. contact: name of individual to be contacted concerning hazardous waste management;

12. telephone number of contact;

13. whether the facility is located on Indian lands;

14. a listing of all permits or construction approvals received or applied for under any of the following programs:

a. hazardous waste management program;

b. Underground Injection Control (UIC) program;

c. National Pollution Discharge Elimination System (NPDES) program;

d. Prevention of Significant Deterioration (PSD) program under the Federal Clean Air Act;

e. nonattainment program under the Clean Air Act;

f. National Emission Standards for Hazardous Air Pollutants (NESHAP) preconstruction approval under the Clean Air Act;

g. ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

h. dredge or fill permits under Section 404 of the federal Clean Water Act (CWA); or

i. other relevant environmental permits;

15. a topographic map (or other map if a topographic map is unavailable) extending 2 miles beyond the property boundaries of the facility indicating the following; each hazardous waste treatment, storage, and disposal facility; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant;

16. for existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;

17. for existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;

18. a description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items;

19. a specification of the hazardous wastes listed or designated to be treated, stored, or disposed of at the facility; an estimate of the quantity of such wastes to be treated, stored, or disposed of annually; and a general description of the processes to be used for such wastes;

20. status: ownership status of existing site or land for proposed site (federal, state, private, public, other);

21. operation status;

22. list other company hazardous waste operations in Louisiana (permitted or non-permitted and current or abandoned);

23. list other states in which hazardous waste operations are or have been conducted, as required by LAC 33:I.1701;

24. zoning of site, if applicable;

25. for hazardous debris: a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility;

26. other information required in LAC 33:I.1701; and

27. comments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of the Secretary, LR 25:661 (April 1999).

§516. Information Requirements for Solid Waste Management Units

A. The following information is required for each solid waste management unit at a facility seeking a permit:

1. the location of the unit on the topographic map required under LAC 33:V.517.B;

2. designation of type of unit;

3. general dimensions and structural description (supply any available drawings);

4. when the unit was operated; and

5. specification of all waste codes for all hazardous wastes that have been managed at the unit;

6. details of all ancillary equipment including tanks storing hazardous waste in less than 90-day service and pipes carrying hazardous waste to the injection well(s) must meet the requirements of LAC 33:V.Chapter 19. A certification by an independent Louisiana registered professional engineer must be provided attesting to the adequacy of pipes, valves, and pumps to handle hazardous waste under pressure and to the adequacy of secondary

containment provided to meet the requirements of LAC 33:V.Subpart 1.

B. The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any known release of hazardous wastes or hazardous constituents from such unit or units.

C. The owner/operator must conduct and provide the results of sampling and analysis of groundwater, land surface and/or subsurface strata, surface water, and/or air, which may include the installation of wells, if the administrative authority ascertains it is necessary to complete a RCRA Facility Assessment that will determine whether a more complete investigation is necessary. If the owner/operator has an EPA approved RCRA Facility Investigation, the results of this investigation may be provided to the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991).

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

A. a general description of the facility including hours of operation/day and days/week;

B. a topographic map or maps showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet); contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. The map or maps shall clearly show the following:

1. map scale and date;

2. orientation of the map (north arrow);

3. 100-year floodplain area;

[Comment: Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain and a flood hazard map (Corps of Engineers or Department of Housing and Urban Development). This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used. Where maps for the National Flood Insurance Program produced by FIA of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine if the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.]

4. surface waters including intermittent streams and surface flow through the site and a map of the potentiometric surface for aquifers within 100 feet of lowest elevation of disposal cells, or other facilities containing hazardous waste, from 1,000 feet upstream to 1,000 feet downstream, where practicable. Included should be a general area map and cross sections indicating the extent of freshwater sands, and the degree of isolation from waste sources by confining layers of clay;

5. surrounding land uses (residential, commercial, agricultural, recreational, public) such as schools, day care centers, hospitals, nursing homes, prisons, libraries, etc.;

[Comment: A map or aerial photograph showing surrounding land use for the area within 2 miles of the site is required.]

6. legal boundaries of the TSD facility site;

7. access control (fences, gates);

8. injection and withdrawal wells both on site and off site;

[Comment: A map of all known wells, operating or abandoned, on the site and within 2 miles of the site perimeter as required in LAC 33:V.515.A.15, including the depth of wells, amount of pumpage, water level depth (annual maximum and minimum), and water analysis from the water well nearest the disposal site is also required.]

9. the proposed location of groundwater monitoring wells as required under LAC 33:V.3315.A and B;

10. the proposed *point of compliance* as defined under LAC 33:V.3311;

11. buildings, treatment, storage, or disposal operations; or other structures (recreation areas, runoff control systems, access and internal roads, storm sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, utilities, security facilities, etc.);

12. barriers for drainage or flood control;

13. location of operational units within the TSD facility site, where hazardous waste is (or will be) treated, stored, or disposed of (including equipment cleanup areas). (For large TSD facilities, the administrative authority may allow the use of other scales on a case-by-case basis); and

14. natural features affecting off-site drainage patterns, transportation, utilities, and location of effluent discharges;

C. site layout and facility design when phased construction is planned; the plans must indicate each phase and an accompanying schedule of construction;

D. chemical and physical analyses of the hazardous wastes and the hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information that must be known to treat, store, or dispose of the wastes properly;

E. a copy of the waste analysis plan required by LAC 33:V.1519.B;

F. a description of the security procedures (including entry control, hours manned, lighting, monitoring, and other procedures to prevent unauthorized entry) and equipment required by LAC 33:V.1507 or a justification demonstrating the reasons for requesting a waiver of this requirement;

G. a copy of the general inspection schedule required by LAC 33:V.1509.B. Include, where applicable, as part of the inspection schedule, specific requirements in LAC 33:V.1709, 1719, 1721, 1731, 1755-1759, 1763, 1907.I, 1911, 2109, 2309, 2507, 2703.A-G, 2907, 3119.B and C, and 3205;

H. a justification of any request for a waiver(s) of the preparedness and prevention requirements of LAC 33:V.1511;

I. a copy of the contingency plan required by LAC 33:V.1513;

[NOTE: Include, where applicable, as part of the contingency plan, specific requirements in LAC 33:V.2909];

J. a description of procedures, structures, or equipment used at the facility to:

1. prevent hazards in unloading operations (for example, ramps, special forklifts);

2. prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

3. monitoring leachate control;

4. prevent contamination of water supplies;

5. monitor water and air pollution affecting area outside site;

6. mitigate effects of equipment failure, power outages, inclement weather, or other abnormal conditions;

7. prevent undue exposure of personnel to hazardous waste (for example, protective clothing);

8. prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with LAC 33:V.1517; and

9. prevent nonpermitted releases to the atmosphere;

K. traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes, if appropriate; describe access road surfacing and load bearing capacity; show traffic control signals);

L. an outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with LAC 33:V.1515. A list of general qualifications of key operating positions and a brief description of how training will be designed to meet actual job tasks in accordance with these requirements;

M. a copy of the closure plan and, where applicable, the post-closure plan required by LAC 33:V.3511, 3523, and 1915. Include, where applicable, as part of the plans, specific requirements in LAC 33:V.1915, 2117, 2315, 2521, 2719, 2911, 3121, 3203 and 3207;

N. for hazardous waste disposal units that have been closed, documentation that notices required in LAC 33:V.3517 have been filed;

O. the most recent closure cost estimate for the facility prepared in accordance with LAC 33:V.3705 and a copy of the documentation required to demonstrate financial assurance under LAC 33:V.3707. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part II;

P. where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with LAC 33:V.3709 plus a copy of the documentation required to demonstrate financial assurance under LAC 33:V.3711. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part II;

Q. where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of LAC 33:V.Chapter 37. For a new facility, documentation showing the amount of insurance meeting the specification of LAC 33:V.Chapter 37 that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal;

R. where appropriate, proof of coverage by a state financial mechanism in compliance with LAC 33:V.Chapter 37;

S. a wind rose (i.e., prevailing wind speed and direction) and the source of the information;

T. facility location information:

1. seismic standard. In order to determine the applicability of the seismic standard, LAC 33:V.1503.A.3, the owner or operator of the facility must identify the

political jurisdiction (e.g., parish, township, or election district) in which the facility is proposed to be located:

a. the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data (including federal hazardous waste regulations) or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

i. no faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

(a). published geologic studies, including cites from federal regulations which demonstrate that the requirements of this Section do not apply;

(b). aerial reconnaissance of the area within a 5-mile radius from the facility;

(c). an analysis of aerial photographs covering a 3,000-foot radius of the facility; and

(d). if needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility; or

ii. no faults may pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility, data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of any faults found, and shall be certified by an independent Louisiana registered professional engineer or geologist;

2. 100-year floodplain:

a. owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain;

b. owners and operators of facilities located in the 100-year floodplain must provide the following information:

i. the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood;

ii. engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;

iii. structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

iv. if applicable, and in lieu of the above two provisions, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

v. timing of such movement relative to flood levels, including estimated time to move the waste, showing that such movement can be completed before floodwaters reach the facility;

vi. a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with LAC 33:V.Subpart 1;

vii. the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and

viii. the potential for accidental discharges of the waste during movement;

c. existing facilities not in compliance with LAC 33:V.1503.B.3 shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance;

3. site geology, including:

a. certification by a geologist or independent Louisiana registered professional engineer specializing in geotechnical engineering that the ground and subsurface conditions at the site are acceptable for the planned purposes of the facility;

b. identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

c. soil types, textures, and conditions to depth of 30 feet below lowest elevation of planned disposal cells for impoundments, landfill and land treatment facility based on test holes at 200-foot intervals (or greater or less intervals if acceptable to the administrative authority);

d. logs of test holes and wells, including soil samples for each pertinent strata analyzed for soil type, texture, permeability, and other pertinent characteristics;

e. general area map and cross sections indicating the extent of freshwater sands, and the degree of isolation of

these aquifers to a depth of 1,000 feet from waste sources by confining layers of clay;

f. on a topographic map, a delineation of the waste management area, the property boundary, the proposed *point of compliance* as defined under LAC 33:V.3311, the proposed location of groundwater monitoring wells as required under LAC 33:V.3315.A and B; and

g. detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of LAC 33:V.3315.A-H;

4. site hydrology, including:

a. travel times in feet/day for normal drainage of each natural surface drainage system within 1,000 feet of the property;

b. climate factors:

i. the 24-hour/25-year storm rainfall;

ii. maximum, minimum, and average temperature/month for past 10 years;

iii. impact of previous hurricanes on area;

iv. comparison of rainfall and evapotranspiration rates; and

v. prevailing wind direction (provide wind rose);

c. a description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application is submitted that:

i. delineates the extent of the plume on the topographic map such as required under LAC 33:V.521.B.4; and

ii. identifies the concentration of each LAC 33:V.3325, Table 4 constituent throughout the plume or identifies the maximum concentrations of each such constituent in the plume;

d. if the presence of hazardous constituents have not been detected in the groundwater at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of LAC 33:V.3317. This submission must address the following items specified under LAC 33:V.3317:

i. a proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater;

ii. a proposed groundwater monitoring system;

iii. background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

iv. a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

e. if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of LAC 33:V.3319. The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of LAC 33:V.3321. To demonstrate compliance with LAC 33:V.3319, the owner or operator must address the following items:

i. a description of the wastes previously handled at the facility;

ii. a characterization of the contaminated groundwater, including concentrations of hazardous constituents;

iii. a list of hazardous constituents for which compliance monitoring will be undertaken in accordance with LAC 33:V.3315 and 3317;

iv. proposed concentration limits for each hazardous constituent, based on the criteria set forth in LAC 33:V.3309.A, including a justification for establishing any alternate concentration limits;

v. detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of LAC 33:V.3315; and

vi. a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

f. if hazardous constituents have been measured in the groundwater which exceed the concentration limits established under LAC 33:V.3309, Table 1, or if groundwater monitoring conducted at the time of permit application under LAC 33:V.3301-3309 at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of LAC 33:V.3321. To demonstrate compliance with LAC 33:V.3321, the owner or operator must address, at a minimum, the following items:

i. a characterization of the contaminated groundwater, including concentrations of hazardous constituents;

ii. the concentration limit for each hazardous constituent found in the groundwater as set forth in LAC 33:V.3309;

iii. detailed plans and an engineering report describing the corrective action to be taken; and

iv. a description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action;

5. environmental factors, including:

a. list all known historical sites, recreational areas, archaeological sites, wildlife areas, swamps and marshes, habitats for endangered species, and other sensitive ecological areas within 1000 feet of the site; and

b. indicate measures planned to protect such areas listed from detrimental impact from the operation of the proposed facility;

6. geographical factors. For an area within 2 miles of the proposed site, provide the following information:

a. map or aerial photograph showing all buildings identified as residential, commercial, industrial, or public (schools, day care centers, hospitals, nursing homes, prisons, libraries, etc.);

b. population;

c. principal livelihood of residents for facilities located in rural areas;

d. land use; and

e. road network, with average daily traffic count and route of trucks which will transport waste to the facility;

7. operations plan, including:

a. classification and estimated quantities of wastes to be handled;

b. methods and processes utilized:

i. facility capacity for each disposal method;

ii. detailed description of each process or method;

iii. storage and disposal procedures:

(a). plans for receipt, checking, processing, segregation of incompatible wastes, and odor control; and

(b). life of each facility based on projected use;

(c). describe recordkeeping procedures, types of records to be kept, and use of the records by management to control the operation; and

(d). monitoring and recording of incoming wastes;

U. Special Requirements. Administrative authority may require additional provisions for special procedures or processes, for specific information for a supplementary environmental analysis, or for such information as may be necessary to enable the administrative authority to carry out his duties under other state laws;

V. for land disposal facilities, if an approval has been granted under LAC 33:V.2239, a petition has been approved under LAC 33:V.2241 ~~or 2271, or a determination made under LAC 33:V.2273,~~ a copy of the notice of approval ~~or a determination~~ is required; and

W. a summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under LAC 33:V.708.A.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), LR 25:1799 (October 1999), repromulgated LR 26:1608 (August 2000), repromulgated LR 26:2003 (September 2000), amended LR 27:287 (March 2001).

~~Subchapter D. Reserved~~

Subchapter E. Specific Information Requirements

§519. Contents of Part II: General Requirements

A. Part II of the permit application consists of the general information requirements of this Section, and the specific information requirements in LAC 33:V:519-549 applicable to the facility. The Part II information requirements presented in LAC 33:V.519-549 reflect the standards promulgated in LAC 33:V.Chapters 15-37. These information requirements are necessary in order for the administrative authority to determine compliance with LAC 33:V.Chapters 15-37. If owners and operators of Hazardous Waste Management facilities can demonstrate that the information prescribed in Part II cannot be provided to the extent required, the administrative authority may make allowance for submission of such information on a case-by-case basis. Information required in Part II shall be submitted to the administrative authority and signed in accordance with requirements in Subchapter B of this Chapter. Certain technical data, such as design drawings and specifications and engineering studies, shall be certified by a Louisiana registered professional engineer. For post-closure permits, only the information specified in LAC 33:V.528 is required in Part II of the permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999).

§520. Specific Part II Information Requirements for Groundwater Protection

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in LAC 33:V.3301.B and C:

A. a summary of the groundwater monitoring data obtained during the interim status period under LAC 33:V.4367, 4369, 4371, 4373, and 4375, where applicable;

B. identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

C. on the topographic map required under LAC 33:V.517.B, a delineation of the waste management area, the property boundary, the proposed *point of compliance* as defined under LAC 33:V.3311, the proposed location of groundwater monitoring wells as required under LAC 33:V.3315, and, to the extent possible, the information required in LAC 33:V.520.B;

D. a description of any known plume of contamination that has entered the groundwater from a regulated unit at the time that the application was submitted that:

1. delineates the extent of the plume on the topographic map required under LAC 33:V.517.B; and

2. identifies the concentration of each constituent listed in LAC 33:V.3325 throughout the plume or identifies the maximum concentrations of each LAC 33:V.3325 constituent in the plume;

E. detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of LAC 33:V.3315;

F. if the presence of hazardous constituents has not been detected in the groundwater at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program that meets the requirements of LAC 33:V.3317. This submission must address the following items specified under LAC 33:V.3317:

1. a proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater;

2. a proposed groundwater monitoring system;

3. background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

4. a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

G. if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of the permit application, the owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, sufficient information, supporting data, and analyses to establish a compliance monitoring program that meets the requirements of LAC 33:V.3319. Except as provided in LAC 33:V.3317.H, the owner or operator must also submit to the Office of Environmental Services, Water and Waste Permits Division, an engineering feasibility plan for a corrective action program necessary to meet the requirements of LAC 33:V.3321, unless the owner or operator obtains written authorization in advance from the administrative authority to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with LAC 33:V.3319, the owner or operator must address the following items:

1. a description of the hazardous waste code specified in LAC 33:V.Chapter 49 for the wastes previously handled at the facility;

2. a characterization of the contaminated groundwater, including concentrations of hazardous constituents;

3. a list of hazardous constituents for which compliance monitoring will be undertaken in accordance with LAC 33:V.3315 and 3319;

4. proposed concentration limits for each hazardous constituent, based on the criteria set forth in LAC 33:V.3309.A, including a justification for establishing any alternate concentration limits;

5. detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of LAC 33:V.3315; and

6. a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

H. if hazardous constituents have been measured in the groundwater that exceed the concentration limits established under LAC 33:V.3309, Table 1, or if groundwater monitoring conducted at the time of permit application under LAC 33:V.4367, 4369, 4371, 4373, and 4375 at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program that meets the requirements of LAC 33:V.3321. However, an owner or operator is not required to submit information to establish a corrective action program if he or she demonstrates to the administrative authority that alternate concentration limits will protect human health and the environment after considering the criteria listed in LAC 33:V.3309.B. An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program that meets the requirements of LAC 33:V.3319 and LAC 33:V.520.F. To demonstrate compliance with LAC 33:V.3321, the owner or operator must address, at a minimum, the items listed in LAC 33:V.520.H.1-4 below (the permit may contain a schedule for submittal of the information required in LAC 33:V.520.H.3 and 4 provided the owner or operator obtains written authorization from the administrative authority prior to submittal of the complete permit application):

1. a characterization of the contaminated groundwater, including concentrations of hazardous constituents;

2. the concentration limit for each hazardous constituent found in the groundwater as set forth in LAC 33:V.3309;

3. detailed plans and an engineering report describing the corrective action to be taken;

4. a description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action; and

5. the permit may contain a schedule for submittal of the information required in LAC 33:V.520.H.3 and 4 provided the owner or operator obtains written authorization from the administrative authority prior to submittal of the complete permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005).

§521. Specific Part II Information Requirements for Containers

Except as otherwise provided in LAC 33:V.2101 owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

A. a description of the containment system to demonstrate compliance with LAC 33:V.2111, show at least the following:

1. basic design parameters, dimensions, and materials of construction;

2. how the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

3. capacity of the containment system relative to the number and volume of containers to be stored;

4. provisions for preventing or managing run-on;

5. how accumulated liquids can be analyzed and removed to prevent overflow;

B. for storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with LAC 33:V.2111.C including:

1. test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

2. a description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

C. sketches, drawings, or data demonstrating compliance with LAC 33:V.2113 (location of buffer zone and containers holding ignitable or reactive wastes) and LAC 33:V.2115.C (location of incompatible wastes), where applicable;

D. where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with LAC 33:V.2107.A-C, and 1517.B-D; and

E. information on air emission control equipment as required in LAC 33:V.526.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998).

§523. Specific Part II Information Requirements for Tanks

Except as otherwise provided in LAC 33:V.1901, owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

A. a written assessment that is reviewed and certified by an independent, qualified registered professional engineer as to the structural integrity and suitability for handling hazardous waste for each tank system, as required under LAC 33:V.1903 and 1905;

B. dimensions and capacity of each tank;

C. descriptions of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

D. a diagram of piping, instrumentation, and process flow for each tank system;

E. a description of materials and equipment used to provide external corrosion protection, as required under LAC 33:V.1905.A.3.b;

F. for new tank systems, a detailed description of how the tank system(s) will be installed in compliance with LAC 33:V.1905.B, C, D, and E;

G. detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of LAC 33:V.1907.A, B, C, D and F;

H. for tank systems for which a variance from the requirements of LAC 33:V.1907 is sought (as provided by LAC 33:V.1907.G):

1. detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water during the life of the facility; or

2. a detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment;

I. descriptions of controls and practices to prevent spills and overflows, as required under LAC 33:V.1909.B;

J. for tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of LAC 33:V.1917 and 1919; and

K. information on air emission control equipment as required in LAC 33:V.526.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987) LR 16:220 (March 1990), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998).

§525. Specific Part II Information Requirements for Surface Impoundments

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments must provide the following additional information:

A. a list of the hazardous wastes placed or to be placed in each surface impoundment;

B. detailed plans and an engineering report describing how the surface impoundment is designed and is or will be constructed, operated and maintained to meet the requirements of LAC 33:V.1504, 2903, 2904, and 2906. This submission must address the following items:

1. the liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by LAC 33:V.2903.B, submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

2. the double liner and leak (leachate) detection, collection and removal system, if the surface impoundment must meet the requirements of LAC 33:V.2903.J. If an exemption from the requirements for double liners and leak detection, collection and removal system or alternative design is sought as provided by LAC 33:V.2903.C, K, or L, submit appropriate information;

3. if the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation and the location of the saturated zone in relation to the leak detection system;

4. the construction quality assurance (CQA) plan, if required under LAC 33:V.1504;

5. proposed action leakage rate, with rationale, if required under LAC 33:V.2904 and response action plan, if required under LAC 33:V.2906;

6. prevention of overtopping; and

7. structural integrity of dikes;

C. a description of how each surface impoundment, including the double liner system, leak detection system, cover system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of LAC 33:V.2907.B, C, and E. This information must be included in the inspection plan submitted under LAC 33:V.517.G;

D. a description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of LAC 33:V.2907.B and C;

E. a certification by a qualified engineer which attests to the structure integrity of each dike, as required under LAC 33:V.2907.D. For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

F. a description of the procedure to be used for removing a surface impoundment from service, as required under LAC 33:V.2909.B and C;

G. a description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under LAC 33:V.2911.A. For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how LAC 33:V.2911.B and C will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan;

H. if ignitable or reactive wastes are to be placed in a surface impoundment an explanation of how LAC 33:V.2913 will be complied with;

I. if incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how LAC 33:V.2915 will be complied with;

J. a waste management plan for EPA Hazardous Waste Numbers F020, F021, F022, F023, F026 and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of LAC 33:V.2917. This submission must address the following items:

1. the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. the attenuative properties of underlying and surrounding soils or other materials;

3. the mobilizing properties of other materials codisposed with these wastes; and

4. the effectiveness of additional treatment, design, or monitoring techniques; and

K. information on air emission control equipment as required in LAC 33:V.526.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1692 (September 1998).

§526. Specific Part II Information Requirements for Air Emission Controls for Tanks, Surface Impoundments, and Containers

A. Except as otherwise provided in LAC 33:V.1501, owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of LAC 33:V.Chapter 17.Subchapter C shall provide the following additional information:

1. documentation for each floating roof cover installed on a tank subject to LAC 33:V.1755.D.1 or 2 that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design and certification by the owner or operator that the cover meets the applicable design specifications as listed in LAC 33:V.1755.E.1 or F.1;

2. identification of each container area subject to the requirements of LAC 33:V.Chapter 17.Subchapter C and certification by the owner or operator that the requirements of this Chapter are met;

3. documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of LAC 33:V.1755.D.5 or 1759.E.1.b that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* under 40 CFR 52.741, Appendix B;

4. documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of LAC 33:V.1757.C that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in LAC 33:V.1757.C.1;

5. documentation for each closed-vent system and control device installed in accordance with the requirements of LAC 33:V.1761 that includes design and performance information as specified in LAC 33:V.530.C and D;

6. an emission monitoring plan for both Method 21 in 40 CFR Part 60, Appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliance; and

7. when an owner or operator of a facility subject to LAC 33:V.Chapter 43.Subchapter V cannot comply with LAC 33:V.Chapter 17.Subchapter C by the date of permit issuance, the schedule of implementation required under LAC 33:V.1751.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998).

§527. Specific Part II Information Requirements for Waste Piles

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that treat or store hazardous waste in waste piles must provide the following additional information:

A. a list of hazardous wastes placed or to be placed in each waste pile;

B. if an exemption is sought to LAC 33:V.2303 and LAC 33:V.Chapter 33 as provided by LAC 33:V.2301.C, an explanation of how the standards of LAC 33:V.2301.C will be complied with;

C. detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated and maintained to meet the requirements of LAC 33:V.2303. This submission must address the following items as specified in LAC 33:V.2303:

1. the liner system (except for an existing portion of a pile), if the waste pile must meet the requirements of LAC 33:V.2303.A. If an exemption from the requirement for a liner is sought, as provided by LAC 33:V.2303.B, the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituent into the groundwater or surface water at any future time:

a. the double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of LAC 33:V.2303.C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by LAC 33:V.2303.D, E, or F, submit appropriate information;

b. if the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation and the location of the saturated zone in relation to the leak detection system;

c. the construction quality assurance (CQA) plan if required under LAC 33:V.1504;

d. proposed action leakage rate, with rationale, if required under LAC 33:V.2304 and response action plan, if required under LAC 33:V.2306;

2. control of run-on;

3. control of run-off;

4. management of collection and holding units associated with run-on and run-off control systems; and

5. control of wind dispersal of particulate matter, where applicable;

D. if an exemption from LAC 33:V.Chapter 33 is sought as provided by LAC 33:V.2303 or 2307 submit detailed plans and an engineering report describing how the requirements of LAC 33:V.2303.B or 2307 will be complied with;

E. a description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenance for control of run-on and run-off, will be inspected in order to meet the requirements of LAC 33:V.2309.A, B, and C. This information must be included in the inspection plan submitted under LAC 33:V.517.G;

F. if treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

G. if ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of LAC 33:V.2311 will be complied with;

H. if incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how LAC 33:V.2313 will be complied with;

I. a description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under LAC 33:V.2315.A. For any waste not to be removed from the waste pile upon closure, this owner or operator must submit detailed plans and an engineering report describing how LAC 33:V.2521.A and B will be complied with;

J. a waste management plan for EPA Hazardous Waste Numbers F020, F021, F022, F023, F026 and F027 describing how a waste pile that is not enclosed (as defined in LAC 33:V.2301.C) is or will be designed, constructed, operated, and maintained to meet the requirements of LAC 33:V.2317. This submission must address the following items:

1. the volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. the attenuative properties of underlying and surrounding soils or other materials;

3. the mobilizing properties of other materials codisposed with these wastes; and

4. the effectiveness of additional treatment, design, or monitoring techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

§528. Part II Information Requirements for Post-Closure Permits

A. For post-closure permits, the owner or operator is required to submit only the information specified in LAC 33:V.516; 517.A, B, F, G, H, M, N, P, R, and T; and 520, unless the administrative authority determines that additional information from LAC 33:V.516, 517, 520, 523, 525, 527, 531, and 533 is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit as provided in LAC 33:V.305.H.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999).

§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section:

A. when seeking an exemption under LAC 33:V.3105.B or C (ignitable, corrosive, or reactive wastes only):

1. documentation that the waste is listed as a hazardous waste in LAC 33:V.Chapter 49, solely because it is ignitable (Hazard Code I) or corrosive (Hazard Code C) or both; or

2. documentation that the waste is listed as a hazardous waste in LAC 33:V.Chapter 49, solely because it is reactive (Hazard Code R) for characteristics other than those listed in LAC 33:V.4903.C.4 and C.5, and will not be burned when other hazardous wastes are present in the combustion zone; or

3. documentation that the waste is a hazardous waste solely because it possesses the characteristics of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous waste under LAC 33:V.4903; or

4. documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in LAC 33:V.4903.C.1, 2, 3, 6, 7, or 8, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

B. submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with LAC 33:V.3115; or

C. in lieu of a trial burn, the applicant may submit the following information:

1. an analysis of each waste or mixture of wastes to be burned including:

a. heat value of the waste in the form and composition in which it will be burned;

b. viscosity (if applicable), or description of physical form of the waste;

c. an identification of any hazardous organic constituents listed in LAC 33:V.3105, Table 1, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in LAC 33:V.3105, Table 1, which would reasonably not be expected to be found in the waste; the constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or their equivalent;

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

e. a quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in LAC 33:V.3111;

2. a detailed engineering description of the incinerators, including:

a. manufacturer's name and model number of incinerator;

b. type of incinerator;

c. linear dimension of incinerator unit including cross sectional area of combustion chamber;

d. description of auxiliary fuel system (type/feed);

e. capacity of prime mover;

f. description of automatic waste feed cutoff system(s);

g. stack gas monitoring and pollution control monitoring system;

h. nozzle and burner design;

i. construction materials;

j. location and description of temperature, pressure, and flow indicating devices and control devices;

3. a description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed; The data should include those items listed in Paragraph C.1 of this Section. This analysis should specify the POHC's which the applicant has identified in the waste for which a permit is sought, and any differences from the POHC's in the waste for which burn data are provided;

4. the design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

5. a description of the results submitted from any previously conducted trial burn(s) including:

a. sampling and analysis techniques used to calculate performance standards in LAC 33:V.3111;

b. methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

6. the expected incinerator operation information to demonstrate compliance with LAC 33:V.3111 and 3117, including:

a. expected carbon monoxide (CO) level in the stack exhaust gas;

b. waste feed rate;

c. combustion zone temperature;

d. indication of combustion gas velocity;

e. expected stack gas volume, flow rate, and temperature;

f. computed residence time for waste in the combustion zone;

g. expected hydrochloric acid removal efficiency;

h. expected fugitive emissions and their control procedures;

i. proposed waste feed cut-off limits based on the identified significant operating parameters;

7. such supplemental information as the administrative authority finds necessary to achieve the purposes of this Subsection;

8. waste analysis data, including that submitted in Paragraph C.1 of this Section, sufficient to allow the administrative authority to specify as permit Principal Organic Hazardous Constituents (permit POHC's) those constituents for which destruction and removal efficiencies will be required;

D. the administrative authority shall approve a permit application without a trial burn if he finds that:

1. the wastes are sufficiently similar; and

2. the incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under

LAC 33:V.3117) operating conditions that will ensure that the performance standards in LAC 33:V.3111 will be met by the incinerator;

~~E. commercial hazardous waste incinerators. The~~ administrative authority shall issue no new permit or *substantial permit modification*, as defined in LAC 33:I.1503, that authorizes the construction or operation of any commercial hazardous waste incineration facility, of any type, until the permit applicant complies with:

1. all applicable hazardous waste regulations in LAC 33:V, particularly as they pertain to:

a. design as required in LAC 33:V.Chapters 5 and 31;

b. siting as required in LAC 33:V.Chapters 5, 7, and 15;

c. construction as required in LAC 33:V.Chapters 7 and 31;

d. operation as required in LAC 33:V.Chapters 3, 5, 7, and 31;

e. emission limitations as required in LAC 33:V.Chapters 5 and 31; and

f. disposal methods as required in LAC 33:V.Chapters 22, 31, and 35;

2. all applicable air quality regulations in LAC 33:III; and

3. all applicable water quality regulations in ~~LAC 33:IX;~~

F. when an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(24)(a) and 2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005).

§530. Specific Part II Information Requirements for Process Vents

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have process vents to which LAC 33:V.Chapter 17.Subchapter A applies must provide the following additional information.

A. Facilities that cannot install a closed-vent system and control device to comply with the provisions of LAC 33:V.Chapter 17.Subchapter A, on the effective date that the facility becomes subject to the provisions of LAC 33:V.Chapter 17.Subchapter A, and Chapter 43.Subchapter Q, must provide an implementation schedule as specified in LAC 33:V.1709.A.2.

B. Documentation of compliance with the process vent standards in LAC 33:V.1707 must be provided, including:

1. information and data identifying all affected process vents, annual throughput, and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan);

2. information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur;

3. information and data used to determine whether or not a process vent is subject to the requirements of LAC 33:V.1707.

C. Owners or operators who apply for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of LAC 33:V.1707, and choose to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device must provide a performance test plan as specified in LAC 33:V.1713.B.3.

D. Documentation of compliance with LAC 33:V.1709 must be provided, including:

1. a list of all information references and sources used in preparing the documentation;

2. records including the dates of each compliance test required by LAC 33:V.1709.K;

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at

LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.a;

4. a statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur;

5. a statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of LAC 33:V.1707.A for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:817 (September 1996).

§531. Specific Part II Information Requirements for Land Treatment Facilities

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

A. a description of plans to conduct a treatment demonstration as required under LAC 33:V.2707. The description must include the following information:

1. the wastes for which the demonstration will be made and the potential hazardous constituents in the waste;

2. the data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

3. any specific laboratory or field test that will be conducted, including:

a. the type of test (e.g., column leaching, degradation);

b. materials and methods, including analytical procedures;

c. expected time for completion;

d. characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

B. a description of a land treatment program, as required under LAC 33:V.2705. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

1. the wastes to be land treated;

2. design measures and operating practices necessary to maximize treatment in accordance with LAC 33:V.2703.A including:

a. waste application method and rate;

b. measures to control soil pH;

c. enhancement of microbial or chemical reactions;

d. control of moisture content;

3. provisions for unsaturated zone monitoring, including:

a. sampling equipment, procedures, and frequency;

b. procedures for selecting sampling locations;

c. analytical procedures;

d. chain of custody control;

e. procedures for establishing background values;

f. statistical methods for interpreting results;

g. the justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in LAC 33:V.2711.A;

4. a list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to LAC 33:V.1519;

5. the proposed dimensions of the treatment zone;

C. a description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of LAC 33:V.2303. This submission must address the following items:

1. control of run-on;

2. collection and control of run-off;

3. minimization of run-off of hazardous constituents from the treatment zone;

4. management of collection and holding facilities associated with run-on and run-off control systems;

5. periodic inspection of this unit (This information should be included in the inspection plan.);

6. control of wind dispersal of particulate matter, if applicable;

D. no food-chain crops are to be grown in or on the treatment zone of the land treatment unit;

E. a description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under LAC 33:V.2709.A.8 and C.2. This information should be included in the closure plan and, where applicable, the post-closure plan;

F. if ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of LAC 33:V.2715 will be complied with;

G. if incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how LAC 33:V.2717 will be complied with;

H. a waste management plan for EPA Hazardous Waste Numbers F020, F021, F022, F023, F026 and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of LAC 33:V.2723. This submission must address the following items:

1. the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. the attenuative properties of underlying and surrounding soils or other materials;

3. the mobilizing properties of other materials codisposed with these wastes; and

4. the effectiveness of additional treatment, design, or monitoring techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

§532. Special Part II Information Requirements for Drip Pads

A. Except as otherwise provided by LAC 33:V.Chapter 15, owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

1. a list of hazardous wastes placed or to be placed on each drip pad;

2. if an exemption is sought to LAC 33:V.Chapter 33, as provided by LAC 33:V.3301, detailed plans and an engineering report describing how the requirements of LAC 33:V.3301 will be met;

3. detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of LAC 33:V.2805, including the as-built drawings and specifications. This submission must address the following items as specified in LAC 33:V.2803:

a. the design characteristics of the drip pad;

b. the liner system;

c. the leakage detection system, including how the system is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

d. practices designed to maintain drip pads;

e. the associated collection system;

f. control of run-on to the drip pad;

g. control of run-off from the drip pad;

h. the interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

i. procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned;

j. operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

k. procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased; including recordkeeping practices;

l. provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

m. if treatment is carried out on the drip pad, details of the process equipment used and the nature and quality of the residuals;

n. a description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of LAC 33:V.2805. This information should be included in the inspection plan submitted under LAC 33:V.517.G;

o. a certification signed by an independent qualified, registered professional engineer stating that the drip pad design meets the requirements of LAC 33:V.2805.A-F;

p. a description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under LAC 33:V.2809.A. For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how LAC 33:V.2521.A and B will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under LAC 33:V.517.M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995).

§533. Specific Part II Information Requirements for Landfills

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

A. a list of the hazardous wastes placed in each landfill or landfill cell;

B. detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated and maintained to comply with the requirements of LAC 33:V.1504, 2503, 2504, and 2507. This submission must address the following items:

1. the liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of LAC 33:V.2503.A. If an exemption from the requirement for a liner is sought as provided by LAC 33:V.2503.L, submit detailed plans and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

2. the double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of LAC 33:V.2503.K. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by LAC 33:V.2503.L or M, submit appropriate information;

3. if the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation and the location of the saturated zone in relation to the leak detection system;

4. the construction quality assurance (CQA) plan if required under LAC 33:V.1504;

5. proposed action leakage rate, with rationale, if required under LAC 33:V.2504, and response action plan, if required under LAC 33:V.2508;

6. control of run-on;

7. control of run-off;

8. management of collection and holding facilities associated with run-on and run-off control systems; and

9. control of wind dispersal of particulate matter, where applicable;

C. there are no exemptions from the groundwater protection requirements of LAC 33:V.Chapter 33;

D. a description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of LAC 33:V.2507.B, C, and D. This information should be included in the inspection plan submitted under LAC 33:V.517.G;

E. detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with LAC 33:V.2521.A, and a description of how each landfill will be maintained and monitored after closure in accordance with LAC 33:V.2521.B. This information should be included in the closure and post-closure plans;

F. if ignitable or reactive wastes will be landfilled, an explanation of how the standards of LAC 33:V.2511 will be complied with;

G. if incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how LAC 33:V.2513 will be complied with;

H. bulk or non-containerized liquid waste or wastes containing free liquids to be landfilled must comply with LAC 33:V.2515;

I. if containers of hazardous waste are to be landfilled, an explanation of how the requirements of LAC 33:V.2517 or LAC 33:V.2519, as applicable, will be complied with;

J. a waste management plan for EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of LAC 33:V.2523. This submission must address the following items:

1. the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2. the attenuative properties of underlying and surrounding soils or other materials;

3. the mobilizing properties of other materials codisposed with these wastes; and

4. the effectiveness of additional treatment, design, or monitoring techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998).

§534. Specific Part II Information Requirements for Miscellaneous Units

Except as otherwise provided in LAC 33:V.3201, owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units must provide the following additional information:

A. a detailed description of the unit being used or proposed for use, including the following:

1. physical characteristics, materials of construction, and dimensions of the unit;

2. detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of LAC 33:V.3203 and 3205; and

3. for disposal units, a detailed description of the plans to comply with the post-closure requirements of LAC 33:V.3207;

B. detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of LAC 33:V.3203. If the applicant can demonstrate that he does not violate the environmental performance standards of LAC 33:V.3203 and the administrative authority agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice;

C. information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures;

D. for any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data;

E. any additional information determined by the administrative authority to be necessary for evaluation of compliance of the unit with the environmental performance standards of LAC 33:V:3203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990).

§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and Not for Destruction

A. Trial Burns

1. General. Except as provided below, owners or operators that are subject to the standards to control organic emissions provided by LAC 33:V.3009, standards to control particulate matter provided by LAC 33:V.3011, standards to control metals emissions provided by LAC 33:V.3013, or standards to control hydrogen chloride or chlorine gas emissions provided by LAC 33:V.3015 must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with LAC 33:V.537.

a. A trial burn to demonstrate conformance with a particular emission standard may be waived under provisions of LAC 33:V.3009-3015 and LAC 33:V.535.A.2-5.

b. The owner or operator may submit data in lieu of a trial burn, as prescribed in LAC 33:V.535.A.6.

2. Waiver of Trial Burn for DRE

a. Boilers Operated under Special Operating Requirements. When seeking to be permitted under LAC 33:V.3009.A.4 and 3021 that automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by LAC 33:V.3021.

b. Boilers and Industrial Furnaces Burning Low Risk Waste. When seeking to be permitted under the provisions for low risk waste provided by LAC 33:V.3009.A.5 and 3019.A that waive the DRE trial burn, the owner or operator must submit:

i. documentation that the device is operated in conformance with the requirements of LAC 33:V.3019.A.1;

ii. results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in LAC 33:V.4901.G, Table 6, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on analytical techniques specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*;

iii. documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in LAC 33:V.535.A.2.b.ii using procedures provided by LAC 33:V.3019.A.2.b;

iv. results of emissions dispersion modeling for emissions identified in LAC 33:V.535.A.2.b.iii using modeling procedures prescribed by LAC 33:V.3013.H. The administrative authority will review the emission modeling conducted by the applicant to determine conformance with these procedures. The administrative authority will either approve the modeling or determine that alternate or supplementary modeling is appropriate; and

v. documentation that the maximum annual average ground level concentration of each constituent identified in Clause A.2.b.ii of this Section quantified in conformance with Clause A.2.b.iv of this Section does not exceed the allowable ambient level established in 40 CFR 266, Appendices IV or V, as adopted and amended at LAC 33:V.3099.Appendices D and E. The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in 40 CFR 266, Appendix IV, as adopted and amended at LAC 33:V.3099.Appendix D or Risk-Specific Dose has not been established in 40 CFR 266, Appendix V, as adopted at LAC 33:V.3099.Appendix E, is 0.1 micrograms per cubic meter, as noted in the footnote to 40 CFR 266, Appendix IV, as adopted and amended at LAC 33:V.3099.Appendix D.

3. Waiver of Trial Burn for Metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed

rate screening limits provided by LAC 33:V.3013.B and E that control metals emissions without requiring a trial burn, the owner or operator must submit:

a. documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feedstocks;

b. documentation of the concentration of each metal controlled by LAC 33:V.3013.B or E in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

c. documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by LAC 33:V.3013.B or E will not be exceeded during the averaging period provided by that Subsection;

d. documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by LAC 33:V.3013.B.3-5;

e. documentation of compliance with the provisions of LAC 33:V.3013.B.6, if applicable, for facilities with multiple stacks;

f. documentation that the facility does not fail the criteria provided by LAC 33:V.3013.B.7 for eligibility to comply with the screening limits; and

g. proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feedstocks.

4. Waiver of Trial Burn for Particulate Matter. When seeking to be permitted under the low risk waste provisions of LAC 33:V.3019.B which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with LAC 33:V.535.A.2.b and A.3.

5. Waiver of Trial Burn for HCl and Cl_2. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by LAC 33:V.3015.B.1 and E that control emissions of hydrogen chloride (HCl) and chlorine gas (Cl_2) without requiring a trial burn, the owner or operator must submit:

a. documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feedstocks;

b. documentation of the levels of total chloride and chlorine in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of total chloride and chlorine;

c. documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by LAC 33:V.3015.B.1 or E will not be exceeded during the averaging period provided by that Subsection;

d. documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by LAC 33:V.3015.B.3;

e. documentation of compliance with the provisions of LAC 33:V.3015.B.4, if applicable, for facilities with multiple stacks;

f. documentation that the facility does not fail the criteria provided by LAC 33:V.3015.B.3 for eligibility to comply with the screening limits; and

g. proposed sampling and analysis plan for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feedstocks.

6. Data in Lieu of Trial Burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with LAC 33:V.537 and 3009-3015 by providing the information required by LAC 33:V.537 from previous compliance testing of the device in conformance with LAC 33:V.3007, or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by LAC 33:V.535 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The administrative authority shall approve a permit application without a trial burn if he finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under LAC 33:V.3005) operating conditions that will ensure conformance with LAC 33:V.3005.C. In addition, the following information shall be submitted:

a. for a waiver from any trial burn:

i. a description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing, or operational or trial burns are provided to support the contention that a trial burn is not needed;

ii. the design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and

iii. such supplemental information as the administrative authority finds necessary to achieve the purposes of this Paragraph;

b. for a waiver of the DRE trial burn, the basis for selection of POHCs used in the other trial or operational burns which demonstrate compliance with the DRE performance standard in LAC 33:V.3009.A. This analysis should specify the constituents in LAC 33:V.4901.G, Table 6, that the applicant has identified in the hazardous waste for which a permit is sought, and any differences from the POHCs in the hazardous waste for which burn data are provided.

B. Alternative HC Limit for Industrial Furnaces with Organic Matter in Raw Materials. Owners or operators of

industrial furnaces requesting an alternative HC limit under LAC 33:V.3009.F shall submit the following information at a minimum:

1. documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

2. documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

3. test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuel(s) and destruction of hydrocarbon emissions from nonfuel sources;

4. trial burn plan to:

a. demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level; and

b. identify the types and concentrations of organic compounds listed in LAC 33:V.4901.G, Table 6, that are emitted when burning hazardous waste in conformance with procedures prescribed by the administrative authority;

5. implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

6. such other information as the administrative authority finds necessary to achieve the purposes of this Subsection.

C. Alternative Metals Implementation Approach. When seeking to be permitted under an alternative metals implementation approach under LAC 33:V.3013.F, the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of LAC 33:V.3013.C or D and how the approach can be effectively implemented and monitored. Further, the owner or operator shall provide such other information that the administrative authority finds necessary to achieve the purposes of this Subsection.

D. Automatic Waste Feed Cutoff System. Owners or operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

E. Direct Transfer. Owners or operators that use direct transfer operations to feed hazardous waste from transport vehicles (*containers*, as defined in LAC 33:V.3023) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by LAC 33:V.3023.

F. Residues. Owners or operators that claim that their residues are excluded from regulation under the provisions of LAC 33:V.3025 must submit information adequate to demonstrate conformance with those provisions.

G. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003).

§536. Specific Part II Information Requirements for Equipment

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have equipment to which LAC 33:V.Chapter 17.Subchapter B applies must provide the following additional information.

A. For each piece of equipment to which LAC 33:V.Chapter 17.Subchapter B, applies, the following information must be provided:

1. equipment identification number and hazardous waste management unit identification;

2. approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);

3. type of equipment (e.g., a pump or pipeline valve);

4. percent by weight total organics in the hazardous waste stream at the equipment;

5. hazardous waste state at the equipment (e.g., gas/vapor or liquid); and

6. method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

B. Facilities that cannot install a closed-vent system and control device to comply with the provisions of LAC 33:V.Chapter 17.Subchapter B, on the effective date that the facility becomes subject to the provisions of LAC 33:V.Chapter 17.Subchapter B, or Chapter

43.Subchapter R, must provide an implementation schedule as specified in LAC 33:V.1709.A.2.

C. Owners or operators who apply for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and choose to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device must provide a performance test plan as specified in LAC 33:V.1713.B.3.

D. Documentation that demonstrates compliance with the equipment standards in LAC 33:V.1719-1733 must be provided. This documentation shall contain the records required under LAC 33:V.1743. The administrative authority may request further documentation before deciding if compliance has been demonstrated.

E. Documentation to demonstrate compliance with LAC 33:V.1735 shall be provided and include the following information:

1. a list of all information references and sources used in preparing the documentation;

2. records, including the dates, of each compliance test required by LAC 33:V.1709.J;

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.c;

4. a statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur;

5. a statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:817 (September 1996).

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (Boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators.)

A. General. New boilers and industrial furnaces (those not operating under interim status) that will be permitted based on a trial burn under LAC 33:V.3005.D.3 are subject to Subsection B of this Section. Boilers and industrial furnaces operating under the interim status standards of LAC 33:V.3007 are subject to Subsection C of this Section.

B. New Boilers and Industrial Furnaces Permitted with a Trial Burn. A permit for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods.

1. Pre-Trial Burn Period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the administrative authority shall establish pre-trial burn permit conditions, including but not limited to allowable hazardous waste feed rates and operating conditions. The administrative authority may extend this operational period once for up to 720 additional hours at the applicant's request when good cause is shown. The permit may be modified to reflect the extension according to LAC 33:V.323 (minor modifications of permits).

a. Applicants must submit a statement with Part II of the permit application that suggests the conditions necessary to operate in compliance with the standards of LAC 33:V.3009-3015 during this period. This statement should include, at a minimum, restrictions on the applicable operating parameters identified in LAC 33:V.3005.E.

b. The administrative authority will review this statement and any other relevant information submitted with Part II of the permit application and specify requirements for this period sufficient to meet the performance standards of LAC 33:V.3009-3015 based on engineering judgment.

2. Trial Burn Period. For the duration of the trial burn, the administrative authority must establish conditions in the trial burn permit for the purposes of determining feasibility of compliance with the performance standards of LAC 33:V.3009-3015 and of determining adequate operating conditions under LAC 33:V.3005.E.

a. Applicants must propose a trial burn plan, prepared under Subparagraph B.2.b of this Section, to be submitted with Part II of the permit application.

b. The trial burn plan must include the following information.

i. An analysis of each feedstream, including hazardous waste, other fuels, and industrial furnace feedstocks as fired, containing the following information is required:

(a). heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride, and ash; and composition of the hazardous waste must be specified;

(b). viscosity or a description of the physical form of the feedstream.

ii. An analysis of each hazardous waste stream as fired is required, including:

(a). an identification of any hazardous organic constituents listed in LAC 33:V.3105, Table 1, that are present in the feed stream, except that the applicant need not analyze for constituents listed in LAC 33:V.3105, Table 1, that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with analytical techniques specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method;

(b). an approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method;

(c). if applicable, the blending procedures used before firing the hazardous waste must be described, and a detailed analysis of the hazardous waste before blending provided, along with an analysis of the material with which the hazardous waste is blended and the blending ratios.

iii. A detailed engineering description of the boiler or industrial furnace is required, including:

(a). manufacturer's name and model number of the boiler or industrial furnace;

(b). type of boiler or industrial furnace;

(c). maximum design capacity in appropriate units;

(d). description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks;

(e). capacity of the hazardous waste feed system;

(f). description of automatic hazardous waste feed cutoff system(s);

(g). description of any emission control system(s); and

(h). description of stack gas monitoring and any pollution-control monitoring systems.

iv. A detailed description of sampling and monitoring procedures including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis must be provided.

v. A detailed test schedule for each hazardous waste for which the trial burn in planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the administrative authority's decision under LAC 33:V.537.B.2.e must be included.

vi. A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that will vary and that may affect the ability of the boiler or industrial furnace to meet the performance standards in LAC 33:V.3009-3015 must be provided.

vii. Any emission control equipment that will be used must be described along with the planned operating conditions.

viii. Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction must be described.

ix. The administrative authority may request additional information that he reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this Paragraph and the criteria in LAC 33:V.537.B.2.e.

c. The administrative authority, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information to achieve the purposes of this Paragraph.

d. The administrative authority will use the hazardous waste analysis data in the trial burn plan to specify as trial Principal Organic Hazardous Constituents (POHCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. The administrative authority will specify these trial POHCs on the basis of his estimate of the difficulty of destroying:

i. the constituents identified in the hazardous waste feed;

ii. their concentrations or mass in the hazardous waste feed; and

iii. for hazardous wastes listed in LAC 33:V.4901, the hazardous waste organic constituent(s) identified in LAC 33:V.4901.G, Table 6.

e. The administrative authority shall approve a trial burn plan if he finds that:

i. the trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards in LAC 33:V.3009-3015;

ii. the trial burn itself will not present an imminent hazard to human health and the environment;

iii. the trial burn will help him determine operating requirements to be specified under LAC 33:V.3005.E; and

iv. the information sought in LAC 33:V.537.B.2.e.i-iii cannot reasonably be obtained through other means.

~~f. The administrative authority may extend and~~ modify the pre-trial burn permit as necessary to accommodate the approved trial burn plan. The permit modification ~~shall~~ proceed as a minor modification ~~according to LAC 33:V.323.~~

g. The administrative authority must send a notice to all persons on the facility mailing list, as set forth in LAC 33:V.717.A.1.e, and to the appropriate units of state and local government, as set forth in LAC 33:V.717.A.1.b, announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the administrative authority has issued such notice.

i. This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

ii. This notice must contain:

(a). the name and telephone number of the applicant's contact person;

(b). the name and telephone number of the permitting agency's contact office;

(c). the location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(d). an expected time period for commencement and completion of the trial burn.

h. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations and analyses:

i. a quantitative analysis of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride in the feedstreams (hazardous waste, other fuels, and industrial furnace feedstocks) to the boiler or industrial furnace is required;

ii. a quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs is required;

iii. if dioxin and furan testing is required under LAC 33:V.3009.E, a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard are required;

iv. a quantitative analysis of the stack gas for the concentration and mass emission of particulate matter, metal(s) or hydrogen chloride (HCl) and chlorine gas (Cl_2) and a computation showing conformance with the metals or HCl emission performance standard in LAC 33:V.3011 and 3015 are required;

v. a quantitative analysis of the scrubber water (if any), ash residues, and other residues is required for the purpose of estimating the fate of the trial POHCs, the fate of any metal, and the fate of chlorine/chloride subject to emissions testing under LAC 33:V.537.B.2.g.iii.(b);

vi. destruction and removal efficiency (DRE) must be computed in accordance with the DRE formula specified in LAC 33:V.3009.A;

vii. sources of fugitive emissions and their means of control must be identified;

viii. carbon monoxide, total hydrocarbons, and oxygen in the stack gas must be continuously measured. The administrative authority may approve an alternative scheme for monitoring total hydrocarbons;

ix. a quantitative analysis of the exhaust gas for the concentration and mass emission of particulate matter, and a computation showing conformance with the particulate matter standard in LAC 33:V.3011 is required; and

x. any other information will be required that the administrative authority specifies as necessary to ensure that the trial burn will reveal whether the facility complies with the performance standards required by LAC 33:V.3009-3015.

i. The applicant must submit to the Office of Environmental Services, Water and Waste Permits Division, a certification that the trial burn has been conducted in accordance with the approved trial burn plan and must submit the results of all the analyses and determinations required in Subparagraph B.2.h of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

j. All data collected during any trial burn must be submitted to the administrative authority after completion of the trial burn.

k. All submissions required by this Paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under LAC 33:V.507 and 509.

~~l. Based on the results of the trial burn, the~~ administrative authority shall specify ~~the~~ operating requirements in the ~~final~~ permit according to LAC 33:V.3005.E. The permit modification shall proceed as ~~a minor modification according to LAC 33:V.323.~~

3. Post-Trial Burn Period. For a minimum period immediately after the trial burn sufficient for the applicant to

analyze samples, compute data, and submit the trial burn results, and for the administrative authority to review the trial burn results and modify the facility permit to reflect those results, the administrative authority will specify the operating requirements most likely to ensure compliance with the performance standards of LAC 33:V.3009-3015 based on engineering judgment. The administrative authority shall extend and modify the trial burn permit to develop the post-trial burn permit. The permit modification shall proceed as a minor modification according to LAC 33:V.323.

a. Applicants must submit a statement with Part II of this permit application that identifies the conditions necessary for operation in compliance with the performance standards of LAC 33:V.3009-3015 during this period. This statement should include, at a minimum, restrictions on the operating parameters identified in LAC 33:V.3005.E.

b. The administrative authority will review this statement and any other relevant information submitted with Part I of the permit application and specify requirements for this period sufficient to meet the performance standards of LAC 33:V.3009-3015 based on engineering judgment.

4. Final Permit. For the final period of operation, the administrative authority will develop operating requirements in conformance with LAC 33:V.3005.E that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of LAC 33:V.3009-3015. Based on the trial burn results, the administrative authority will modify the permit as necessary to ensure compliance with the performance standards of LAC 33:V.3009-3015. The permit modification shall proceed according to LAC 33:V.321.

C. Interim Status Boilers and Industrial Furnaces

1. For the purpose of determining feasibility of compliance with the performance standards of LAC 33:V.3009-3015 of this Chapter and of determining adequate operating conditions under LAC 33:V.3007, applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of LAC 33:V.3007 must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this Section or submit other information as specified in LAC 33:V.535.A.6. The administrative authority must announce his or her intention to approve of the trial burn plan in accordance with the timing and distribution requirements of Subparagraph B.2.g of this Section. The contents of the notice must include:

a. the name and telephone number of a contact person at the facility;

b. the name and telephone number of a contact office at the permitting agency;

c. the location where the trial burn plan and any supporting documents can be reviewed and copied; and

d. a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time periods during which the trial burn would be conducted.

2. Applicants who submit a trial burn plan and receive approval before submission of Part II of the permit application must complete the trial burn and submit the results specified in LAC 33:V.537.B.2.h with Part II of the permit application. If completion of this process conflicts with the date set for submission of Part II, the applicant must contact the administrative authority to establish a later date for submission of Part II or the trial burn results. If the applicant submits a trial burn plan with Part II of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the administrative authority.

D. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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§540. Remedial Action Plans (RAPs)

A. Remedial action plans (RAPs) are special forms of permits that are regulated under LAC 33:V.Chapter 5.Subchapter G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

Subchapter G. Remedial Action Plans (RAPs) - General Information

§545. Why is this Subchapter written in a special format?

A. This Subchapter is written in a special format to make it easier to understand the regulatory requirements. Like

other department regulations, this establishes enforceable legal requirements. For this Subchapter, I and you refer to the owner/operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

§550. What is a RAP?

A. A RAP is a special form of a RCRA permit that you, as an owner or operator, may obtain, instead of a permit issued under LAC 33:V.303-329 and 501-537, to authorize you to *treat*, *store*, or *dispose* of hazardous remediation waste (as defined in LAC 33:V.109) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under LAC 33:V.699.

B. The requirements in LAC 33:V.303-329 and 501-537 do not apply to RAPs unless those requirements for traditional RCRA permits are specifically required under this Subchapter. The definitions in LAC 33:V.109 apply to RAPs.

C. Notwithstanding any other provision of LAC 33:V.Subpart 1, any document that meets the requirements in this Section constitutes a RCRA permit under RCRA Section 3005(c).

D. A RAP may be:

1. a stand-alone document that includes only the information and conditions required by this Subchapter; or

2. part (or parts) of another document that includes information and/or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this Subchapter.

E. If you are treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by federal or state cleanup authorities, your RAP does not affect your obligations under those authorities in any way.

F. If you receive a RAP at a facility operating under interim status, the RAP does not terminate your interim status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

§555. When do I need a RAP?

A. Whenever you treat, store, or dispose of hazardous remediation wastes in a manner that requires a RCRA permit under LAC 33:V.Chapter 3, you must either obtain:

1. a RCRA permit according to LAC 33:V.303-329 and 501-537; or

2. a RAP according to this Subchapter.

B. Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this Subchapter.

C. You may obtain a RAP for managing hazardous remediation waste at an already permitted RCRA facility. You must have these RAPs approved as a modification to your existing permit according to the requirements of LAC 33:V.321-323 instead of the requirements in this Subchapter. When you submit an application for such a modification, however, the information requirements in LAC 33:V.321.C.1.a.i, 2.a.iv, and 3.a.iv do not apply; instead, you must submit the information required under LAC 33:V.580. When your permit is modified the RAP becomes part of the RCRA permit. Therefore, when your permit (including the RAP portion) is modified, revoked and reissued, terminated, or when it expires, it will be modified according to the applicable requirements in LAC 33:V.321-323, revoked and reissued according to the applicable requirements in LAC 33:V.323, terminated according to the applicable requirements in LAC 33:V.323, and expire according to the applicable requirements in LAC 33:V.315.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

§560. Does my RAP grant me any rights or relieve me of any obligations?

A. The provisions of LAC 33:V.307 apply to RAPs.

> [NOTE: The provisions of LAC 33:V.307.A provide you assurance that, as long as you comply with your RAP, the department will consider you in compliance with Subtitle C of RCRA and will not take enforcement actions against you. However, you should be aware of four exceptions to this provision that are listed in LAC 33:V.307.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§565. How do I apply for a RAP?

A. To apply for a RAP, you must complete an application, sign it, and submit it to the Office of Environmental Services, Water and Waste Permits Division, according to the requirements in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000), amended LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

§570. Who must obtain a RAP?

A. When a facility or remediation waste management site is owned by one person, but the treatment, storage, or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§575. Who must sign the application and any required reports for a RAP?

A. Both the owner and the operator must sign the RAP application and any required reports according to LAC 33:V.507, 509, and 511. In the application, both the owner and the operator must also make the certification required in LAC 33:V.513.A. However, the owner may choose the alternative certification under LAC 33:V.513.B if the operator certifies under LAC 33:V.513.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§580. What must I include in my application for a RAP?

A. You must include the following information in your application for a RAP:

1. the name, address, and EPA identification number of the remediation waste management site;

2. the name, address, and telephone number of the owner and operator;

3. the latitude and longitude of the site;

4. the United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;

5. a scaled drawing of the remediation waste management site showing:

a. the remediation waste management site boundaries;

b. any significant physical structures; and

c. the boundary of all areas on-site where remediation waste is to be treated, stored, or disposed;

6. a specification of the hazardous remediation waste to be treated, stored, or disposed of at the facility or remediation waste management site. This must include information on:

a. constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated and/or otherwise managed;

b. an estimate of the quantity of these wastes; and

c. a description of the processes you will use to treat, store, or dispose of this waste including technologies, handling systems, design, and operating parameters you will use to treat hazardous remediation wastes before disposing of them according to the LDR standards of LAC 33:V.Chapter 22, as applicable;

7. enough information to demonstrate that operations that follow the provisions in your RAP application will ensure compliance with applicable requirements of LAC 33:V.Chapters 15-37, 41, and 43;

8. such information as may be necessary to enable the administrative authority to carry out his duties under other state laws as is required for traditional RCRA permits under LAC 33:V.517.U; and

9. any other information the administrative authority decides is necessary for demonstrating compliance with this Subsection or for determining any additional RAP conditions that are necessary to protect human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§585. What if I want to keep this information confidential?

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§590. To whom must I submit my RAP application?

A. You must submit your application for a RAP to the Office of Environmental Services, Water and Waste Permits Division, for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000), amended LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

§595. If I submit my RAP application as part of another document, what must I do?

A. If you submit your application for a RAP as a part of another document, you must clearly identify the components of that document that constitute your RAP application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§600. What is the process for approving or denying my application for a RAP?

A. If the administrative authority tentatively finds that your RAP application includes all of the information required by LAC 33:V.580 and that your proposed remediation waste management activities meet the regulatory standards, the administrative authority may make a tentative decision to approve your RAP application. The

administrative authority will then prepare a draft RAP and provide an opportunity for public comment before making a final decision on your RAP application, according to this Subchapter.

B. If the administrative authority tentatively finds that your RAP application does not include all of the information required by LAC 33:V.580 or that your proposed remediation waste management activities do not meet the regulatory standards, the administrative authority may request additional information from you or ask you to correct deficiencies in your application. If you fail or refuse to provide any additional information the administrative authority requests, or to correct any deficiencies in your RAP application, the administrative authority may make a tentative decision to deny your RAP application. After making this tentative decision, the administrative authority will prepare a notice of intent to deny your RAP application (notice of intent to deny) and provide an opportunity for public comment before making a final decision on your RAP application, according to the requirements in this Subchapter. The administrative authority may deny the RAP application either in its entirety or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§605. What must the administrative authority include in a draft RAP?

A. If the administrative authority prepares a draft RAP, it must include:

1. the information required under LAC 33:V.580.A.1-9;

2. the following terms and conditions:

a. terms and conditions necessary to ensure that the operating requirements specified in your RAP comply with applicable requirements of LAC 33:V.Chapters 15-37, 41, and 43 (including any recordkeeping and reporting requirements). In satisfying this provision, the administrative authority may incorporate, expressly or by reference, applicable requirements of LAC 33:V.Chapters 15-37, 41, and 43 into the RAP or establish site-specific conditions as required or allowed by LAC 33:V.Chapters 15-37, 41, and 43;

b. terms and conditions in LAC 33:V.309;

c. terms and conditions for modifying, revoking and reissuing, and terminating your RAP, as provided in LAC 33:V.640; and

d. any additional terms or conditions that the administrative authority determines are necessary to protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

3. if the draft RAP is part of another document, as described in LAC 33:V.550, the administrative authority must clearly identify the components of that document that constitute the draft RAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§610. What else must the administrative authority prepare in addition to the draft RAP or notice of intent to deny?

A. Once the administrative authority has prepared the draft RAP or notice of intent to deny, he must then:

1. prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

2. compile an administrative record, including:

a. the RAP application and any supporting data furnished by the applicant;

b. the draft RAP or notice of intent to deny;

c. the statement of basis and all documents cited therein (material readily available at the department or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

d. any other documents that support the decision to approve or deny the RAP; and

3. make information contained in the administrative record available for review by the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§615. What are the procedures for public comment on the draft RAP or notice of intent to deny?

A. The administrative authority must:

1. send notice to you of his intention to approve or deny your RAP application, and send you a copy of the statement of basis;

2. publish a notice of his intention to approve or deny your RAP application in a major local newspaper of general circulation;

3. broadcast his intention to approve or deny your RAP application over a local radio station; and

4. send a notice of his intention to approve or deny your RAP application to each unit of local government having jurisdiction over the area in which your site is located and to each state agency having any authority under state law with respect to any construction or operations at the site.

B. The notice required by Subsection A of this Section must provide an opportunity for the public to submit written

comments on the draft RAP or notice of intent to deny within at least 45 days.

C. The notice required by Subsection A of this Section must include:

1. the name and address of the office processing the RAP application;

2. the name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

3. a brief description of the activity the RAP will regulate;

4. the name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

5. a brief description of the comment procedures in this Section, and any other procedures by which the public may participate in the RAP decision;

6. if a hearing is scheduled, the date, time, location, and purpose of the hearing;

7. if a hearing is not scheduled, a statement of procedures to request a hearing;

8. the location of the administrative record, and times when it will be open for public inspection; and

9. any additional information the administrative authority considers necessary or proper.

D. If, within the comment period, the administrative authority receives written notice of opposition to his intention to approve or deny your RAP application and a request for a hearing, the administrative authority must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The administrative authority may also determine on his own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the administrative authority must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in Subsection A of this Section. This notice must, at a minimum, include the information required by Subsection C of this Section and:

1. reference to the date of any previous public notices relating to the RAP application;

2. the date, time, and location of the hearing; and

3. a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§620. How will the administrative authority make a final decision on my RAP application?

A. The administrative authority must consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise your draft RAP based on those comments, as appropriate.

B. If the administrative authority determines that your RAP includes the information and terms and conditions required in LAC 33:V.605, then he may issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

C. If the administrative authority determines that your RAP does not include the information required in LAC 33:V.605, then he will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

D. If the administrative authority's final decision is that the tentative decision to deny the RAP application was incorrect, he will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this Subchapter.

E. When the administrative authority issues his final RAP decision, he must refer to the procedures for appealing the decision under R.S. 30:2024.

F. Before issuing the final RAP decision, the administrative authority must compile an administrative record. Material readily available at the department or published materials which are generally available and which are included in the administrative record need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see LAC 33:V.610.B) and:

1. all comments received during the public comment period;

2. tapes or transcripts of any hearings;

3. any written materials submitted at these hearings;

4. the responses to comments;

5. any new material placed in the record since the draft RAP was issued;

6. any other documents supporting the RAP; and

7. a copy of the final RAP.

G. The administrative authority must make information contained in the administrative record available for review by the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:274 (February 2000).

§625. May the decision to approve or deny my RAP application be administratively appealed?

A. You may request an administrative hearing on a decision by the administrative authority to grant or deny your RAP application, under R.S. 30:2024. If the secretary does not grant your hearing request within 30 days of filing, you are entitled to file an application for *de novo* review of the secretary's action in the Nineteenth Judicial District Court.

B. An aggrieved person [as defined in R.S. 30:2004 (17)] may appeal a final decision on your RAP to the Nineteenth Judicial District Court, under R.S. 30:2050.21. Such an appeal would not suspend the effectiveness of the RAP, if one is issued. However, the secretary may grant, or the court may order, a stay of the RAP decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§630. When does my RAP become effective?

A. Your RAP becomes effective 30 days after the administrative authority notifies you and all commenters that your RAP is approved unless:

1. the administrative authority specifies a later effective date in the decision;

2. review is requested under R.S. 30:2024; or

3. no commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§635. When may I begin physical construction of new units permitted under the RAP?

A. You must not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a RAP which is effective under the terms of LAC 33:V.630.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§640. After my RAP is issued, how may it be modified, revoked and reissued, or terminated?

A. In your RAP, the administrative authority must specify, either directly or by reference, procedures for future modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that otherwise merits public review and comment. If your RAP has been incorporated into a traditional RCRA permit, as allowed under LAC 33:V.555.C, then the RAP will be modified according to the applicable requirements in LAC 33:V.321-323.B.2, revoked and reissued according to the applicable requirements in LAC 33:V.321 and 323.B.3, or terminated according to the applicable requirements of LAC 33:V.323.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:274 (February 2000).

§645. For what reasons may the administrative authority choose to modify my final RAP?

A. The administrative authority may modify your final RAP on his own initiative only if one or more of the following reasons listed in this Section exist(s). If one or more of these reasons do not exist, then the administrative authority will not modify your final RAP, except at your request. Reasons for modification are:

1. you made material and substantial alterations or additions to the activity that justify applying different conditions;

2. the administrative authority finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

3. the standards or regulations on which the RAP was based have changed because of new or amended statutes, standards, or regulations, or by judicial decision after the RAP was issued;

4. if your RAP includes any schedules of compliance, the administrative authority may find reasons to modify your compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which you as the owner/operator have little or no control and for which there is no reasonably available remedy;

5. you are not in compliance with conditions of your RAP;

6. you failed in the application or during the RAP issuance process to disclose fully all relevant facts, or you misrepresented any relevant facts at the time;

7. the administrative authority has determined that the activity authorized by your RAP endangers human health or the environment and can only be remedied by modifying; or

8. you have notified the administrative authority (as required in the RAP under LAC 33:V.321.B) of a proposed transfer of a RAP.

B. Notwithstanding any other provision in this Section, when the administrative authority reviews a RAP for a land disposal facility under LAC 33:V.665, he may modify the permit as necessary to assure that the facility continues to

comply with the currently applicable requirements in LAC 33:V.Subpart 1.

C. The administrative authority will not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§650. For what reasons may the administrative authority choose to revoke and reissue my final RAP?

A. The administrative authority may revoke and reissue your final RAP on his own initiative only if one or more reasons for revocation and reissuance exist(s). If one or more reasons do not exist, then the administrative authority will not modify or revoke and reissue your final RAP, except at your request. Reasons for modification or revocation and reissuance are the same as the reasons listed for RAP modifications in LAC 33:V.645.A.5-8 if the administrative authority determines that revocation and reissuance of your RAP is appropriate.

B. The administrative authority will not reevaluate the suitability of the facility location at the time of RAP revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§655. For what reasons may the administrative authority choose to terminate my final RAP, or deny my renewal application?

A. The administrative authority may terminate your final RAP on his own initiative, or deny your renewal application, for the same reasons as those listed for RAP modifications in LAC 33:V.645.A.5-7 if the administrative authority determines that termination of your RAP or denial of your RAP renewal application is appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§660. May the decision to approve or deny a modification, revocation and reissuance, or termination of my RAP be administratively appealed?

A. You may request an administrative hearing on a decision by the administrative authority to grant or deny a modification, revocation and reissuance, or termination of your RAP under R.S. 30:2024. If the secretary does not grant your hearing request within 30 days of filing, you are entitled to file an application for *de novo* review of the secretary's action in the Nineteenth Judicial District Court.

B. An aggrieved person [as defined in R.S. 30:2004 (17)] may appeal a final decision on your RAP to the Nineteenth Judicial District Court, under R.S. 30:2050.21. Such an appeal would not suspend the effectiveness of the RAP, if one is issued. However, the secretary may grant, or the court may order, a stay of the RAP decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000).

§665. When will my RAP expire?

A. RAPs must be issued for a fixed term, not to exceed 10 years, although they may be renewed upon approval by the administrative authority in fixed increments of no more than 10 years. In addition, the administrative authority must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance, and you or the administrative authority must follow the requirements for modifying your RAP as necessary to assure that you continue to comply with currently applicable requirements in RCRA Sections 3004 and 3005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§670. How may I renew my RAP if it is expiring?

A. If you wish to renew your expiring RAP, you must follow the process for application for and issuance of RAPs in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§675. What happens if I have applied correctly for a RAP renewal but have not received approval by the time my old RAP expires?

A. If you have submitted a timely and complete application for a RAP renewal, but the administrative authority, through no fault of yours, has not issued a new RAP with an effective date on or before the expiration date of your previous RAP, your previous RAP conditions continue in force until the effective date of your new RAP or RAP denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§680. What records must I maintain concerning my RAP?

A. You are required to keep records of:

1. all data used to complete RAP applications and any supplemental information that you submit for a period of at least three years from the date the application is signed; and

2. any operating and/or other records the administrative authority requires you to maintain as a condition of your RAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§685. How are time periods in the requirements in this Subchapter and my RAP computed?

A. Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if your RAP specifies that you must close a staging pile within 180 days after the operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of your 180 days, and you would have to complete closure by November 28.)

B. Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if you are transferring ownership or operational control of your site, and wish to transfer your RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if you plan to change ownership on January 1, the new owner/operator must submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

C. If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if you wish to request an administrative hearing on the administrative authority's decision to modify your RAP, then you must file your request with the secretary within 30 days after notice of the decision is served upon you. If the thirtieth day falls on Sunday, then you may submit your appeal by the Monday after. If the thirtieth day falls on July 4, then you may submit your appeal by July 5.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§690. How may I transfer my RAP to a new owner or operator?

A. If you wish to transfer your RAP to a new owner or operator, you must follow the requirements specified in your RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute significant modifications for purposes of LAC 33:V.640. The new owner/operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between you and the new permittees.

B. When a transfer of ownership or operational control occurs, you as the old owner or operator must comply with the applicable requirements in LAC 33:V.Chapter 37 (financial requirements), until the new owner or operator has demonstrated that he is complying with the requirements in that chapter. The new owner or operator must demonstrate compliance with LAC 33:V.Chapter 37 within six months of the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner/operator demonstrates compliance with LAC 33:V.Chapter 37 to the administrative authority, the administrative authority will notify you that you no longer need to comply with LAC 33:V.Chapter 37, as of the date of demonstration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§695. What must the state or EPA region report about noncompliance with RAPs?

A. The department or EPA region must report noncompliance with RAPs according to the provisions of 40 CFR 270.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§699. May I perform remediation waste management activities under a RAP at a location removed from the area where the remediation wastes originated?

A. You may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if you believe such a location would be more protective than the contaminated area or areas in close proximity.

B. If the administrative authority determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the administrative authority may approve a RAP for this alternative location.

C. You must request the RAP, and the administrative authority will approve or deny the RAP, according to the procedures and requirements in this Subchapter.

D. A RAP for an alternative location must also meet the following requirements, which the administrative authority must include in the RAP for such locations:

1. the RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;

2. the RAP is subject to the expanded public participation requirements in LAC 33:V.708;

3. the RAP is subject to the public notice requirements in LAC 33:V.717; and

4. the site permitted in the RAP may not be located within 61 meters or 200 feet of a fault which has had displacement in the Holocene time (you must demonstrate compliance with this standard through the requirements in LAC 33:V.517.T). (See definitions of terms in LAC 33:V.109.)

[Note to Paragraph D.4 of this Section: Sites located in a political jurisdiction other than those listed in Appendix VI of 40 CFR 264 are assumed to be in compliance with this requirement.]

E. These alternative locations are remediation waste management sites and retain the following benefits of remediation waste management sites:

1. exclusion from facility-wide corrective action under LAC 33:V.3322; and

2. application of LAC 33:V.1501.H in lieu of LAC 33:V.Chapter 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter A. Permits

§701. Emergency Permits

A. Notwithstanding any other provision, in the event the administrative authority finds an imminent and substantial endangerment to human health or the environment, he may issue a temporary emergency permit (1) to a nonpermitted facility to allow treatment, storage, or disposal of hazardous waste or (2) to a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit. This emergency permit:

1. may be oral or written; if oral, it shall be followed in five days by a written emergency permit;

2. shall not exceed 90 days in duration;

3. shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;

4. may be terminated by the administrative authority at any time without process if he determines that termination is appropriate to protect human health and the environment;

5. shall be accompanied by a public notice published under LAC 33:V.715 including:

a. name and address of the office granting the emergency authorization;

b. name and location of the permitted TSD facility;

c. a brief description of the wastes involved;

d. a brief description of the action authorized and reasons for authorizing it; and

e. duration of the emergency permit;

6. shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable and appropriate requirements of LAC 33:V.Subpart 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:658 (April 1998).

§703. Permit Evaluation

A. Application Distribution. Upon acceptance of an application for review, the administrative authority will distribute copies of the application (Part I) for review and comment to: the public (filed with local libraries or other public facility), notification of which is to be published in a bulletin (see LAC 33:V.717), and as an ad in a local newspaper; Department of Health and Hospitals, Office of Health Services and Environmental Quality; Department of Wildlife and Fisheries; Office of Public Works of the Department of Transportation and Development; or the successors to any of the above; and to local governing authorities of any municipality and parish within whose territorial jurisdiction the facility or activity is located.

B. Review Considerations

1. In conducting its review of the application, the administrative authority will consider the purpose and use of facilities, operations and monitoring plan, capacity, closure, site suitability, financial responsibility, legal considerations, special considerations deemed necessary by the administrative authority on a site specific basis, and local zoning ordinances.

2. Comment from the public and involved local, parish, state, and federal agencies will be reviewed. The administrative authority may consider that the agencies that do not comment within 45 days from the date the ad is published in the newspaper have no objection to the proposed operation.

3. The administrative authority will assist the operator in the modification of the permit application or facility design or operation by:

a. conducting staff discussions with operator, designing engineer, and other principals to discuss reasons for denial;

b. the type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

c. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record;

d. reasons why any requested variances or alternatives to required standards do or do not appear justified;

e. a description of the procedures for reaching a final decision on the draft permit including:

i. the beginning and ending dates of the comment period and the address where comments will be received;

ii. procedures for requesting a hearing and the nature of that hearing;

iii. any other procedures by which the public may participate in the final decision; and

f. name and telephone number of a person to contact for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000).

§705. Issuance and Effective Date of Permit

A. After the close of the public comment period under LAC 33:V.707 on a draft permit, the administrative authority shall issue a final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706). The administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision. For the purpose of this Section, a *final permit decision* means a final decision to issue, deny, modify or revoke and reissue, or terminate a permit.

B. A final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706) shall become effective 30 days after the service of notice of the decision under LAC 33:V.705.A, unless:

1. a later effective date is specified in the decision;

2. review is requested under R.S. 30:2024;

3. no comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:614 (July 1990).

§706. Permit Denial

A. The administrative authority may, pursuant to the procedures in LAC 33:V.Chapter 7, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or TSD unit only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:614 (July 1990), amended LR 21:944 (September 1995).

Subchapter B. Hearings

§707. Public Comments and Requests for Public Hearings

A. During the public comment period provided under LAC 33:V.715, any interested person may submit written comments on the draft permit or the permit application and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in LAC 33:V.707.B.

B. Response to Comments. At the time that any final permit decision is issued, the administrative authority shall issue a response to comments.

1. This response shall specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change, and briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

2. The response to comments shall be available to the public.

C. Within 30 days after a final permit decision (or a decision under LAC 33:V.706 to deny a permit for the active life of a hazardous waste management facility or TSD unit) has been issued under LAC 33:V.705, any person who filed comments on that draft permit or participated in the public hearing may petition the administrative authority to review any condition of the permit decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:614 (July 1990).

§708. Preapplication Public Meeting and Notice, Public Notice Requirements at the Application Stage, and Information Repository

A. Preapplication Public Meeting and Notice

1. Applicability. The requirements of this Section shall apply to all RCRA Part II applications seeking initial permits for hazardous waste management units over which the department has permit issuance authority. The requirements of this Section shall also apply to RCRA Part II applications seeking renewal of permits for such units where the renewal application is proposing a significant change in facility operations. For the purposes of this Section a *significant change* is any change that would qualify as a Class 3 Permit Modification under LAC 33:V.321.C. The requirements of this Section do not apply to permit modifications under LAC 33:V.321.C or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

2. Prior to the submission of a Part II RCRA permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

3. The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under Paragraph A.2 of this Section, and copies of any written comments or materials submitted at the meeting to the permitting agency as a part of the Part II application, in accordance with LAC 33:V.517.

4. The applicant must provide public notice of the preapplication meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the permitting agency upon request, documentation of the notice.

a. The applicant shall provide public notice in all of the following forms:

i. a newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in Subparagraph A.4.b of this Section, in a newspaper of general circulation in the parish or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the administrative authority shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent parishes or equivalent jurisdictions where the administrative authority determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement;

ii. a visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in Subparagraph A.4.b of this Section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site;

iii. a broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in Subparagraph A.4.b of this Section, at least once, on at least one local radio station or television station. The applicant may employ another medium with prior approval of the administrative authority;

iv. a notice to the department. The applicant shall send a copy of the newspaper notice to the Office of Environmental Services, Water and Waste Permits Division, and to the appropriate units of state and local government, in accordance with LAC 33:V.717.A.1.b.

b. The notices required under Subparagraph A.4.a of this Section must include:

i. the date, time, and location of the meeting;

ii. a brief description of the purpose of the meeting;

iii. a brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

iv. a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

v. the name, address, and telephone number of a contact person for the applicant.

B. Public Notice Requirements at the Application Stage

1. Applicability. The requirements of this Section shall apply to all RCRA Part II applications seeking initial permits for hazardous waste management units over which the department has permit issuance authority. The requirements of this Section shall also apply to RCRA Part II applications seeking renewal of permits for such units under LAC 33:V.315.A. The requirements of this Section do not apply to permit modifications under LAC 33:V.321.C or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

2. Notification at Application Submittal

a. The administrative authority shall provide public notice, as set forth in LAC 33:V.717.A.1.e, and notice to appropriate units of state and local government, as set forth in LAC 33:V.717.A.1.b, that a Part II permit application has been submitted to the department and is available for review.

b. The notice shall be published within a reasonable period of time after the application is received by the administrative authority. The notice must include:

i. the name and telephone number of the applicant's contact person;

ii. the name and telephone number of the permitting agency's contact office and a mailing address to

which information, opinions, and inquiries may be directed throughout the permit review process;

iii. an address to which people can write in order to be put on the facility mailing list;

iv. the location where copies of the permit application and any supporting documents can be viewed and copied;

v. a brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

vi. the date that the application was submitted.

3. Concurrent with the notice required under Paragraph B.2 of this Section, the administrative authority must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

C. Information Repository

1. Applicability. The requirements of this Section apply to all applications seeking RCRA permits for hazardous waste management units over which the department has permit issuance authority.

2. The administrative authority may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the administrative authority shall consider a variety of factors including the level of public interest, the type of facility, the presence of an existing repository, and the proximity to the nearest copy of the administrative record. If the administrative authority determines, at any time after submittal of a permit application, that there is a need for a repository, then the administrative authority shall notify the facility that it must establish and maintain an information repository. (See LAC 33:V.309.M for similar provisions relating to the information repository during the life of a permit.)

3. The information repository shall contain all documents, reports, data, and information deemed necessary by the administrative authority to fulfill the purposes for which the repository is established. The administrative authority shall have the discretion to limit the contents of the repository.

4. The information repository shall be located and maintained at a site chosen by the facility. If the administrative authority finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the administrative authority shall specify a more appropriate site.

5. The administrative authority shall specify requirements for informing the public about the information repository. At a minimum, the administrative authority shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

6. The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the administrative authority. The administrative authority may close the repository at his or her discretion, based on the factors in Paragraph C.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:659 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

§709. Evidentiary Hearings on Operating Permit Applications for Commercial Hazardous Waste Treatment, Storage, Disposal, or Recycling Facilities

A. The purpose of an evidentiary hearing is to develop a record of facts, documents, testimony, and pleadings for submission to the administrative authority for consideration in making a permit decision.

B. An evidentiary hearing shall be held after the technical review on a permit application for operation of a commercial hazardous waste treatment, storage, disposal, or recycling facility.

C. The administrative authority shall give public notice of the hearing at least 30 days prior to the date scheduled for commencement of the hearing.

D. Public notice shall be given for all evidentiary hearings.

1. The administrative authority shall mail a copy of a notice to the following persons (any person otherwise entitled to receive notice under this Subsection may waive his or her rights to receive notice for any classes and categories of permits):

a. the applicant;

b. the parish governing authority;

c. those who request notice in writing and those who are on the area mailing list developed by the department.

2. The permit applicant shall publish a notice, provided by the administrative authority, in a daily or weekly major local newspaper of general circulation within the area affected by the facility or activity and in the official journal of the state.

3. The permit applicant shall provide for broadcasting the notice over a local radio station designated by the administrative authority.

4. The administrative authority shall require the applicant to provide and pay for the notifications in LAC 33:V.709.D.2 and 3 and submit proof thereof.

~~of a hearing under LAC 33:V.709 shall contain the following~~ information:

1. reference to the date of previous public notices relating to the permit;

2. date, time, and place of the hearing; and

3. a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988).

§721. Additional Information

A. In addition to any other notice requirements of this Chapter, a copy of the fact sheet, Part I of the permit application, and the draft decision shall be mailed to the applicant, the United States Environmental Protection Agency, the governing authority for the parish in which the facility or activity is located or proposed, and the library repository specifically designated to receive information concerning the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:565 (June 1995).

~~(Editor's note: Chapter 9. Manifest System for TSD Facilities, is hereby repealed as of May 20, 2006. §901 moved to §1516.A; §905 moved to §1516.B; §907 moved to §1516.C; §909 moved to §1516.D; §911 requirements exist in Chapter 11; §921 requirements exist in Chapter 11; and §923 moved to §1107.E.)~~

Chapter 11. Generators

Subchapter A. General

§1101. Applicability

A. A generator who treats, stores, or disposes of hazardous waste on-site is not required to comply with the requirements of this Chapter except for the following with respect to that waste: LAC 33:V.1101.C, 1103, 1105, 1109.E, 1111.A.3 and 4, 1111.D, and 1121.

B. ~~Any person who exports or imports hazardous waste~~ subject to the manifesting requirements of this Chapter, or subject to the universal waste management standards of LAC 33:V.Chapter 38, to or from the countries listed in LAC 33:V.1113.I.1.a for recovery must comply with ~~Subchapter B of this Chapter.~~

C. Any person who imports hazardous waste from a foreign country into the state of Louisiana must comply with the standards applicable to generators established in this Chapter.

D. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Chapters 3, 5, 7, 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.*Empty Container*.3 and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.

E. A person who generates a *hazardous waste* as defined in LAC 33:V.109 and further specified in LAC 33:V.Chapter 49 is subject to the requirements of this Chapter and penalties prescribed in the Act for noncompliance.

F. An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this Chapter. The provisions of LAC 33:V.1109.E are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of LAC 33:V.1109.E only apply to owners or operators who are shipping hazardous waste which they generated at that facility. A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in LAC 33:V.Subpart 1.

G. ~~A person who generates a *hazardous waste* as defined~~ in LAC 33:V.109 and further specified in LAC 33:V.Chapter 49 is subject to the requirements of these chapters and shall register with the department in accordance with the ~~applicable provisions of LAC 33:V.303.~~

H. Persons responding to an explosives or munitions emergency in accordance with LAC 33:V.1501.C.7.a.iv or d or 4307 and 305.C.12 or 13 are not required to comply with the standards of this Chapter.

I. LAC 33:V.108.C and D must be used to determine the applicability of provisions of this Chapter that are dependent on calculations of the quantity of hazardous waste generated per month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:822 (May 2006).

§1103. Hazardous Waste Determination

A person who generates a *solid waste*, as defined in LAC 33:V.109, must determine if that waste is a hazard.

A. First, the generator must determine if the waste is exempted from regulation under LAC 33:V.105.D.

B. For the purposes of compliance with LAC 33:V.Chapter 22, or if the waste is not listed as a

hazardous waste in LAC 33:V.4901, the generator must determine whether the waste is identified in LAC 33:V.4903 by either:

1. testing the waste according to the methods set forth in the *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or according to an equivalent method approved by the administrative authority; or

2. applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

C. If the waste is determined to be hazardous, the generator must refer to other parts of LAC 33:V.Subpart 1 for possible exclusions or prohibitions pertaining to management of his or her specific wastes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 17:658 (July 1991), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

§1105. EPA Identification Numbers

A generator must not treat, store, dispose of, transport or offer for transportation hazardous waste without having received an active EPA identification number.

A. A generator who has not received an active EPA identification number must obtain one by applying to the administrative authority using the form provided within 14 days after first generating any hazardous waste.

B. A generator must notify the Office of Environmental Services, Environmental Assistance Division, within seven days if any of the information submitted in the application for the identification number changes. Because EPA identification numbers are site-specific, if a facility moves to another location, the owner/operator must obtain a new EPA identification number for the facility.

C. A generator must not offer his or her hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an active EPA identification number and the required permits (or interim status) necessary to receive and manage the generator's waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

§1107. The Manifest System

A. General Requirements. The revised manifest form and procedures in 40 CFR Part 262 and the Appendix to Part 262 shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, Environmental Assistance Division, or access the U.S. Environmental Protection Agency's website to obtain information on EPA-registered and approved sources.

1. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility that offers for transport a rejected hazardous waste load, shall prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22 and, if necessary, EPA Form 8700-22A, according to the instructions included in the Appendix to 40 CFR Part 262.

2. A generator shall designate on the manifest one facility that is permitted to handle the waste described on the manifest. A generator may also designate on the manifest one alternate facility that is permitted to handle the waste in the event an emergency prevents delivery of the waste to the primary designated facility.

3. If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator shall either designate another facility or instruct the transporter to return the waste.

4. The requirements of this Section do not apply to hazardous waste produced by generators of greater than 100 kg, but less than 1000 kg, in a calendar month where:

a. the waste is reclaimed under a contractual agreement pursuant to which:

i. the type of waste and frequency of shipments are specified in the agreement;

ii. the vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

b. the generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

5. In naming a hazardous waste, a generator shall use the proper shipping name prescribed by the Louisiana Department of Public Safety and Corrections or its successor agency and provide specific identification pursuant to LAC 33:V.Chapter 49.

6. If the hazardous waste is to be transported out-of-state, the generator will be responsible for receiving the completed, signed manifest from the out-of-state hazardous waste facility.

7. Generators must get written confirmation of acceptability of the hazardous waste from the operator of the hazardous waste facility before shipping the hazardous waste. The confirmation must be maintained as part of the facility manifest records (see LAC 33:V.1111).

~~8. Reserved.~~

9. The manifest form and the continuation sheet used must be obtained from the Office of Environmental Services, Environmental Assistance Division.

10. If additional space is needed on the manifest form, another manifest form or a continuation sheet may be used.

11. The requirements of this Chapter and LAC 33:V.33.1109.C do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding LAC 33:V.1301.A, the generator or transporter must comply with the requirements for transporters set forth in LAC 33:V.1315 and 1317 in the event of a discharge of hazardous waste on a public or private right-of-way.

B. Required Information

1. The manifest must contain all of the following information prior to leaving the generator site:

a. a state manifest document which shall be obtained from this department if the destination point is in Louisiana;

b. the generator's name, mailing address, telephone number, and active EPA identification number;

c. the name, active EPA identification number and telephone number of each transporter;

d. the name, address, telephone number and active EPA identification number of the designated facility;

e. the description of the waste(s) (e.g., proper shipping name, EPA hazardous waste number, etc.) required by Hazardous Materials regulations of the Louisiana Department of Public Safety and Corrections in LAC 33:V.Subpart 2.Chapter 101, and the department's designated handling codes for waste listed; and

f. the total quantity of each hazardous waste by units of weight in tons, cubic yards, pounds, or gallons (liquids only), and the type and number of containers (metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, tanks portable, tank cars, cylinders, wooden boxes, and fiber or plastic boxes) as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight should be provided.

2. The certification that appears on the manifest must be read, signed, and dated by the generator as follows.

> "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me that minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

C. Number of Copies. The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

D. Use of the Manifest

1. The generator must:

a. sign and date the manifest certification by hand when the initial transporter accepts the shipment;

b. obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

c. retain one copy, in accordance with LAC 33:V.1111.A.

2. The generator must give the transporter the remaining copies of the manifest.

3. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this Section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

4. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must complete the transporter section of the manifest less signature, retain one copy of the completed manifest, and send at least three copies of the manifest dated and signed in accordance with this Section to:

a. the next non-rail transporter, if any; or

b. the designated facility if transported solely by rail; or

c. the last rail transporter to handle the waste in the United States if exported by rail.

> [NOTE: See LAC 33:V.1307.E and 1307.F for special provisions for rail or water (bulk shipment) transporters.]

~~5. Reserved.~~

6. For shipments of hazardous waste to a designated facility in an authorized state that has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

E. Special Manifest Provisions

1. Scope. These provisions will apply to material in containers meeting the provisions of lab packs except that the outer container, excluding overpacking, shall not exceed

5 gallons (20 liters) in total liquid capacity prior to addition of the absorbent. The container and overpacking shall comply with applicable requirements of the Louisiana Department of Public Safety and Corrections or its successor agency. Except as otherwise provided herein, the requirements of LAC 33:V.2519 shall be met.

2. Reporting and Recordkeeping. Both the generator and disposer shall maintain copies of the manifests and other records as required elsewhere in LAC 33:V.Subpart 1. The generator and disposer shall include all such wastes in the annual report as provided in LAC 33:V.1111.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006).

~~§1108. Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests~~

~~A. 40 CFR 262.21 and the associated appendix, July 1, 2005, are hereby incorporated by reference. 40 CFR 262.21 establishes standards and procedures for registrants who apply early to, and obtain approval from, the Director, Office of Solid Waste, US EPA, to print and distribute hazardous waste manifest forms.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.~~

~~HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006).~~

§1109. Pre-Transport Requirements

A. Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Public Safety regulations and packaging under LAC 33:V.Subpart 2.Chapter 103.

1. Hazardous waste, liquid, or solid not otherwise specified must meet the requirement of Subchapter C of 49 CFR, and/or the Louisiana Hazardous Material Regulations Subchapter C. Special attention must be directed towards LAC 33:V.Subpart 2.Chapter 105.

2. Dump type transport vehicles in addition to LAC 33:V.1109.A.1 must have a continuous plastic lining with a minimum thickness of 6 mil, be bindered or bolted in order to prevent accidental leakage or escape of the material (Trip binders are not acceptable), must be completely covered by a tarpaulin that is secured to insure no leakage during normal transportation, and the material transported must be solidified with a medium to such consistency that insures the material will not shift, creep, crawl or splash during emergency braking from 20 mph, or accomplish these requirements by other means acceptable to the administrative authority.

3. Portable tank or "sludge" containers in addition to LAC 33:V.1109.A.1 must have fill, discharge, and similar openings of the container bindered or bolted to prevent discharge during transport, be secured to the transport vehicle to insure that the container will not shift laterally or longitudinally during transportation, or accomplish these requirements by other means acceptable to the administrative authority.

B. Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable transportation regulations on hazardous materials of the Louisiana Department of Public Safety and Corrections or its successor agency under LAC 33:V.Subpart 2.Chapter 105.

C. Marking. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information displayed in accordance with the Department of Public Safety regulations (see Department of Public Safety regulation LAC 33:V.Subpart 2.Chapter 105).

> Hazardous Waste: Federal and state law prohibits improper disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.
>
> Generator's Name and Address _____
>
> Generator's EPA ID Number _____
>
> Manifest Tracking Number _____

D. Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Public Safety regulations for hazardous materials under LAC 33:V.Subpart 2.Chapter 105. If placards are not required, a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1).

E. Accumulation Time

1. Except as provided in LAC 33:V.1109.E.7, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided that:

a. the waste is placed:

i. in containers and the generator complies with the applicable requirements of LAC 33:V.2103, 2105, 2107, 2109.A, 2113, 2115, and Chapter 43.Subchapters Q, R, and V; and/or

ii. in tanks and the generator complies with the applicable requirements of LAC 33:V.Chapter

43.Subchapters I, Q, R, and V, except LAC 33:V.4442 and 4445; and/or

iii. on drip pads and the generator complies with LAC 33:V.2801, 2803, 2805, 2807, 2809, and 2811 and maintains the following records at the facility:

(a). a description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(b). documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

iv. in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T by having placed his Louisiana professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, Louisiana PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(a). a written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90-day limit, and documentation that the procedures are complied with; or

(b). documentation that the unit is emptied at least once every 90 days;

b. such a generator is exempt from all requirements in LAC 33:V.Chapter 43.Subchapters F and G, except for LAC 33:V.4379 and 4385;

c. the date upon which each period of accumulation begins is clearly marked on each container and visible for inspection on each container;

d. while being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

e. the generator complies with the requirements for owners or operators in LAC 33:V.2245, 4319, and Chapter 43.Subchapters B and C.

2. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the permitting requirements as specified in LAC 33:V.Subpart 1 unless he has been granted an extension to the 90-day period. Such an extension may be granted by the administrative authority if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, or uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

~~3. Reserved.~~

4. A generator may accumulate as much as 55 gallons of hazardous waste listed in LAC 33:V.4901.B, C, D, F, or LAC 33:V.4903, or one quart of acutely hazardous waste listed in LAC 33:V.4901.E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with LAC 33:V.1109.E.1 of this Section provided he complies with LAC 33:V.2103, 2105, 2107.A and marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

5. A generator who accumulates either hazardous waste or acutely hazardous waste listed in LAC 33:V.4901.E in excess of the amounts listed in Subparagraph E.4.a of this Section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with Paragraph E.1 of this Section or other applicable provisions of this Chapter.

6. During the three-day period, the generator must continue to comply with LAC 33:V.1109.E.4 of this Section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amounts began accumulating.

7. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

a. the generator complies with the requirements of LAC 33:V.2103, 2105, 2107, 2109.A, and 2115;

b. the generator complies with the requirements of LAC 33:V.4438;

c. the generator complies with the requirements of LAC 33:V.1109.E.1.c and d; the requirements of LAC 33:V.Chapter 43.Subchapter B; and the requirements of LAC 33:V.2245.E;

d. the generator complies with the following requirements:

i. at all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in LAC 33:V.1109.E.7.d.iv. This employee is the emergency coordinator;

ii. the generator must post the following information next to the telephone:

(a). the name and telephone number of the emergency coordinator;

(b). location of fire extinguishers and spill control material, and, if present, fire alarm; and

(c). the telephone number of the fire department, unless the facility has a direct alarm;

iii. the generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

iv. the emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(a). in the event of a fire, call the fire department or attempt to extinguish the fire with a fire extinguisher;

(b). in the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(c). in the event of a fire, explosion, or other release that could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the Office of Environmental Compliance in accordance with LAC 33:I.3923;

e. the quantity of waste accumulated on-site never exceeds 6000 kg;

~~f. any and all fees required to be paid by generators must be paid~~.

8. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month and who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that the generator complies with the requirements of Paragraph E.7 of this Section.

9. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 9, 15-21, 23-29, 31-37, 43, and 51 and the permit requirements of LAC 33:V.Chapters 3-7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the administrative authority if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

10. A generator who generates 1000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

a. the generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 wastestream or otherwise released to the environment prior to its recycling;

b. the F006 waste is legitimately recycled through metals recovery;

c. no more than 20,000 kilograms of F006 waste are accumulated on-site at any one time; and

d. the F006 waste is managed in accordance with the following:

i. the F006 waste is placed:

(a). in containers and the generator complies with the applicable requirements of LAC 33:V.2103, 2105, 2107, 2109.A, 2113, 2115, and Chapter 43.Subchapters Q, R, and V; and/or

(b). in tanks and the generator complies with the applicable requirements of LAC 33:V.Chapter 43. Subchapters I, Q, R, and V, except LAC 33:V.4442 and 4445; and/or

(c). in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T, and has placed its professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(i). a written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(ii). documentation that the unit is emptied at least once every 180 days;

ii. in addition, such a generator is exempt from all the requirements in LAC 33:V.Chapter 43.Subchapters F and G, except for LAC 33:V.4379 and 4385;

iii. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

iv. while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and

v. the generator complies with the requirements for owners or operators in LAC 33:V.Chapter 43.Subchapters B and C, with LAC 33:V.4319, and 2245.E.

11. A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of Subparagraphs E.10.a-d of this Section.

12. A generator accumulating F006 waste in accordance with Paragraphs E.10 and 11 of this Section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 11, 15-21, 23-29, 31-37, and 43 (except LAC 33:V.4301.D and E) and the permit requirements of LAC 33:V.Chapters 3-7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the administrative authority if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the administrative authority on a case-by-case basis.

13. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste, and who later receives that shipment back as a rejected load or residue, may accumulate the returned waste on-site depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator shall:

a. sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

b. sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

E. Waste Minimization Certification. A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the Uniform Hazardous Waste Manifest.

1. "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me that minimizes the present and future threat to human health and the environment."

2. "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005); amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006).

§1111. Recordkeeping and Reporting

A. Recordkeeping

1. A generator must keep a copy of each manifest signed in accordance with LAC 33:V.1107.D.1 for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

2. A generator, must keep a copy of each Annual Report and Exception Report for a period of at least three years from the due date of the report.

3. A generator must keep records of any test results, waste analyses, or other determinations made in accordance with LAC 33:V.1103 for at least three years from the date that the waste was last sent to an on-site or off-site treatment, storage, or disposal facility.

4. The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority.

B. Annual Report

1. A generator who ships any hazardous waste off-site ~~to a treatment, storage, or disposal facility within the United States~~ must prepare and submit a single copy of an annual report to the Office of Environmental Services, Environmental Assistance Division by March 1 of each year. The annual report must be submitted on the form provided by the administrative authority and it must cover generator activities during the previous calendar year. The reports must also include the following information:

a. the EPA identification number, name, and address of the generator;

b. the calendar year covered by the report;

c. the EPA identification number, name, and address of each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

d. the name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility ~~within the United States~~;

e. a description of the waste, the EPA hazardous waste number (see LAC 33:V.4901 or 4903), U.S. Department of Transportation hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility ~~within the United States~~. This information must be listed by EPA identification number of each such off-site facility to which waste was shipped;

f. the certification signed by the generator or his authorized representative;

g. a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

h. a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available.

2. Generators who also dispose, treat, or store hazardous waste on-site shall also submit annual reports to the Office of Environmental Services, Environmental Assistance Division, reporting total quantity, by type, of waste handled, and how that waste was disposed, treated, or stored. Generators must maintain on site a copy of each report submitted to the department ~~for a period of at least~~ three years from the date of the report. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth in ~~LAC 33:V.1113.G~~.

C. Exception Reporting

1. A generator of greater than 1000 kg of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

2. A generator of greater than 1000 kg of hazardous waste in a calendar month must submit an Exception Report to the Office of Environmental Services, Environmental Assistance Division if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

a. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

b. a cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

3. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Office of Environmental Services, Environmental Assistance Division.

> [NOTE: The submission to the administrative authority need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.]

D. Additional Reporting. The administrative authority, as it deems necessary under the Act, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in LAC 33:V.Chapter 49.

E. Special Requirements for Generators of Between 100 and 1000 kg/month. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month is subject only to the following requirements in this Section:

1. Paragraphs A.1, 3, and 4 of this Section, recordkeeping;

2. Paragraph C.3 of this Section, exception reporting; and

3. Subsection D of this Section, additional reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:365 (April 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:710 (May 2001).

§1113. Exports of Hazardous Waste

A. Applicability. Any person who exports hazardous waste to a foreign country, from a point of departure in the state of Louisiana, must comply with the requirements of this Chapter and with the special requirements of LAC 33:V.1113. LAC 33:V.1113 establishes requirements applicable to exports of hazardous waste. A primary exporter of hazardous waste must comply with the special requirements of LAC 33:V.1113, and a transporter who transports hazardous waste for export must comply with applicable requirements of LAC 33:V.Chapter 13.

B. Reserved.

C. General Requirements. Exports of hazardous wastes are prohibited except in compliance with the applicable requirements of LAC 33:V.1113 and LAC 33:V.Chapter 13. Exports of hazardous waste are prohibited unless:

1. notification in accordance with LAC 33:V.1113.D has been provided;

2. the appropriate authority in the receiving country has consented to accept the hazardous waste;

3. a copy of the EPA Acknowledgment of Consent for the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water [bulk shipment]);

4. the hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA Acknowledgement of Consent.

D. Notification of Intent to Export

1. A primary exporter of hazardous waste must notify the United States Environmental Protection Agency of an intended export before such waste is scheduled to leave the United States. A complete notification should be submitted 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the primary exporter, and include the following information:

a. name, mailing address, telephone number, and EPA ID number of the primary exporter;

b. by consignee, for each hazardous waste type:

i. a description of the hazardous waste and the EPA hazardous waste number (LAC 33:V.4901 and 4903), U.S. Department of Transportation proper shipping name, hazard class, and ID number for each hazardous waste as identified in 49 CFR Part 171-177;

ii. the estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;

iii. the estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

iv. all points of entry to and departure from each foreign country through which the hazardous waste will pass;

v. a description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle [air, highway, rail, water, etc.], type[s] of container [drums, boxes, tanks, etc.]);

vi. a description of the manner in which the hazardous waste will be treated, stored, or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);

vii. the name and site address of the consignee and any alternate consignee; and

viii. the name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there.

2. Notification shall be sent to the Office of Environmental Services, Environmental Assistance Division with "Attention: Notification to Export" prominently displayed on the front of the envelope.

> [NOTE: This does not relieve the regulated community from the requirement of submitting notification to the Office of Waste Programs Enforcement, RCRA Enforcement Division (OS-520), EPA, as required by 40 CFR 262.53(b).]

3. Except for changes to the telephone number required by Subparagraph D.1.a of this Section, changes to the information required by Clause D.1.b.v of this Section, and decreases in the quantity indicated pursuant to Clause D.1.b.iii of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter must provide the United States Environmental Protection Agency with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to Clause D.1.b.viii of this Section and in the ports of entry to and departure from transit countries pursuant to Clause D.1.b.iv of this Section) has been obtained and the primary exporter received an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes.

4. Upon request by the United States Environmental Protection Agency, a primary exporter shall furnish to the United States Environmental Protection Agency any additional information which a receiving country requests in order to respond to a notification.

5. The administrative authority will provide a complete notification to the receiving country and any transit countries. A notification is complete when the administrative authority receives a notification which the administrative authority determines satisfies the requirements of LAC 33:V.1113.D.1. Where a claim of confidentiality is asserted with respect to any notification information required by LAC 33:V.1113.D.1, the administrative authority may find the notification not complete until any such claim is resolved in accordance with LAC 33:I.Chapter 5.

6. Where the receiving country consents to the receipt of the hazardous waste, the administrative authority will forward an EPA Acknowledgement of Consent to the primary exporter for purposes of LAC 33:V.1113.E.8. Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, the administrative authority will notify the primary exporter in writing. The EPA will also notify the primary exporter of any responses from transit countries.

E. Special Manifest Requirements. A primary exporter must comply with manifest requirements of LAC 33:V.1107, except for the following.

1. In lieu of the name, site address, and EPA ID number of the designated permitted facility, the primary

exporter must enter the name and site address of the consignee.

2. In lieu of the name, site address, and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee.

3. In the International Shipments block, the primary exporter shall check the export box and enter the point of exit (city and state) from the United States.

4. The following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA Acknowledgment of Consent."

5. The primary exporter shall obtain the manifest form from any source that is registered with the US EPA as a supplier of manifests.

6. The primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies between the manifest and the shipment (as defined in LAC 33:V.907.A). A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.

7. In lieu of the requirements of LAC 33:V.1107.A.3, where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

a. renotify the United States Environmental Protection Agency of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with LAC 33:V.1113.D.3 and obtain an EPA Acknowledgment of Consent prior to delivery; or

b. instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

c. instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.

8. The primary exporter must attach a copy of the EPA Acknowledgement of Consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA Acknowledgment of Consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA Acknowledgment of Consent to the shipping paper.

9. The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with LAC 33:V.1307.G.4.

F. Exception Reports. In lieu of the requirements of LAC 33:V.1111.C, a primary exporter must file an Exception Report with the United States Environmental Protection Agency, if:

1. he has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter;

2. within 90 days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received; or

3. the waste is returned to the United States.

G. Annual Reports

1. Primary exporters of hazardous waste shall file with the United States Environmental Protection Agency no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports shall include the following:

a. the EPA identification number, name, and mailing and site address of the exporter;

b. the calendar year covered by the report;

c. the name and site address of each consignee;

d. by consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from LAC 33:V.4901 or 4903), U.S. Department of Transportation hazard class, the name and US EPA ID number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;

e. except for hazardous waste produced by exporters of greater than 100 kg, but less than 1000 kg, in a calendar month, unless provided in accordance with LAC 33:V.1111.B in even numbered years:

i. a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

ii. a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984;

f. a certification signed by the primary exporter which states:

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

2. Reports shall be sent to the administrative authority of the Louisiana Department of Environmental Quality.

> [NOTE: This does not relieve the regulated community from the requirement of submitting annual reports in accordance

with 40 CFR 262.56 to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A) Environmental Protection Agency, 1200 Pennsylvania Ave, Washington, DC 20460.]

H. Recordkeeping

1. For all exports a primary exporter must:

a. keep a copy of each notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

b. keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

c. keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and

d. keep a copy of each annual report for a period of at least three years from the due date of the report.

2. The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the United States Environmental Protection Agency.

I. International Agreements

1. Any person who exports or imports hazardous waste subject to manifest requirements of this Chapter, or subject to the universal waste management standards of LAC 33:V.Chapter 38, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined in LAC 33:V.1113.I.1.a, for purposes of recovery is subject to Subchapter B of this Section. The requirements of this Section and LAC 33:V.1123 do not apply.

a. For the purposes of these regulations the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

b. For the purposes of these regulations, Canada and Mexico are considered OECD member countries only for the purpose of transit.

2. Any person who exports hazardous waste to or imports hazardous waste from a designated OECD member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of this Section and LAC 33:V.1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006).

§1121. Spills

A. Any spilled material or material trapped in sumps that is a hazardous waste or that will be disposed of as a hazardous waste must be cleaned up in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984).

§1122. Imports of Foreign Hazardous Waste

A. Any person who imports hazardous waste from a foreign country into the state of Louisiana must comply with this Chapter and the special requirements of LAC 33:V.1123.

B. When importing hazardous waste from a foreign country into the state of Louisiana, a person must meet all the requirements of LAC 33:V.1107 for the manifest except that:

1. the name and address of the foreign generator and the importer's name, address, and EPA identification number must replace the generator's name, address, and EPA identification number;

2. the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter to replace the generator's signature on the certification statement;

3. in the comment section (Section J) of the manifest form, the importer must indicate the name of any transit countries with the corresponding ports and dates of entry and departure through which each waste type passed and the nature of its handling while there, the point of entry and the date on which the waste entered the United States and the date on which the Importation of Hazardous Waste Notification Form (HW-2) was mailed to the administrative authority; and

4. a copy of the Importation of Hazardous Waste Notification Form must accompany the manifest form.

C. A person who imports hazardous waste shall obtain a manifest form from any source that is registered with the US EPA as a supplier of manifests.

1. In the International Shipments block, the importer shall check the import box and enter the point of entry (city and state) into the United States.

2. The importer shall provide the transporter with an additional copy of the manifest to be submitted by the ~~receiving facility to the US EPA.~~

~~3. If a waste is hazardous under Subparagraph I.1.a of~~ this Section and it does not appear on either the amber or red list, it is subject to red-list requirements.

4. The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR ~~26:2471 (November 2000), LR 27:293 (March 2001)~~.

§1199. Appendix A—Uniform Hazardous Waste Manifest and Instructions (DEQ Form HW-3 and Its Instructions)

Read all instructions before completing DEQ Form HW-3. This form is available from the Office of Environmental Services, Environmental Assistance Division and has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used, press down hard. State regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to use this form (HW-3) and, if necessary, the continuation sheet for both interstate and intrastate transportation. Federal and state regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to complete the following information.

I. DEQ Form HW-3

A. Generators

Item 1. Generator's U.S. EPA ID Number—Manifest Document Number

Enter the generator's U.S. EPA 12-digit identification number and the unique five digit number assigned to this manifest (e.g., 00001) by the generator.

Item 2. Page 1 of ____

Enter the total number of pages used to complete this manifest, i.e., the first page (HW-3) plus the number of continuation sheets, if any.

Item 3. Generator's Name and Mailing Address

Enter the name and mailing address of the generator. The address should be the location that will manage the returned manifest forms.

Item 4. Generator's Phone Number

Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

Item 5. Transporter 1 Company Name

Enter the company name of the first transporter who will transport the waste.

Item 6. U.S. EPA ID Number

Enter the U.S. EPA 12-digit identification number of the first transporter identified in Item 5.

Item 7. Transporter 2 Company Name

If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a continuation sheet(s) and list the transporters in the order they will be transporting the waste.

Item 8. U.S. EPA ID Number

If applicable, enter the U.S. EPA 12-digit identification number of the second transporter identified in Item 7.

[NOTE: If more than two transporters are used, enter each additional transporter's company name and U.S. EPA 12-digit identification number in Items 24-27 on the continuation sheet. Each continuation sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.]

Item 9. Designated Facility Name and Site Address

Enter the company name and site address of the facility designated to receive the waste listed on this manifest. The address must be the site address, which may differ from the company mailing address.

Item 10. U.S. EPA ID Number

Enter the U.S. EPA 12-digit identification number of the designated facility identified in Item 9.

Item 11. U.S. DOT Description [Including Proper Shipping Name, Hazard Class, and ID Number (UN/NA)]

Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste as identified in 49 CFR 171-177.

[NOTE: If additional space is needed for waste descriptions, enter these additional descriptions in Item 28 on the continuation sheet.]

Item 12. Containers (No. and Type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I. Types of Containers

Abbreviation	Type of Container
DM	Metal drums, barrels, kegs
DW	Wooden drums, barrels, kegs
DF	Fiberboard or plastic drums, barrels, kegs
TP	Tanks portable
TT	Cargo tanks (tank trucks)
TC	Tank cars
DT	Dump truck
CY	Cylinders
CM	Metal boxes, cartons, cases (including roll-offs)
CW	Wooden boxes, cartons, cases
CF	Fiber or plastic boxes, cartons, cases
BA	Burlap, cloth, paper, or plastic bags

Item 13. Total Quantity

Enter the total quantity of waste described on each line.

Item 14. Unit (Wt./Vol.)

Enter the appropriate abbreviation from Table II (below) for the unit of measure.

Table II–Units of Measure	
Abbreviation	**Unit of Measure**
G	Gallons (liquids only)
P	Pounds
T	Tons (2000 lbs)
Y	Cubic yards
L	Liters (liquids only)
K	Kilograms
M	Metric tons (1000 kg)
N	Cubic meters

Item 15. Special Handling Instructions and Additional Information

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or bill of lading information. States may not require additional, new, or different information in this space. For international shipments, generators must enter in this space the point of departure (city and state) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

Item 16. Generator's Certification

The generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below.

Primary exporters shipping hazardous wastes to a facility located outside of the United States must add to the end of the first sentence of the certification the following words "and conforms to the terms of the EPA Acknowledgment of Consent to the shipment." In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under Section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements.

Generators may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.

[NOTE: All of the above information except the handwritten signature required in Item 16 may be preprinted.]

B. Transporters

Item 17. Transporter 1 Acknowledgement of Receipt of Materials

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 18. Transporter 2 Acknowledgement of Receipt of Materials

Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

[NOTE: International Shipments–Transporter Responsibilities.
Exports: Transporters must sign and enter the date the waste left the United States in Item 15.
Imports: Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must, upon entry, be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (LAC 33:V.1301.E).]

C. Owners and Operators of Treatment, Storage, or Disposal Facilities

Item 19. Discrepancy Indication Space

The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the manifest and the waste actually received at the facility. Owners and operators of facilities located in unauthorized states (i.e., the U.S. EPA administers the hazardous waste management program) who cannot resolve significant discrepancies within 15 days of receiving the waste must submit to their regional administrator (see list below) a letter with a copy of the manifest at issue describing the discrepancy and attempts to reconcile it (LAC 33:V.907 and 4355). Owners and operators of facilities located in authorized states (i.e., those states that have received authorization from the U.S. EPA to administer the hazardous waste program) should contact their state agency for information on state discrepancy report requirements.

EPA Regional Administrators
Regional Administrator, U.S. EPA Region I, J.F. Kennedy Federal Building, Boston, MA 02203
Regional Administrator, U.S. EPA Region II, 26 Federal Plaza, New York, NY 10278
Regional Administrator, U.S. EPA Region III, 6th and Walnut Streets, Philadelphia, PA 19106
Regional Administrator, U.S. EPA Region IV, 345 Courtland Street, NE, Atlanta, GA 30365
Regional Administrator, U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604
Regional Administrator, U.S. EPA Region VI, 1201 Elm Street, Dallas, TX 75270
Regional Administrator, U.S. EPA Region VII, 324 East 11th Street, Kansas City, MO 64106
Regional Administrator, U.S. EPA Region VIII, 1860 Lincoln Street, Denver, CO 80295

Regional Administrator, U.S. EPA Region IX, 215 Freemont Street, San Francisco, CA 94105
Regional Administrator, U.S. EPA Region X, 1200 Sixth Avenue, Seattle, WA 98101

Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by this Manifest Except as Noted in Item 19

Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt. Generators must also complete items A-K (the shaded portions of the manifest).

II. Instructions—Continuation Sheet

Read all instructions before completing this form. This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used, press down hard. This form must be used as a continuation sheet to DEQ Form HW-3 if:

more than two transporters are to be used to transport the waste; or

more space is required for the U.S. DOT description and related information in Item 11 of DEQ Form HW-3.

Federal and state regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use DEQ Form HW-3 and, if necessary, this continuation sheet for both inter- and intrastate transportation.

A. Generators

Item 21. Generator's U.S. EPA ID Number—Manifest Document Number

Enter the generator's U.S. EPA 12-digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in Item 1 on the first page of the manifest.

Item 22. Page ___

Enter the page number of this continuation sheet.

Item 23. Generator's Name

Enter the generator's name as it appears in Item 3 on the first page of the manifest.

Item 24. TransporterCompany Name

If additional transporters are used to transport the waste described on this manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 25. U.S. EPA ID Number

Enter the U.S. EPA 12-digit identification number of the transporter described in Item 24.

Item 26. Transporter—Company Name

If additional transporters are used to transport the waste described on this manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "transporter" the order of the transporter. For example, Transporter 4 Company Name. Each continuation sheet will record the names of two additional transporters.

Item 27. U.S. EPA ID Number

Enter the U.S. EPA 12-digit identification number of the transporter described in Item 26.

Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA). Refer to Item 11.

Item 29. Containers (No. and Type). Refer to Item 12.

Item 30. Total Quantity. Refer to Item 13.

Item 31. Unit (Wt./Vol.). Refer to Item 14.

Item 32. Special Handling Instructions

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or bill of lading information.

B. Transporters

Item 33. Transporter—Acknowledgement of Receipt of Materials

Enter the same number of the transporter as identified in Item 24. Enter also the name of the person accepting the waste on behalf of the transporter (Company Name) identified in Item 24. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

Item 34. Transporter—Acknowledgement of Receipt of Materials

Enter the same number of the transporter as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

C. Owners And Operators of Treatment, Storage, or Disposal Facilities

Item 35. Discrepancy Indication Space. Refer to Item 19.

D. Generators must also complete items L-R (the shaded portions of the continuation sheet).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:42 (January 2001).