Rules

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer
(LAC 7:XXI.1501-1523)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner adopts the permanent regulations regulating Alternative Livestock—Imported Exotic Deer and Imported Antelope, Elk and Farm Raised White-Tailed Deer. These rules comply with and are enabled by R.S. 3:3101 et seq.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

§1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998).

§1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein.

Alternative Livestock—any imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

Canned Hunt—harvesting farm-raised alternative livestock in a manner that is similar to but substantially inconsistent with those methods and techniques generally employed in the sport known as hunting and where those inconsistencies result in the taking of the farm raised alternative livestock being a certainty.

Commercial Purpose—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

Commissioner—the Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Elk—any animal of the species and genus *cervus canadensis*.

Farm—any area of land or water, regardless of size, used to breed, raise or keep farm-raised alternative livestock for a commercial purpose, including but not limited to breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of the alternative livestock or other animals.

Farm-Raised White-Tailed Deer—any animal of species and genus *odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit where the primary purpose of the same is the exhibition of white–tailed deer and/or other animals.

Harvesting—the attempt or act of shooting, wounding or killing farm-raised alternative livestock within the enclosure system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

Imported Exotic Antelope—any animal of the family *Bovidae* which are not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

Imported Exotic Deer—any animal of the family *Cervidae* which are not indigenous to North America, including but not limited to Red Deer, Seika Deer and Fallow Deer.

LDWF—the Louisiana Department of Wildlife and Fisheries.

Person—any individual, corporation, partnership or other legal entity.

Quarantine—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of contagious disease.

White-Tailed Deer—any animal of the species and genus *odociolus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998).

§1505. Issuance of Farm-Raising License; Renewals

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license, from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification, may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998).

§1507. Fees

A. Farm-Raising License Fees

1. The fee for a new farm-raising license shall be $50.

2. The farm-raising license renewal fee shall be $50.

3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.

4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

B. Harvesting Permit Fee

1. Each individual intending to harvest or kill any farm–raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from the department or LDWF, before harvesting or killing any farm–raised alternative livestock, except as provided by §1507.B.3.

2. The fee due to the department for each harvesting permit shall be $50 which fee shall be collected by the department or ministerially collected for the department by LDWF. Upon collection by LDWF, LDWF shall promptly remit the fee to the department retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state or federally approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of $5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state or federally approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

4. No harvesting shall occur and no harvesting permit shall be issued if the area of the relevant farm within the enclosure system is less than 300 acres or more 2,500 acres in size unless good cause is shown by the applicant to the commissioner why the issuance of a harvesting permit for an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998).

§1509. Farm-Raising Licensing Requirements

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position, (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right of way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tail deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of eight feet;

b. enclose an area of not less than 300 acres nor more than 2,500 acres to be eligible for harvesting as provided by §1507.B of these rules and regulations. Applicants seeking eligibility to harvest on farms with enclosures of less than 300 acres or more that 2,500 acres must demonstrate good cause why an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12½;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department, however, welded wire fences shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but, such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

6. not be subject to an objection for good cause related to wildlife made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998).

§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of

the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998).

§1513. Obligations of the Farm-Raising Licensee

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm–raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof, shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state or federally approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

B. Record Keeping

1. Each licensee shall maintain records, for not less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. name and address of the person to whom each farm-raised alternative livestock, or any carcass, or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence and nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm not less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be

concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify, orally and in writing, the department and LDWF of the breach or opening and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee upon cessation of operations, or upon revocation or nonrenewal of the farm-raising license shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to inspect the farm at any time and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1674 (September 1998).

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state or federally approved slaughter facility, shall:

1. meet the general health requirements promulgated in LAC 7:XXI.107;

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock six months of age and older entering Louisiana, except those being transported directly to a state or federally approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis free herd by the state of origin;

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service;

5. prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

B. Any alternative livestock which has been exposed to brucellosis or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinary Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998).

§1517. Harvesting or Killing of Farm-Raised Alternative Livestock

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour

after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from the department or LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by the department or LDWF shall be valid only for the time periods stated on the face of the permit.

2. The department may issue or LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicants right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998).

§1519. Prohibitions

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state or federally approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Canned hunts of farm-raised alternative livestock are prohibited.

F. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

§1521. Enforcement

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escapes from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

§1523. Penalties

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department

and any quarantine, a fine for up to $100 per violation for each violation such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

Bob Odom
Commissioner

9809#044

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Brucellosis Vaccination
(LAC 7:XXI.101, 305, 307, 309, and 311)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner amends regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 1. General Provisions
§101. Definitions

* * *

Brucellosis Test Eligible—all cattle which are one year of age and older except:

1. steers;
2. spayed heifers;
3. dairy cattle that are official brucellosis calfhood vaccinates less than 20 months of age which are not parturient or preparturient (springers);
4. beef cattle that are official brucellosis calfhood vaccinates less than 24 months of age which are not parturient or preparturient (springers).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 12:289 (May 1980), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:129 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998).

Chapter 3. Cattle
§305. Brucellosis Vaccination and Fee

A. - C. ...

D. All heifer calves between 4 and 12 months of age not vaccinated for brucellosis which are sold through an approved livestock auction market and are to remain in Louisiana more than 360 days must be vaccinated with USDA approved brucellosis vaccine prior to being shipped from said approved livestock auction market. There shall be a fee to be paid by the buyer of $2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the buyer by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later that the tenth day of the month following the month in which the fee was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998).

§307. Livestock Auction Market Requirements

A. - A.1.a. ...

b.i. All cattle that are offered for sale through Louisiana livestock auction markets, which are brucellosis test eligible, must be identified by an official back tag; those animals two years of age or older, shall have this official back tag placed immediately behind the shoulder of the animal. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. The check-in slip shall be made available to the Livestock Sanitary Board's official representative, before the animals can be tested for brucellosis.

ii. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that are not the name and address of the owner consigning the livestock to the auction market.

c.i. - iv. ...

d. All heifer calves, between 4 and 12 months of age not vaccinated for brucellosis, which are to remain in Louisiana more than 30 days must be vaccinated with USDA approved Brucellosis vaccine prior to being shipped from an

approved livestock auction market. The responsibility for the brucellosis vaccination of those heifer calves sold through a Louisiana livestock auction market and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock auction market through which said heifer calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

d.i. - g.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), amended LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998).

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of §115 and the following specific requirements:

A. - 2.b.ii. ...

3.a. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold if they are to remain in Louisiana more than 30 days. The responsibility for the brucellosis calfhood vaccination of those heifer calves sold by a livestock dealer and remaining in Louisiana more than 30 days after the sale shall be placed upon the buyer and the livestock dealer through which said calves are sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

A.3.b. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), LR 11:651 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§311. Governing the Sale of Purchases, within Louisiana, of all Livestock not Governed by Other Regulations (Brucellosis Requirements)

A. ...

1. Heifer calves 4 to 12 months of age, which are to remain in Louisiana more than 30 days after being sold must be vaccinated with USDA approved brucellosis vaccine prior to being sold.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:238 (March 1985), LR 11:615 (June 1985), amended 12:502 (August 1986), LR 13:559 (October 1987), LR 17:31 (January 1991), LR 18:837 (August 1992), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

Bob Odom
Commissioner

9809#046

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Forestry Productivity Program
(LAC 7:XXXIX.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner adopts regulations governing the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997. These rules comply with and are enabled by R.S. 3:3101 et seq.

No preamble concerning the proposed rules is available.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry

Chapter 13. Forestry Productivity Program

§1301. Authority

The Commissioner of Agriculture and Forestry adopts the following regulations under the authority of R.S. 3:4413 for the purpose of implementing the provisions of R.S. 3:4410-4416, the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§1303. Definitions

The terms defined in this Section have the meanings given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

Approved Forestry Practice—a forestry practice approved by the Department, for which the landowner is authorized to receive reimbursement under the cooperative agreement.

Commissioner—commissioner of the Louisiana Department of Agriculture and Forestry.

Cooperative Agreement—the written and signed contract including all other documents made a part of the agreement or incorporated by reference between the Department and a landowner, together with any written and signed amendments or addendums to the original cooperative agreement, establishing the terms of the agreement between the Department and the landowner under the Louisiana Forestry Productivity Program.

Department—the Louisiana Department of Agriculture and Forestry, Office of Forestry.

Forestry Practice—any procedure or method used in the establishment and management of timber species.

Fund—the Forestry Productivity Fund established at R.S. 3:4411.B.

Landowner—any individual, corporation, partnership, association, trust, joint venture, other legal entity or combination thereof who owns five contiguous acres or more of land located in Louisiana. For purposes of these regulations a joint ownership of property is considered to be one landowner separate and apart from the individuals or entities who own the property jointly.

Program—the Forestry Productivity Program authorized by R.S. 3:4410-4416.

State—collectively, the State of Louisiana, the Department of Agriculture and Forestry, the State Forestry Commission and the Commissioner of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§1305. Application and Fee

A. Any landowner desiring to apply for participation in this program must first submit an application to the Department on a form supplied by the Department.

B. Each landowner submitting an application must also submit a $25 nonrefundable application fee at the time the landowner's application is initially submitted to the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998).

§1307. Extent of State Participation

A. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value of ten thousand dollars during a fiscal year.

B. The state's participation under any cooperative agreement shall be limited to either or both of the following types of assistance:

1. a direct grant, for the purpose of assisting the landowner in implementing an approved forestry practice authorized by a cooperative agreement through the use of the landowner's resources or through the landowner's contacts with private firms; or

2. utilization of the state's personnel, equipment, or materials to implement an approved forestry practice authorized by a cooperative agreement, if private sector services are unavailable.

C. A direct grant shall not exceed 50 percent of the cost of implementing the cooperative agreement or the maximum cost share rates established by these regulations, whichever is less. In the event that state personnel, equipment or materials are utilized to implement an approved forestry practice the landowner shall be invoiced by the Department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

D. The maximum cost share rates are established as follows:

MAXIMUM COST-SHARE RATES—50 percent of the cost not to exceed the following rates.		
FPP1	**ARTIFICIAL REGENERATION COMPONENT**	
Code	(Tree Planting)	Maximum C/S Rate
01	Pine (loblolly or slash, planting and seedling cost)	$40/acre
02	Hardwood (planting and seedling cost)	$70/acre
03	Labor Only (pine or hardwood)	$23/acre
04	Longleaf Pine (planting and seedling cost	$65/acre
	Direct Seeding	
05	Pine (seed and labor cost)	$12/acre
06	Hardwood (seed and labor cost)	$28/acre
	Site Preparation	
11	Light (discing, mowing, or sub-soiling	$10/acre
12	Burn Only (cut-over areas or agricultural lands)	$8/acre
13	Chemical and Burn (aerial, ground, or injection)	$60/acre
14	Mechanical and Burn	$60/acre
15	Post-site Preparation (aerial, ground, or injection)	$45/acre
FPP2	**SITE PREPARATION FOR NATURAL REGENERATION**	
21	Burning Only	$8/acre
22	Chemical or Mechanical	$45/acre
23	Chemical and Burning	$60/acre
FPP3	**CONTROL OF COMPETING VEGETATION**	
31	Chemical Release (aerial, ground, or injection)	$45/acre
32	Precommercial Thinning (mechanical)	$41/acre
33	Burning Only (longleaf pine)	$4/acre

SITE PREPARATION FOR NATURAL REGENERATION		
	Burning Only	$8/acre
	Chemical or Mechanical	$45/acre
	Chemical and Burning	$60/acre

CONTROL OF COMPETING VEGETATION		
	Chemical Release (aerial, ground, or injection)	$45/acre
	Precommercial Thinning (mechanical)	$41/acre
	Burning Only (longleaf pine)	$4/acre

E. The commissioner, with the advice of the State Forester's Forestry Planning Committee, shall review annually the cost share rates established in this Section and determine if any of the rates require adjustment.

F. The state shall not provide reimbursement under this program for any forestry practice implemented by a landowner unless a cooperative agreement is on file with the department prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998).

§1309. Land and Landowners Eligibility, Exclusions and Limitations

A. Any landowner owning five contiguous acres or more in Louisiana suitable for growing a timber species approved by the Department is eligible for participation in this program unless excluded by these regulations or otherwise excluded by law.

B. The following landowners are not eligible to participate in this program:

1. landowners owning less than five contiguous acres of land;

2. public utilities companies;

3. landowners engaged in the manufacturing or production of forestry products;

4. any federal, state, or local government agency or political subdivision;

5. corporations with publicly traded stock;

6. any landowner with joint ownership in an eligible tract of land unless all joint owners and usufructuaries or duly authorized agent or agents, if any, sign the cooperative agreement;

7. any entity, other than a natural person, including but not limited to trusts, joint ventures, partnership, limited liability companies or successions, which have a set legal existence of less than ten years unless all persons or legal entities who would, by law, be entitled to receive title to the land upon dissolution of the entity sign the cooperative agreement.

C. The following lands are not eligible to participate in this program:

1. any tract of land that is less than five contiguous acres;

2. lands owned by any landowner not eligible for participation;

3. land subject, at the time of application, to a reforestation contract with any federal, state or local government agency or under a private reforestation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:44413 and R.S. 3:4414.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1311. Obligations of the Landowner

A. The landowner shall abide by the provision of the law establishing this program, these regulations, and the cooperative agreement.

B. The landowner shall maintain the land subject to the cooperative agreement in forestry usage in accordance with the cooperative agreement for a period of at least ten years from the date the Department issues a certification of performance of the terms of the cooperative agreement.

C. The landowner shall not sell, convey, or otherwise lose control of land subject to a cooperative agreement under this program without placing a provision in the act transferring the land requiring the new landowner to assume responsibility for abiding by the terms of the cooperative agreement and to maintain the approved forestry practices for the life of the cooperative agreement.

D. The landowner shall reimburse the department the cost of the state's involvement in the cooperative agreement plus court costs and reasonable attorney fees if the landowner violates the law establishing the program, these regulations or the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1313. Approved Forestry Practices

Forestry practices approved by the commissioner for purposes of this program are:

1. site preparation for reforestation by natural or artificial means;

2. planting of seeds or seedlings;

3. timber stand improvement through removal of undesirable vegetation or trees; and

4. post planting procedures that to improve the growth, productivity, or viability of trees planted under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1315. Forestry Practice Implementation Period

Each landowner shall have eighteen months to complete the forestry practice or practices authorized by the cooperative agreement. A landowner may apply, in writing, for an extension of up to six months in which to complete the practice or practices. The department may grant the extension if it determines that the practice or practices were not completed as a result of circumstances beyond the landowner's control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1317. Payment by the Department

A. Payment by the department to any landowner under any cooperative agreement entered into under this program shall be made by the department only out of monies that are in the fund at the time payment is due.

B. The department shall make payment under any cooperative agreement only when:

1. the landowner has completed, to the department's satisfaction, all forestry practices stated in the cooperative agreement;

2. the landowner has complied with all other terms of the cooperative agreement;

3. the landowner has submitted invoices paid by him for all forestry practices authorized by the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1319. Repayment by Landowners to the Department

A. The Department may seek repayment from a landowner when:

1. the landowner has, for any reason, received monies over and above the amount allowed by law or these regulations;

2. the landowner has failed to maintain the approved forestry practices for the life of the cooperative agreement;

3. the landowner has failed to abide by the terms of the cooperative agreement;

4. the landowner sells, conveys, or otherwise loses control of land subject to a cooperative agreement under this program and the new landowner does not abide by the terms of the cooperative agreement or does not maintain the approved forestry practices for the life of the cooperative agreement;

5. the department determines that a landowner has committed program violations or abuses that require repayment from the landowner or has violated any of the provisions of §1311 of these regulations.

B. A landowner may appeal a department's demand for repayment of monies paid the landowner under this program by filing with the Commissioner a written request for an administrative review by him of the department's demand for repayment. The landowner's request for an administrative review must be postmarked within 15 days after the landowner receives the department's demand for repayment. A copy of the request must also be sent to the state forester who, upon receipt of the landowner's request shall forward all of the department's pertinent documentation to the commissioner with a copy to the landowner.

C. The landowner's request for an administrative adjudicatory hearing shall contain the following information:

1. the name, address and telephone number of the landowner and of any party that the landowner believes may be adversely affected by the commissioner's determination;

2. a statement of the facts known to the landowner and the reasons why he believes that the department is not entitled to repayment; and

3. a copy of all invoices and documents relating to the cooperative agreement.

D. The commissioner, upon receipt of all documentation from the department and the landowner shall either review the information and make a decision or appoint a hearing officer to conduct an administrative adjudicatory hearing and submit a report and recommendation to the Commissioner for a final decision. Any administrative adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998).

§1321. Competitive Research and Cooperative Extension Grants

A. A competitive grant process is hereby created, subject to the following provisions, in order to provide for research and cooperative extension activities to enhance reforestation, increase productivity; and to further knowledge regarding the proper application of forestry principles.

B. Each fiscal year the commissioner shall set aside a portion of the monies in the fund to be used for competitive grants.

C. All competitive grants shall be awarded on a matching fund basis, with no more than 50 percent of the cost of the program being funded to be paid by the fund.

D. No grant shall be awarded under this program for any purposes other than research or cooperative extension activities intended to enhance reforestation, increase productivity, or to further knowledge regarding the proper application of forestry principles.

E. All grant proposals must be submitted, in writing, to the department no later than May 1 of each year. Each grant proposal must state in detail the purpose, goals, procedures, completion date and budget of the project as well as any additional information requested by the department.

F. The commissioner may award grants, no later than July 1 of each year, if the commission determines that an award of a grant will fulfill the purposes of the program. Upon the award of a grant the department and the grant recipient will enter into a written cooperative agreement detailing the terms and conditions of the grant.

G. Any grant that is awarded for a project that extends beyond the fiscal year in which the initial grant award is made may be renewed for the following fiscal year but any payment of monies by the department under the extended grant shall be subject to the availability of grant money in the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4416.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998).

Bob Odom
Commissioner

9809#045

RULE

Department of Economic Development
Racing Commission

Racing a Horse Under Investigation
(LAC 35:I.1733)

The Racing Commission hereby amends LAC 35:I.1733 in accordance with R.S. 4:141 et seq., particulary R.S. 4:142 and R.S. 4:148 and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 17. Corrupt and Prohibited Practices
§1733. Racing a Horse Under Investigation

A. When a report as described in §1729 is received from the state chemist, the state steward shall immediately advise the trainer of his rights to have the "split" portion of the sample tested at his expense. The stable shall remain in good standing pending a ruling by the stewards, which shall not be made until the split portion of the original sample is confirmed positive by a laboratory chosen by the trainer from a list of referee laboratories. The horsemen's bookkeeper shall not release any affected purse monies until the results of the split portion of the sample are received by the commission. The horse allegedly to have been administered any such drug or substance shall not be allowed to enter in a race during the investigation, and until the completion of the stewards' hearing.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:287 (August 1978), amended LR 7:262 (May 1981), LR 9:755 (November 1983), amended by the Department of Economic Development, Racing Commission, LR 18:367 (April 1992), LR 23:951 (August 1997), LR 24:1682 (September 1998).

Paul D. Burgess
Executive Director

9809#012

RULE

Department of Economic Development
Used Motor Vehicles and Parts Commission

Meetings and Licensure
(LAC 46:V.2701, 2703, 2901, 2905, and 3303)
(LAC 46:V.2801)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes, Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has amended sections of existing rules and regulations and repealed LAC 46:V.2801.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 27. The Used Motor Vehicle and Parts Commission
§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the second Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 P.M. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998).

§2703. Quorum of the Commission

Seven members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998).

§2801. Identification Cards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:415 (April 1994), repealed LR 24:1682 (September 1998).

§2901. Dealers to be Licensed

A. ...

B. Dealers in new and used motor homes, new and used semitrailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, new and used travel trailers, new and used buses, new and used fire trucks, new and used wreckers, new and used boats, new and used boat motors, daily rentals not of the current year or immediate prior year models that have been titled previously to an ultimate purchaser, manufacturers and distributors and other types subject to Certificate of Title Law and Title 32 and/or Vehicle Registration Tax under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Motor Vehicle Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. ...

D. Automotive dismantlers and parts recyclers, motor vehicle crushers, motor vehicle scrap dealers, motor vehicle shredders.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773(A).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998).

§2905. Qualifications and Eligibility for Licensure

A. - D. ...

E. Dealers in new and used motor homes, new and used boats, new and new boat motors, new and used motorcycles,

new and used all-terrain vehicles, new and used semi-trailers, new and used recreational trailers, new and used boat trailers, new and used travel trailers, new and used buses, new and used fire trucks, new and used wreckers likewise must meet the above qualifications to be eligible and all these types license numbers will be prefixed by NM, followed by a four digit number then the current year of license (NM-0000-98). Semitrailers are described in the title law as every single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load carrying axles. This includes, of course, recreational trailers, boat trailers and travel trailers, but excludes mobile homes. One license shall be due for new and used operators at the same location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998).

§3303. Qualifications and Eligibility for Licensure

A. - C. ...

D. An automotive dismantler and parts recycler may offer a rebuilt wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as a dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of $10,000.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752-756, R.S. 32:772(E) and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994, repromulgated LR 20:645 (June 1994), LR 24:1683 (September 1998).

John M. Torrance
Executive Director

9809#010

RULE

Board of Elementary and Secondary Education

Bulletin 904—Guidelines for the Submission of a Charter School Proposal (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted Bulletin 904, Guidelines for the Submission of a Charter School Proposal. The bulletin contains regulations and guidelines pertaining to the submission of Type 2 and Type 4 Charter School Proposals. The guidelines describe the educational program; financial component; eligibility criteria; application requirements; and, the application review and approval process. The *Louisiana Administrative Code* will be amended to include LAC 28:I.904 as follows:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§904. Charter Schools

A. Bulletin 904, Guidelines for Submission of a Charter School Proposal, is adopted.

1. This Bulletin contains regulations and guidelines pertaining to the submission of Type 2 and Type 4 charter school proposals. It includes guidelines for describing the educational program and financial component of the proposed charter school. Also included are eligibility criteria, application requirements, and the application review and approval process. These guidelines comply with Louisiana's revised Charter Schools Demonstration Program Law, Act 477 of 1997, which is included in the guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75(C)(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1683 (September 1998).

Copies of the Guidelines for the Submission of a Charter School Proposal, Bulletin 904, may be seen in its entirety at the Office of the State Register, 900 Riverside North, Baton Rouge, or at the office of the State Board of Elementary and Secondary Education, 626 North Fourth Street, Room 104, Baton Rouge, LA.

Weegie Peabody
Executive Director

9809#079

RULE

Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division

Federal Transportation Conformity
(LAC 33:III.1431 and 1434)(AQ173)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.1431 and 1434 (AQ173).

This rule establishes policy, criteria, and procedures for demonstrating and assuring conformity of transportation plans, programs, and projects that are developed, funded, or

approved by the U.S. Department of Transportation and by Metropolitan Planning Organizations under Title 23 U.S.C. or the Federal Transit Act of state or federal air quality implementation plans developed in accordance with section 110 and part D of the Clean Air Act. To be consistent with the federal transportation conformity regulations, LAC 33:III.1431 and 1434 are being amended. The rule amends the interagency consultation process requirements in accordance with the federal transportation conformity rule that was amended August 15, 1997. In addition, the rule amends the public consultation procedures requirements. The federal transportation conformity rule has been amended three times. This rule incorporates the changes. This action is mandated by section 176(c) of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j). Federal requirements for transportation conformity are established in 40 CFR part 63, subpart A and in 40 CFR 51.390. The basis and rationale for this proposed rule are to comply with the federal transportation conformity requirements for states published on August 15, 1997 in 62 FR 43802-43818.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 14. Conformity
Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Laws

§1431. Purpose

The purpose of this regulation is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), the related requirements of 23 U.S.C. 109(j), and regulations under 40 *Code of Federal Regulations* (CFR) part 93, subpart A with respect to the conformity of transportation plans, programs, and projects that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C Chapter 53). This regulation sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to applicable implementation plans developed according to section 110 and part D of the CAA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:1684 (September 1998).

§1434. Consultation

A. Pursuant to 40 CFR 93.105 interagency consultation (federal, state, and local) shall be undertaken before making conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

1. Representatives of the MPOs, DEQ, and the state and local transportation agencies shall collectively undertake an interagency consultation process in accordance with this Section with local or regional representatives of EPA, FHWA, and FTA on the development of the applicable implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under title 23 CFR section 450.314, the transportation plan (TP), the TIP, any revisions to the preceding documents, and associated conformity determinations required by this regulation.

* * *

[See Prior Text in B.2-B.6.c]

d. FHWA—division administrator or designee;

e. FTA—director, Office of Program Development or designee;

f. EPA—regional administrator or designee; and

g. local publicly-owned transit agencies—general manager or designee.

7. Before adoption and approval of conformity analyses prepared for plans, Transportation Improvement Plans (TIPs), and projects, the Metropolitan Planning Organization (MPO) and/or Department of Transportation and Development (DOTD) shall distribute a final draft of the documents, including supporting technical materials, to the consulting agencies for review and comments. Lead agencies shall respond to significant comments made by the consulting agencies on plans, TIPs, projects, or SIPs in writing within 30 working days. Comments and responses to comments shall be distributed for review by all agencies identified in Subsection B.2 of this Section. Following resolution of all significant issues, final documents shall be revised accordingly and submitted to the designated lead agency for formal adoption and approval.

8. Meetings of the group of agencies as a whole (as found in Subsection B.6 of this Section) shall convene for the specific purpose of considering issues with regard to the conformity of TPs, TIPs, and projects with the transportation conformity SIP. The frequency of these meeting shall be determined jointly by the specified transportation and air quality lead agencies. Agencies shall meet on a regular basis, at least quarterly, unless the lead agencies decide there is a need for an earlier meeting or, alternatively, that there is no need for the regularly scheduled meeting. If the comments and issues on draft documents are substantial and warrant a group meeting, the lead agency may schedule a meeting where consultation with all agencies concerned can be accomplished simultaneously for the resolution of comments and issues. Meeting agendas are the responsibility of the designated lead agency.

9. Where TCMs are to be included in applicable SIPs in urbanized nonattainment or maintenance areas, a list of TCMs shall be selected and developed by the MPO in cooperation with other agencies specified in Subsection B.2. This list of TCMs shall be distributed to all cooperating agencies by DEQ after its review and consultation with the MPO. The list of

TCMs shall be made available for inspection or copying for all interested persons and agencies.

* * *

[See Prior Text in C]

1. An interagency consultation process in accordance with Subsection B of this Section involving the MPO, state and local air quality and transportation agencies, EPA, and DOT shall be undertaken for the following:

* * *

[See Prior Text in C.1.a]

b. for the purposes of regional emissions analysis, the MPO shall actively consult with the agencies in Subsection B.2 to determine which minor arterials and other transportation projects should be considered regionally significant projects (in addition to those functionally classified as principle arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel) and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The MPO shall consider the views of each agency that comments or responds in writing prior to any final action on these issues. If the MPO receives no comments within 30 days, the MPO may assume consensus by the agencies specified in Subsection B.2;

c. the MPO shall submit a list of exempt projects to agencies specified in Subsection B.2 of this Section to evaluate whether projects otherwise exempted from meeting the requirements of 40 CFR part 93, subpart A (see sections 93.126 and 127, as incorporated by reference in LAC 33.III.1432) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason. The MPO shall allow 30 days for comments;

d. the MPO and/or DOTD, in consultation with the agencies in Subsection B.2 of this Section, shall make a determination, as required by 40 CFR 93.113(c)(1)(as incorporated by reference in LAC 33:III.1432), whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable implementation plan have been identified and are being overcome and whether state and local agencies with influence over approvals or funding for TCMs are giving highest priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

e. the MPO and/or DOTD, in consultation with the agencies in Subsection B.2 of this Section, shall identify, as required by 40 CFR 93.123(b)(as incorporated by reference in LAC 33:III.1432), projects located at sites in PM_{10} nonattainment areas that have vehicle and roadway emission and dispersion characteristics that are essentially identical to those at sites which have violations verified by monitoring and, therefore, require quantitative PM_{10} hot-spot analysis;

f. the MPO shall notify the agencies specified in Subsection B.2 of this Section of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in 40 CFR 93.126 or 93.127 (as incorporated by reference in LAC 33:III.1432), and allow a 30-day comment period; and

g. DOTD, in consultation with the agencies specified in Subsection B.2 of this Section, shall cooperatively choose the appropriate conformity test(s) and methodologies for use in isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(g)(2)(iii).

2. An interagency consultation process in accordance with Subsection B of this Section involving the MPO and state and local air quality and transportation agencies shall be undertaken for the following:

a. DEQ, in cooperation with the MPO and DOTD, shall evaluate events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104 (as incorporated by reference in LAC 33:III.1432). DEQ may require a new conformity determination in the event of any unforeseen circumstances; and

* * *

[See Prior Text in C.2.b-C.3]

4. The MPO, in accordance with Subsection B of this Section and with the cooperation of DOTD and local transportation agencies and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall coordinate and ensure that plans for construction of regionally significant projects that are not FHWA/FTA projects including projects for which alternate locations, design concept and scope, or the no-build option are still being considered, as well as all those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, are disclosed to the MPO on a regular basis and ensure that any changes to those plans are immediately disclosed. The sponsors of non-FHWA/FTA projects and recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws shall disclose to the MPO on a regular basis significant projects and their status.

5. The MPO, in accordance with Subsections B and C.4 of this Section, and other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws, shall cooperatively assume the location and design concept and scope of projects that are disclosed to the MPO as required by Subsection C.4 of this Section, but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122 (as incorporated by reference in LAC 33:III.1432).

* * *

[See Prior Text in C.6]

7. Within 15 days subsequent to approval and adoption of final documents, including TPs, TIPs, conformity approvals, applicable implementation plans and implementation plan revisions, the lead agency; that is, either DEQ, the MPO or DOTD, shall provide copies of such documents and supporting information to all agencies specified in Subsection B.2 of this Section.

* * *

[See Prior Text in D-D.1]

2. In the event that the MPO or DOTD determines that every effort has been made to address DEQ concerns and no further progress is possible, the MPO or DOTD shall notify

the secretary of DEQ in writing to this effect. This Section of the regulation shall be cited by the MPO or DOTD in any notification of a conflict which may require action by the governor.

* * *

[See Prior Text in D.3-D.4]

E. Public Consultation Procedures. Consistent with the requirements of 23 CFR 450.316(b), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process that provides opportunity for public review and comment. This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all TPs and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.95. In addition, any such agency must specifically address in writing any public comments claiming that known plans for a regionally significant project that is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:1684 (September 1998).

Gus Von Bodungen
Assistant Secretary

9809#018

RULE

Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division

Lead-Based Paint Activities
(LAC 33:III.2801)(AQ140)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2801.B (AQ140).

This rule amends LAC 33:III.2801.B by changing "individuals" to "persons." The department is seeking authorization for its lead program from the federal government. The department believes that making this one word change will make the state's rule consistent with the intent of the federal rule and remove an impediment to authorization of the state's program. The basis and rationale for this rule are to make the state's rule consistent with the intent of the federal rule and clarify an area of concern by the Environmental Protection Agency (EPA) in their review of the state's authorization package, which was submitted to EPA on March 5, 1998.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 28. Lead-Based Paint Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities
§2801. Scope and Applicability

* * *

[See Prior Text in A]

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

* * *

[See Prior Text in C - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and R.S. 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended LR 24:1686 (September 1998).

Gus Von Bodungen
Assistant Secretary

9809#020

RULE

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

RCRA 7 and Land Disposal Restrictions
(LAC 33:V.1, 3, 5, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53)(HW064*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53 (Log Number HW064*).

The regulations in this package are adopted from federal regulations promulgated on or before June 1997, with the exception of Chapter 17, which corresponds with the federal register dated December 8, 1997. This proposed rule is

identical to federal regulations found in 59 FR 62896-62953 (12/6/94); 60 FR 26828-26829 (5/19/95), 50426-50430 (9/29/95), 56952-56954 (11/13/95); 61 FR 4903-4916 (2/9/96), 28508-28510 (6/5/96), 34252-34278 (7/1/96), 59932-59997 (11/25/96); 62 FR 1992-1997 (1/14/97), 32452-32463 (6/13/97), 32974-32980 (6/17/97) for RCRA 7 Authorization and 51 FR 40572 (11/7/86); 52 FR 21010 (6/4/87), 25760 (7/8/87), 41295 (10/27/87); 53 FR 31138 (8/17/88); 54 FR 8264 (2/27/89), 18836 (5/2/89), 26594 (6/23/89), 36967 (9/6/89); 55 FR 22520 (6/1/90), 23935 (6/13/90); 56 FR 3864 (1/31/91), 41164 (8/19/91); 57 FR 8086 (3/6/92), 20766 (5/15/92), 28628 (6/26/92), 37194 (8/18/92), 47772 (10/20/92); 58 FR 28506 (5/14/93), 29860 (5/24/93); 59 FR 43496 (8/24/94), 47982 (9/19/94); 60 FR 242 (1/3/95), 25492 (5/11/95); 61 FR 15566, 15660 (4/8/96), 19117 (4/30/96), 33680 (6/28/96), 36419 (7/10/96), 43924 (8/26/96); 62 FR 7502 (2/19/97) for the EPA Land Disposal Restrictions (LDR), which are applicable in Louisiana. These federal regulations correspond to the consolidated checklist that is being used for the LDR Authorization (base program to Phase III). For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule encompasses the adoption of rules required for the EPA RCRA 7 and LDR Authorization Packages. The adoption of the federal rules will impact LAC 33:V.Chapters 1, 3, 5, 9, 11, 13, 15, 17, 19, 21, 22, 24, 25, 29, 30, 31, 32, 35, 41, 43, 49, and 53, making them equivalent to the federal regulations. The basis and rationale for this rule are to make the state regulations equivalent to the federal regulations and to obtain authorization.

The major changes, in brief, of this rule address:

1. changes and updates in LDR treatment standards due to the production of carbamate pesticides and primary aluminum production;
2. the amendment of the TCLP (method 1311) and the EP toxicity test method (method 1310);
3. changes in the LDR program due to the Universal Waste rule;
4. required RCRA air standards that control organic hazardous waste treatment processes;
5. deadline extension for K088 in regards to treatment standards;
6. adoption of military munitions rules;
7. treatment standards for wood preserving operations, products of chlorinated aliphatics related to F024;
8. references Update II to the Third Edition of the SW-846; and
9. other miscellaneous changes and clarifications required for authorization.

This rule meets the exceptions listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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
§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 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. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A - D.1.j]

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. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also 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; and

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.

* * *

[See Prior Text in D.2 - O.2.c.vi]

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 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (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 (September 1996), LR 22:831 (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 (May 1997), LR 23:567 (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 (September 1998).

§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:

* * *

[See Prior Text]

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

* * *

[See Prior Text]

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

* * *

[See Prior Text]

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- 39, 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 (one inch) of residue remain on the bottom of the container or inner liner; or

ii.(a). no more than three 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 110 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 110 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.

* * *

[See Prior Text]

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

* * *

[See Prior Text]

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.

* * *

[See Prior Text]

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

* * *

[See Prior Text]

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.

* * *

[See Prior Text]

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.

* * *

[See Prior Text]

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.

* * *

[See Prior Text]

Solid Waste—

* * *

[See Prior Text in 1.a-b.i]

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.

* * *

[See Prior Text in 2 - 6]

TABLE 1

	Use Constituting Disposal (1)	Energy Recovery/ Fuel (2)	Reclamation (3)	Speculative Accumulation (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)	*	*	*	*

* * *

[See Prior Text]

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.

* * *

[See Prior Text]

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 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (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).

§110. References

* * *

[See Prior Text in A - A.10]

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), and III (December 1996)]. 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. 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, 401 M Street, SW, Washington, DC 20460;

* * *

[See Prior Text in A.12 - 14]

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.

* * *

[See Prior Text in A.16]

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).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A -C.11.a]

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.

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 explosive 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.

* * *

[See Prior Text in D - G.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 10:496 (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 24:656 (April 1998), LR 24:1105 (June 1998), LR 24:1690 (September 1998).

§321. Modification of Permits

* * *

[See Prior Text in A - C.7.b]

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.

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).

Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§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 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:

* * *

[See Prior Text in A - C]

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;

* * *

[See Prior Text in E -F]

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, 1763, 1907.I, 1911, 2109, 2309, 2507, 2703.A-G, 2907, 3119.B and C, and 3205;

* * *

[See Prior Text in H - W]

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).

Subchapter E. Specific Information Requirements

§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:

* * *

[See Prior Text in A - C]

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:

* * *

[See Prior Text in A -H.2]

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:

* * *

[See Prior Text in A -J.3]

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).

Chapter 9. Manifest System for TSD Facilities

§901. Applicability

The regulations in this Chapter apply to owners and operators of both on-site and off-site TSD facilities, except as LAC 33:V.1501 provides otherwise. LAC 33:V.905, 907, and 909 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources. LAC 33:V.907.B only applies to permitees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated and to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under LAC 33:V.5307.

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 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

Chapter 11. Generators

§1101. Applicability

* * *

[See Prior Text in A - G]

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.

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).

§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.

* * *

[See Prior Text in A - B.2]

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).

§1107. The Manifest System

* * *

[See Prior Text in A - A.10]

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.

* * *

[See Prior Text in B - D.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 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 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998).

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.1]

a. the waste is placed:

i. in containers and the generator complies with LAC 33:V.Chapter 43.Subchapter H; and/or

ii. in tanks and the generator complies with LAC 33:V.Chapter 43.Subchapter I, except LAC 33:V.4442 and 4445 ; and/or

iii. on drip pads and the generator complies with LAC 33:V.Chapter 43.Subchapter S 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 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, 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.D, 4319 and in 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. Generators who accumulate hazardous waste for less than 90 days are subject to the requirements of LAC 33:V.1115, 1117, 1119, and 2245 of these regulations.

* * *

[See Prior Text in E.4]

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 Subsection 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 Subsection E.1 of this Section or other applicable provisions of this Chapter.

* * *

[See Prior Text in E.6 - 7.d.iv.(c).(v)]

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).

Chapter 13. Transporters

§1301. Applicability

* * *

[See Prior Text in A - F]

G. The regulations in this Chapter do not apply to transportation during an explosives or munitions emergency response conducted in accordance with LAC 33:V.1501.C.7.a.iv or d or 4307 and 305.C.12 or 13.

H. LAC 33:V.5305 identifies how the requirements of this Chapter apply to military munitions classified as solid waste under LAC 33:V.5303.

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 by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), LR 24:1694 (September 1998).

§1305. Transfer Facility Requirements

* * *

[See Prior Text in A - B]

C. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements applicable to the LDPS regulations on packaging under LAC 33:V.Subpart 2.Chapter 101 at a transfer facility for a period of 10 days or less is not subject to regulation under LAC 33:V.Chapters 1-7, 15-29, 31-38, and 43 with respect to the storage of those wastes, except as required to obtain approval by 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), repromulgated LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), LR 24:1694 (September 1998).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A - C.6]

7.a. except as provided in Subsection C.7.b of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

i. a discharge of a hazardous waste;

ii. an imminent and substantial threat of a discharge of hazardous waste;

iii. a discharge of a material that, when discharged, becomes a hazardous waste; or

iv. 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 explosive or munitions emergency response specialist as defined in LAC 33:V.109;

b. an owner or operator of a facility otherwise regulated by this Chapter must comply with all applicable requirements of LAC 33:V.1511 and 1513;

c. any person who is covered by Subsection C.7.a of this Section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Chapter and 40 CFR 122-124 for those activities; and

d. in the case of an explosives or munitions emergency response, if a federal, state, tribal, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies 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;

* * *

[See Prior Text in C.8 - 9]

10. a generator accumulating waste on-site in compliance with LAC 33:V.1109.E;

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. 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; or

12. LAC 33:V.5309 identifies when the requirements of this Chapter apply to the storage of military munitions classified as solid waste under LAC 33:V.5303. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

* * *

[See Prior Text in D - G]

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), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694 (September 1998).

§1509. General Inspection Requirements

* * *

[See Prior Text in A - B.3]

4. The frequency of inspection may vary for the items on the schedule. However, inspections should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in LAC 33:V.1709, 1719, 1721, 1731, 1763, 1907, 1911, 2109, 2309, 2507, 2711, 2907, 3119, and 3205, where applicable.

[Comment: LAC 33:V.517.G requires the inspection schedule to be submitted with Part II of the permit application. The department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the department may modify or amend the schedule as may be necessary.]

* * *

[See Prior Text in C - D]

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 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998).

§1519. General Waste Analysis

* * *

[See Prior Text in A - A.2]

[Comment: For example, the facility's records of analyses performed on the waste before the effective date of these regulations, or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility, may be included in the data base required to comply with Subsection A.1 of this Section. The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part of the information required by Subsection A.1 of this Section, except as otherwise specified in LAC 33:V.2247.A and A.1. If the generator does not supply the information and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.]

* * *

[See Prior Text in A.3 - B.6]

7. where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in LAC 33:V.1517, 1711.D, 1741.D, 1753, 2515, 3107, and 2245;

* * *

[See Prior Text in B.8 - 8.c]

i. do not meet applicable treatment standards of LAC 33:V.Chapter 22.Subchapters A and B, or

* * *

[See Prior Text in B.8.c.ii - ii.(a)]

(b). such residues are prohibited from land disposal under LAC 33:V.2215; and

9. for owners and operators seeking an exemption to the air emission standards of LAC 33:V.Chapter 17. Subchapter C in accordance with LAC 33:V.1751:

a. if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption; or

b. if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

* * *

[See Prior Text in C - D]

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 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998).

§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A - B.5]

6. Records and results of waste analyses and waste determinations performed as specified in these regulations and in LAC 33:V.1517, 1519, 1711, 1741, 1753, 2237.A, 2245, 2515, and 3107.

* * *

[See Prior Text in B.7 - 8]

9. Monitoring, testing, or analytical data where required by LAC 33:V.1504, 1711.C-F, 1713, 1741.D and I, 1743,

1763, 1765, 1903, 1907, 1911, 2304, 2306, 2309, 2504, 2507, 2508, 2509, 2709, 2711, 2719, 2904, 2906, 2907, 3119, 3203, 3205, and Chapter 33, as well as corrective action cites.

* * *

[See Prior Text in B.10 - E.3]

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

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Chapter 17. Air Emission Standards

§1703. Definitions

As used in this Chapter, all terms not defined herein shall have the meanings given them in LAC 33:V.109.

* * *

[See Prior Text]

Average Volatile Organic Concentration or Average VO Concentration—the mass-weighted average volatile organic concentration of a hazardous waste as determined in accordance with the requirements of LAC 33:V.4727.

* * *

[See Prior Text]

Closure Device—a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

* * *

[See Prior Text]

Continuous Seal—a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

* * *

[See Prior Text]

Cover—a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

* * *

[See Prior Text]

Enclosure—a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

* * *

[See Prior Text]

External Floating Roof—a pontoon-type or double-deck type cover that rests on the surface of the material managed in a tank with no fixed roof.

* * *

[See Prior Text]

Fixed Roof—a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

* * *

[See Prior Text]

Floating Membrane Cover—a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

Floating Roof—a cover consisting of a double deck, pontoon single deck, or internal floating cover which rests upon and is supported by the material being contained, and is equipped with a continuous seal.

* * *

[See Prior Text]

Hard-Piping—pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

* * *

[See Prior Text]

In Light Material Service—the container is used to manage a material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20°C; and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 20 percent by weight.

* * *

[See Prior Text]

Internal Floating Roof—a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

* * *

[See Prior Text]

Liquid-Mounted Seal—a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof continuously around the circumference of the tank.

Malfunction—any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Maximum Organic Vapor Pressure—the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (e.g., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Chapter, maximum organic vapor pressure is determined using the procedures specified in LAC 33:V.4727.

Metallic Shoe Seal—a continuous seal that is constructed of metal sheets which are held vertically against the wall of the

tank by springs, weighted levers, or other mechanisms and is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

No Detectable Organic Emissions—no escape of organics to the atmosphere as determined using the procedure specified in LAC 33:V.4727.

* * *

[See Prior Text]

Point of Waste Origination—as follows:

a. when the facility owner or operator is the generator of the hazardous waste, the point of waste origination means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste as defined in LAC 33:V.109; or

[Note: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the Clean Air Act in 40 CFR parts 60, 61, and 63].

b. when the facility owner and operator are not the generator of the hazardous waste, point of waste origination means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

Point of Waste Treatment—the point where a hazardous waste to be treated in accordance with LAC 33:V.4725 exits the treatment process. Any waste determination shall be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.

* * *

[See Prior Text]

Safety Device—a closure device, such as a pressure relief valve, frangible disc, fusible plug, or any other type of device, which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Chapter, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

* * *

[See Prior Text]

Single-Seal System—a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

* * *

[See Prior Text]

Vapor-Mounted Seal—a continuous seal that is mounted such that there is a vapor space between the hazardous waste in the unit and the bottom of the seal.

* * *

[See Prior Text]

Volatile Organic Concentration or VO Concentration—the fraction by weight of the volatile organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw) as determined by direct measurement or by knowledge of the waste in accordance with the requirements of LAC 33:V.4727. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry's law constant value of at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25°C must be included. Appendix.Table 1 of this Chapter presents a list of compounds known to have a Henry's law constant value less than the cutoff level.

Waste Determination—performing all applicable procedures in accordance with the requirements of LAC 33:V.4727 to determine whether a hazardous waste meets standards specified in this Chapter. Examples of a waste determination include performing the procedures in accordance with the requirements of LAC 33:V.4727 to determine the average VO concentration of a hazardous waste at the point of waste origination; the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste; the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards; or the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the applicable standards.

Waste Stabilization Process—any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095 (Paint Filter Liquids Test) in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication Number SW-846, Third Edition, September 1986, as amended by Update I, November 15, 1992 (incorporated by reference—refer to LAC 33:V.110). A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

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 by the Office of Waste Services, Hazardous Waste Division, LR 24:1696 (September 1998).

Subchapter A. Process Vents

§1705. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in LAC 33:V.1501).

A. Except for LAC 33:V.1711.D and E, this Subchapter applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 parts per million by weight (ppmw), if these operations are conducted in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43;

2. a unit (including a hazardous waste recycling unit) that is not exempt from the permitting requirements under LAC 33:V.1109.E (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located on a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E (i.e., a 90-day tank or container).

* * *

[See Prior Text B]

[Note: The requirements of LAC 33:V.1707-1715 apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998).

§1709. Standards: Closed-Vent Systems and Control Devices

* * *

[See Prior Text in A - A.1]

2. The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this Subchapter on the effective date that the facility becomes subject to the provisions of this Subchapter must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this Subchapter for installation and start-up. All units that begin operation after December 21, 1990, must comply with the rules immediately (i.e., must have control devices installed and operating on start-up of the affected unit); the two-year implementation schedule does not apply to these units.

* * *

[See Prior Text in B - F.2.f.i]

ii. a temperature-monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in °C or ±0.5°C, whichever is greater. The temperature sensor shall be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

* * *

[See Prior Text in F.2.g - J]

K. A closed-vent system shall meet either of the following design requirements:

1. a closed-vent system shall be designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background as determined by the procedure in LAC 33:V.1711.B and by visual inspections; or

2. a closed-vent system shall be designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

L. The owner or operator shall monitor and inspect each closed-vent system required to comply with this Section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

1. each closed-vent system that is used to comply with Subsection K.1 of this Section shall be inspected and monitored in accordance with the following requirements:

a. an initial leak detection monitoring of the closed-vent system shall be conducted by the owner or operator on or before the date that the system becomes subject to this Section. The owner or operator shall monitor the closed-vent system components and connections using the procedures specified in LAC 33:V.1711.B to demonstrate that the closed-vent system operates with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background;

b. after initial leak detection monitoring required in Subsection L.1.a of this Section, the owner or operator shall inspect and monitor the closed-vent system as follows:

i. closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of hard piping or a bolted and gasketed ducting flange) shall be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The owner or operator shall monitor a component or connection using the procedures specified in LAC 33:V.1711.B to demonstrate that it operates with no detectable emissions following any time the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted);

ii. closed-vent system components or connections other than those specified in Subsection L.1.b.i of this Section shall be monitored annually and at other times as requested by the administrative authority, except as provided for in Subsection O of this Section, using the procedures specified in LAC 33:V.1711.B to demonstrate that the components or connections operate with no detectable emissions;

c. in the event that a defect or leak is detected, the owner or operator shall repair the defect or leak in accordance with the requirements of Subsection L.3 of this Section;

d. the owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in LAC 33:V.1713;

2. each closed-vent system that is used to comply with Subsection K.2 of this Section shall be inspected and monitored in accordance with the following requirements:

a. the closed-vent system shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in ductwork or piping or loose connections;

b. the owner or operator shall perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year;

c. in the event that a defect or leak is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection L.3 of this Section; and

d. the owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in LAC 33:V.1713;

3. the owner or operator shall repair all detected defects as follows:

a. detectable emissions, as indicated by visual inspection or by an instrument reading greater than 500 ppmv above background, shall be controlled as soon as practicable, but not later than 15 calendar days after the emission is detected, except as provided for in Subsection L.3.c of this Section;

b. a first attempt at repair shall be made no later than five calendar days after the emission is detected;

c. delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be completed by the end of the next process unit shutdown; and

d. the owner or operator shall maintain a record of the defect repair in accordance with the requirements specified in LAC 33:V.1713.

M. Closed-vent systems and control devices used to comply with provisions of this Chapter shall be operated at all times when emissions may be vented to them.

N. The owner or operator using a carbon adsorption system to control air pollutant emissions shall document that all carbon that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the average volatile organic concentration of the carbon:

1. regenerated or reactivated in a thermal treatment unit that meets one of the following:

a. the owner or operator of the unit has been issued a final permit under LAC 33:V.Chapter 5 which implements the requirements of LAC 33:V.Chapter 32;

b. the unit is equipped with and operating air emission controls in accordance with the applicable requirements of Subchapters A and C of this Chapter or of LAC 33:V.Chapter 43; or

c. the unit is equipped with and operating air emission controls in accordance with a national emission standard for hazardous air pollutants under 40 CFR part 61 or part 63;

2. incinerated in a hazardous waste incinerator for which the owner or operator either:

a. has been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 31; or

b. has designed and operates the incinerator in accordance with the interim status requirements of LAC 33:V.Chapter 43.Subchapter N;

3. burned in a boiler or industrial furnace for which the owner or operator either:

a. has been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 30; or

b. has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of LAC 33:V.Chapter 30.

O. Any components of a closed-vent system that are designated, as described in LAC 33:V.1713.C.9, as unsafe to monitor are exempt from the requirements of Subsection L.1.b.ii of this Section if:

1. the owner or operator of the closed-vent system determines that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with Subsection L.1.b.ii of this Section; and

2. the owner or operator of the closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in Subsection L.1.b.ii of this Section as frequently as practicable during safe-to-monitor times.

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 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998).

§1711. Test Methods and Procedures

* * *

[See Prior Text in A]

B. When a closed-vent system is tested for compliance with no detectable emissions, as required in LAC 33:V.1709.L, the test shall comply with the following requirements.

* * *

[See Prior Text in B.1 - D.1.b]

c. Each sample shall be analyzed, and the total organic concentration of the sample shall be computed using Method 9060 or 8260 of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in D.1.d - E.3]

F. When an owner or operator and the administrative authority do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, the procedures in Method 8260 *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110 may be used to resolve the dispute.

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 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1699 (September 1998).

§1713. Recordkeeping Requirements

* * *

[See Prior Text in A - C.7.b]

8. date of each control device start-up and shutdown;

9. an owner or operator designating any components of a closed-vent system as unsafe to monitor pursuant to LAC 33:V.1709.O shall record in a log that is kept in the facility operating record, the identification of closed-vent system components that are designated as unsafe to monitor in accordance with the requirements of LAC 33:V.1709.O, an explanation for each closed-vent system component stating why the closed-vent system component is unsafe to monitor, and the plan for monitoring each closed-vent system component;

10. when each leak is detected as specified in LAC 33:V.1709.L, the following information shall be recorded:

a. the instrument identification number, the closed-vent system component identification number, and the operator name, initials, or identification number;

b. the date the leak was detected and the date of first attempt to repair the leak;

c. the date of successful repair of the leak; and

d. maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A after it is successfully repaired or determined to be nonrepairable;

e. "repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

i. The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

ii. If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on-site before depletion and the reason for depletion.

D. Record Retention. Records of the monitoring, operating, and inspection information required by LAC 33:V.1713.C.3-10 must be kept on site for three years.

* * *

[See Prior Text in E - F]

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 18:723 (July 1992), LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office Of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998).

Subchapter B. Equipment Leaks

§1717. Applicability

* * *

[See Prior Text in A]

B. Except as provided in LAC 33:V.1743.K, this Subchapter applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

* * *

[See Prior Text in C - E]

F. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of LAC 33:V.1719 - 1735 if it is identified, as required in LAC 33:V.1743.

[Note: The requirements of LAC 33:V.1719-1745 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

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 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998).

§1725. Standards: Sampling Connection Systems

A. Each sampling connection system shall be equipped with a closed purge, closed loop, or closed-vent system. This system shall collect the sample purge for return to the process or for routing to the appropriate treatment system. Gases displaced during filling of the sample container are not required to be collected or captured.

B. Each closed-purge, closed loop, or closed-vent system, as required in Subsection A of this Section, shall meet one of the following requirements:

1. return the purged process fluid directly to the process line;

2. collect and recycle the purged process fluid; or

3. be designed and operated to capture and transport all the purged process fluid to a waste management unit that complies with the applicable requirements of LAC 33:V.1755-1759 or a control device that complies with the requirements of LAC 33:V.1735.

C. In situ sampling systems and sampling systems without purges are exempt from the requirements of Subsections A and 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 Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998).

§1731. Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors

* * *

[See Prior Text in A - D]

E. Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined) is exempt from the monitoring requirements of Subsection A of this Section and from the recordkeeping requirements of LAC 33:V.1743.

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 by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

§1741. Test Methods and Procedures

* * *

[See Prior Text in A - D.1]

2. method 9060 or 8260 of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

* * *

[See Prior Text in D.3 - I]

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 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

§1743. Recordkeeping Requirements

* * *

[See Prior Text in A - G.5]

6. Identification: Either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for a period of less than 300 hours per year.

* * *

[See Prior Text in H - 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 17:658 (July 1991), amended LR 18:723 (July 1992), Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§1747. Applicability

A. The requirements of this Subchapter apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either Chapter 19, 21, or 29, except as LAC 33:V.1501 and Subsection B of this Section provide otherwise.

B. The requirements of this Subchapter do not apply to the following waste management units at the facility:

1. a waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after this date;

2. a container that has a design capacity less than or equal to 0.1 m^3;

3. a tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

4. a surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

5. a waste management unit that is used solely for on-site treatment or storage of hazardous waste that is generated as the result of implementing remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h), CERCLA authorities, or similar state authorities;

6. a waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act;

7. a hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. For the purpose of complying with this Paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of LAC 33:V.1755.I, except as provided in LAC 33:V.1751.C.5; and

8. a tank that has a process vent as defined in LAC 33:V.1703.

C. For the owner and operator of a facility subject to this Chapter and who received a final permit under RCRA section 3005 prior to December 6, 1996, the requirements of this Chapter shall be incorporated into the permit when the permit is reissued in accordance with the requirements of LAC 33:V.705 or reviewed in accordance with the requirements of LAC 33:V.315.D. Until such date when the owner and operator receives a final permit incorporating the requirements of this Chapter, the owner and operator are

subject to the requirements of LAC 33:V.Chapter 43.Subchapter V.

D. The requirements of this Subchapter, except for the recordkeeping requirements specified in LAC 33:V.1765.I, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

1. the owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical;

2. the owner or operator prepares documentation, in accordance with the requirements of LAC 33:V.1765.I, explaining why an undue safety hazard would be created if air emission controls specified in LAC 33:V.1755-1761 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section; and

3. the owner or operator notifies the administrative authority, in writing, that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Subsection D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of 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 Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998).

§1749. Definitions

As used in this Chapter, all terms shall have the meaning given to them in LAC 33:V.1703 and 109.

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 24:1702 (September 1998).

§1751. Standards: General

A. This Section applies to the management of hazardous waste in tanks, surface impoundments, and containers subject to this Subchapter.

B. The owner or operator shall control air pollutant emissions from each waste management unit in accordance with standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit, except as provided for in Subsection C of this Section.

C. A tank, surface impoundment, or container is exempt from standards specified in LAC 33:V.1755-1761, as applicable, provided that the waste management unit is one of the following:

1. a tank, surface impoundment, or container for which all hazardous waste entering the unit has an average VO concentration at the point of waste origination of less than 500 parts per million by weight (ppmw). The average VO concentration shall be determined using the procedures specified in LAC 33:V.1753.A. The owner or operator shall review and update, as necessary, this determination at least once every 12 months following the date of the initial determination for the hazardous waste streams entering the unit;

2. a tank, surface impoundment, or container for which the organic content of all the hazardous waste entering the waste management unit has been reduced by an organic destruction or removal process that achieves any one of the following conditions:

a. a process that removes or destroys the organics contained in the hazardous waste to a level such that the average VO concentration of the hazardous waste at the point of waste treatment is less than the exit concentration limit (C_t) established for the process. The average VO concentration of the hazardous waste at the point of waste treatment and the exit concentration limit for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

b. a process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the average VO concentration of the hazardous waste at the point of waste treatment is less than 100 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste treatment shall be determined using the procedures specified in LAC 33:V.1753.B;

c. a process that removes or destroys the organics contained in the hazardous waste to a level such that the actual organic mass removal rate (MR) for the process is equal to or greater than the required organic mass removal rate (RMR) established for the process. The required organic mass removal rate and the actual organic mass removal rate for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

d. a biological process that destroys or degrades the organics contained in the hazardous waste, such that either of the following conditions is met:

i. the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the organic biodegradation efficiency (R_{bio}) for the process is equal to or greater than 95 percent. The organic reduction efficiency and the organic biodegradation efficiency for the process shall be determined using the procedures specified in LAC 33:V.1753.B; or

ii. the total actual organic mass biodegradation rate (MR_{bio}) for all hazardous waste treated by the process is equal to or greater than the required organic mass removal rate

(RMR). The required organic mass removal rate and the actual organic mass biodegradation rate for the process shall be determined using the procedures specified in LAC 33:V.1753.B;

e. a process that removes or destroys the organics contained in the hazardous waste and meets all of the following conditions:

i. from the point of waste origination through the point where the hazardous waste enters the treatment process, the hazardous waste is managed continuously in waste management units that use air emission controls in accordance with the standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit;

ii. from the point of waste origination through the point where the hazardous waste enters the treatment process, any transfer of the hazardous waste is accomplished through continuous hard-piping or other closed system transfer that does not allow exposure of the waste to the atmosphere. The EPA considers a drain system that meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems to be a closed system; and

iii. the average VO concentration of the hazardous waste at the point of waste treatment is less than the lowest average VO concentration at the point of waste origination determined for each of the individual waste streams entering the process or 500 ppmw, whichever value is lower. The average VO concentration of each individual waste stream at the point of waste origination shall be determined using the procedures specified in LAC 33:V.1753.A. The average VO concentration of the hazardous waste at the point of waste treatment shall be determined using the procedures specified in LAC 33:V.1753.B;

f. a process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the owner or operator certifies that the average VO concentration at the point of waste origination for each of the individual waste streams entering the process is less than 10,000 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste origination shall be determined using the procedures specified in LAC 33:V.1753.A and B, respectively;

g. a hazardous waste incinerator for which the owner or operator has either:

i. been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 31; or

ii. designed and operates the incinerator in accordance with the interim status requirements of LAC 33:V.Chapter 43.Subchapter N;

h. a boiler or industrial furnace for which the owner or operator has either:

i. been issued a final permit under LAC 33:V.Chapter 5 that implements the requirements of LAC 33:V.Chapter 30; or

ii. designed and operates the boiler or industrial furnace in accordance with the interim status requirements of LAC 33:V.Chapter 30;

i. for the purpose of determining the performance of an organic destruction or removal process in accordance with the conditions in each of Subsection C.2.a-f of this Section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

i. if Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method; or

ii. if any other analytical method is used, one-half the limit of detection established for the method;

3. a tank used for biological treatment of hazardous waste in accordance with the requirements of Subsection C.2.d of this Section;

4. a tank, surface impoundment, or container for which all hazardous waste placed in the unit either:

a. meets the numerical concentration limits for organic hazardous constituents applicable to the hazardous waste, as specified in LAC 33:V.Chapter 22.Table 2 "Treatment Standards for Hazardous Waste"; or

b. has been treated by the treatment technology established by EPA for the waste in LAC 33:V.2227.A or treated by an equivalent method of treatment approved by the department in accordance with LAC 33:V.2227.B; or

5. a tank used for bulk feed of hazardous waste to a waste incinerator and all of the following conditions are met:

a. the tank is located inside an enclosure vented to a control device that is designed and operated in accordance with all applicable requirements specified under 40 CFR part 61, subpart FF—National Emission Standards for Benzene Waste Operations for a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 megagrams per year;

b. the enclosure and control device serving the tank were installed and began operation prior to November 25, 1996; and

c. the enclosure is designed and operated in accordance with the criteria for 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. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical or electrical equipment; or to direct air flow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* annually.

D. The administrative authority may at any time perform or request that the owner or operator perform a waste determination for a hazardous waste managed in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of this Section as follows:

1. the waste determination for average VO concentration of a hazardous waste at the point of waste origination shall be performed using direct measurement in accordance with the applicable requirements of LAC 33:V.1753.A. The waste determination for a hazardous waste at the point of waste

treatment shall be performed in accordance with the applicable requirements of LAC 33:V.1753.B;

2. in performing a waste determination in accordance with Subsection D.1 of this Section, the sample preparation and analysis shall be conducted as follows:

a. in accordance with the method used by the owner or operator to perform the waste analysis, except in the case specified in Subsection D.2.b of this Section; and

b. if the administrative authority determines that the method used by the owner or operator was not appropriate for the hazardous waste managed in the tank, surface impoundment, or container, then the administrative authority may choose an appropriate method;

3. in a case when the owner or operator is requested to perform the waste determination, the administrative authority may elect to have an authorized representative observe the collection of the hazardous waste samples used for the analysis;

4. in a case when the results of the waste determination performed or requested by the administrative authority do not agree with the results of a waste determination performed by the owner or operator using knowledge of the waste, then the results of the waste determination performed in accordance with the requirements of Subsection D.1 of this Section shall be used to establish compliance with the requirements of this Subchapter;

5. in a case when the owner or operator has used an averaging period greater than one hour for determining the average VO concentration of a hazardous waste at the point of waste origination, the administrative authority may elect to establish compliance with this Subchapter by performing or requesting that the owner or operator perform a waste determination using direct measurement based on waste samples collected within a one-hour period as follows:

a. the average VO concentration of the hazardous waste at the point of waste origination shall be determined by direct measurement in accordance with the requirements of LAC 33:V.1753.A;

b. results of the waste determination performed or requested by the administrative authority showing that the average VO concentration of the hazardous waste at the point of waste origination is equal to or greater than 500 ppmw shall constitute noncompliance with this Subchapter, except in a case as provided for in Subsection D.5.c of this Section; and

c. for the case when the average VO concentration of the hazardous waste at the point of waste origination previously has been determined by the owner or operator using an averaging period greater than one hour to be less than 500 ppmw, but because of normal operating process variations the VO concentration of the hazardous waste determined by direct measurement for any given one-hour period may be equal to or greater than 500 ppmw, information that was used by the owner or operator to determine the average VO concentration of the hazardous waste (e.g., test results, measurements, calculations, and other documentation) and recorded in the facility records in accordance with the requirements of LAC 33:V.1753.A and 1765 shall be considered by the administrative authority together with the results of the waste determination performed or requested by the administrative authority in establishing compliance with 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 Waste Services, Hazardous Waste Division, LR 24:1702 (September 1998).

§1753. Waste Determination Procedures

A. Waste Determination Procedure to Determine Average Volatile Organic (VO) Concentration of a Hazardous Waste at the Point of Waste Origination

1. An owner or operator shall determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.1 from using air emission controls in accordance with standards specified in LAC 33:V.4727, as applicable to the waste management unit.

2. The average VO concentration of a hazardous waste at the point of waste origination may be determined in accordance with the procedures specified in LAC 33:V.4727.

B. Waste Determination Procedures for Treated Hazardous Waste

1. An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.2 from using air emission controls in accordance with standards specified in LAC 33:V.1755-1761, as applicable to the waste management unit.

2. The waste determination for a treated hazardous waste shall be performed in accordance with the procedures specified in LAC 33:V.4727, as applicable to the treated hazardous waste.

C. Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste in a Tank

1. An owner or operator shall determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with standards specified in LAC 33:V.1755.C.

2. The maximum organic vapor pressure of the hazardous waste may be determined in accordance with the procedures specified in LAC 33:V.4727.

D. The procedure for determining no detectable organic emissions for the purpose of complying with this Subchapter shall be conducted in accordance with the procedures specified in LAC 33:V.4727.

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 24:1704 (September 1998).

§1755. Standards: Tanks

A. The provisions of this Section apply to the control of air pollutant emissions from tanks for which LAC 33:V.1751.B references the use of this Section for such air emission control.

B. The owner or operator shall control air pollutant emissions from each tank subject to this Section in accordance with the following requirements, as applicable:

1. for a tank that manages hazardous waste that meets all

of the conditions specified in Subsection B.1.a-c of this Section, the owner or operator shall control air pollutant emissions from the tank in accordance with the Tank Level 1 controls specified in Subsection C of this Section or the Tank Level 2 controls specified in Subsection D of this Section:

a. the hazardous waste in the tank has a maximum organic vapor pressure that is less than the maximum organic vapor pressure limit for the tank's design capacity category as follows:

i. for a tank design capacity equal to or greater than 151 m^3, the maximum organic vapor pressure limit for the tank is 5.2 kPa;

ii. for a tank design capacity equal to or greater than 75 m^3, but less than 151 m^3, the maximum organic vapor pressure limit for the tank is 27.6 kPa;

iii. for a tank design capacity less than 75 m^3, the maximum organic vapor pressure limit for the tank is 76.6 kPa;

b. the hazardous waste in the tank is not heated by the owner or operator to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous waste is determined for the purpose of complying with Subsection B.1.a of this Section; and

c. the hazardous waste in the tank is not treated by the owner or operator using a waste stabilization process, as defined in LAC 33:V.4721; and

2. for a tank that manages hazardous waste that does not meet all of the conditions specified in Subsection B.1.a-c of this Section, the owner or operator shall control air pollutant emissions from the tank by using Tank Level 2 controls in accordance with the requirements of Subsection D of this Section. Examples of tanks required to use Tank Level 2 controls include a tank used for a waste stabilization process and a tank for which the hazardous waste in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category as specified in Subsection B.1.a of this Section.

C. Owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in Subsection C.1-4 of this Section:

1. the owner or operator shall determine the maximum organic vapor pressure for a hazardous waste to be managed in the tank using Tank Level 1 controls before the first time the hazardous waste is placed in the tank. The maximum organic vapor pressure shall be determined using the procedures specified in LAC 33:V.1753.C. Thereafter, the owner or operator shall perform a new determination whenever changes to the hazardous waste managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in Subsection B.1.a of this Section, as applicable to the tank;

2. the tank shall be equipped with a fixed roof designed to meet the following specifications:

a. the fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank. The fixed roof may be a separate cover installed on the tank (e.g., a removable cover mounted on an open-top tank) or may be an integral part of the tank structural design (e.g., a horizontal cylindrical tank equipped with a hatch);

b. the fixed roof shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall;

c. each opening in the fixed roof shall be either:

i. equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or

ii. connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and it shall be operating whenever hazardous waste is managed in the tank;

d. the fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability; the effects of any contact with the hazardous waste or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed;

3. whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position except as follows:

a. opening of closure devices or removal of the fixed roof is allowed at the following times:

i. to provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the tank or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank;

ii. to remove accumulated sludge or other residues from the bottom of the tank;

b. opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the tank internal pressure in accordance with the tank design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the tank internal pressure is within the internal pressure operating range determined by the owner or operator based on the tank manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the

safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank as a result of loading operations or diurnal ambient temperature fluctuations;

c. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

4. the owner or operator shall inspect the air emission control equipment in accordance with the following requirements:

a. the fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the owner or operator shall perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except under the special conditions provided for in Subsection L of this Section;

c. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

d. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B.

D. Owners and operators controlling air pollutant emissions from a tank using Tank Level 2 controls shall use one of the following tanks:

1. a fixed-roof tank equipped with an internal floating roof in accordance with the requirements specified in Subsection E of this Section;

2. a tank equipped with an external floating roof in accordance with the requirements specified in Subsection F of this Section;

3. a tank vented through a closed-vent system to a control device in accordance with the requirements specified in Subsection G of this Section;

4. a pressure tank designed and operated in accordance with the requirements specified in Subsection H of this Section; or

5. a tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in Subsection I of this Section.

E. The owner or operator who controls air pollutant emissions from a tank using a fixed roof with an internal floating roof shall meet the requirements specified in Subsection E.1-3 of this Section.

1. the tank shall be equipped with a fixed roof and an internal floating roof in accordance with the following requirements:

a. the internal floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports;

b. the internal floating roof shall be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the following requirements:

i. a single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in LAC 33:V.4721; or

ii. two continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal;

c. the internal floating roof shall meet the following specifications:

i. each opening in a noncontact internal floating roof, except for automatic bleeder vents (vacuum breaker vents) and the rim space vents, is to provide a projection below the liquid surface;

ii. each opening in the internal floating roof shall be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains;

iii. each penetration of the internal floating roof for the purpose of sampling shall have a slit fabric cover that covers at least 90 percent of the opening;

iv. each automatic bleeder vent and rim space vent shall be gasketed;

v. each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover; and

vi. each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof shall have a flexible fabric sleeve seal or a gasketed sliding cover;

2. the owner or operator shall operate the tank in accordance with the following requirements:

a. when the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical;

b. automatic bleeder vents are to be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports; and

c. prior to filling the tank, each cover, access hatch, gauge float well, or lid on any opening in the internal floating roof shall be bolted or fastened closed (i.e., no visible gaps). Rim space vents are to be set to open only when the internal floating roof is not floating or when the pressure beneath the rim exceeds the manufacturer's recommended setting;

3. the owner or operator shall inspect the internal floating roof in accordance with the procedures specified as follows:

a. the floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, the internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the hazardous waste surface from the atmosphere; or the slotted membrane has more than 10 percent open area;

b. the owner or operator shall inspect the internal floating roof components as follows, except as provided in Subsection E.3.c of this Section:

i. visually inspect the internal floating roof components through openings on the fixed-roof (e.g., manholes and roof hatches) at least once every 12 months after initial fill; and

ii. visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 10 years;

c. as an alternative to performing the inspections specified in Subsection E.3.b of this Section for an internal floating roof equipped with two continuous seals mounted one above the other, the owner or operator may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 5 years;

d. prior to each inspection required by Subsection E.3.b or c of this Section, the owner or operator shall notify the administrative authority in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. prior to each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before refilling the tank except when an inspection is not planned as provided for in Subsection E.3.d.ii of this Section;

ii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the administrative authority as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank;

e. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

f. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B.

F. The owner or operator who controls air pollutant emissions from a tank using an external floating roof shall meet the requirements specified in Subsection F.1-3 of this Section.

1. the owner or operator shall design the external floating roof in accordance with the following requirements:

a. the external floating roof shall be designed to float on the liquid surface except when the floating roof must be supported by the leg supports;

b. the floating roof shall be equipped with two continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal;

i. the primary seal shall be a liquid-mounted seal or a metallic shoe seal, as defined in LAC 33:V.4721. The total area of the gaps between the tank wall and the primary seal shall not exceed 212 square centimeters (cm^2) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 3.8 centimeters (cm). If a metallic shoe seal is used for the primary seal, the metallic shoe seal shall be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 centimeters above the liquid surface; and

ii. the secondary seal shall be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal shall not exceed 21.2 square centimeters (cm^2) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 1.3 centimeters (cm); and

c. the external floating roof shall meet the following specifications:

i. except for automatic bleeder vents (vacuum breaker vents) and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface;

ii. except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal, or lid;

iii. each access hatch and each gauge float well shall be equipped with a cover designed to be bolted or fastened when the cover is secured in the closed position;

iv. each automatic bleeder vent and each rim space vent shall be equipped with a gasket;

v. each roof drain that empties into the liquid managed in the tank shall be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening;

vi. each unslotted and slotted guide pole well shall be equipped with a gasketed sliding cover or a flexible fabric sleeve seal;

vii. each unslotted guide pole shall be equipped with a gasketed cap on the end of the pole;

viii. each slotted guide pole shall be equipped with a gasketed float or other device which closes off the liquid surface from the atmosphere; and

ix. each gauge hatch and each sample well shall be equipped with a gasketed cover;

2. the owner or operator shall operate the tank in accordance with the following requirements:

a. when the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be completed as soon as practical;

b. except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be secured and maintained in a closed position at all times except when the closure device must be open for access;

c. covers on each access hatch and each gauge float well shall be bolted or fastened when secured in the closed position;

d. automatic bleeder vents shall be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports;

e. rim space vents shall be set to open only at those times that the roof is being floated off the roof leg supports or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting;

f. the cap on the end of each unslotted guide pole shall be secured in the closed position at all times except when measuring the level or collecting samples of the liquid in the tank;

g. the cover on each gauge hatch or sample well shall be secured in the closed position at all times except when the hatch or well must be opened for access; and

h. both the primary seal and the secondary seal shall completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections;

3. the owner or operator shall inspect the external floating roof in accordance with the procedures specified as follows:

a. the owner or operator shall measure the external floating roof seal gaps in accordance with the following requirements:

i. the owner or operator shall perform measurements of gaps between the tank wall and the primary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every five years;

ii. the owner or operator shall perform measurements of gaps between the tank wall and the secondary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every year;

iii. if a tank ceases to hold hazardous waste for a period of one year or more, subsequent introduction of hazardous waste into the tank shall be considered an initial operation for the purposes of Subsection F.3.a.i and ii of this Section;

iv. the owner or operator shall determine the total surface area of gaps in the primary seal and in the secondary seal individually using the following procedure:

(a). the seal gap measurements shall be performed at one or more floating roof levels when the roof is floating off the roof supports;

(b). seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where a 0.32-centimeter (cm) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each such location;

(c). for a seal gap measured under Subsection F.3 of this Section, the gap surface area shall be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance;

(d). the total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually and then dividing the sum for each seal type by the nominal perimeter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in Subsection F.1.b of this Section;

v. in the event that the seal gap measurements do not conform to the specifications in Subsection F.1.b of this Section, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

vi. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

b. the owner or operator shall visually inspect the external floating roof in accordance with the following requirements:

i. the floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

ii. the owner or operator shall perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year except for the special conditions provided for in Subsection L of this Section;

iii. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

iv. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

c. prior to each inspection required by Subsection F.3.a or F.3.b of this Section, the owner or operator shall notify the administrative authority in advance of each inspection to provide the administrative authority with the opportunity to have an observer present during the inspection. The owner or operator shall notify the administrative authority of the date and location of the inspection as follows:

i. prior to each inspection to measure external floating roof seal gaps as required under Subsection F.3.a of this Section, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before the date the measurements are scheduled to be performed;

ii. prior to each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the owner or operator so that it is received by the administrative authority at least 30 calendar days before refilling the tank, except when an

inspection is not planned as provided for in Subsection F.3.c.iii of this Section; and

iii. when a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the administrative authority as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation stating why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the administrative authority at least seven calendar days before refilling the tank.

G. The owner or operator who controls air pollutant emissions from a tank by venting the tank to a control device shall meet the requirements specified in Subsection G.1-3 of this Section:

1. the tank shall be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the following requirements:

a. the fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the tank;

b. each opening in the fixed roof not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions;

c. the fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed; and

d. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761;

2. whenever a hazardous waste is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except as follows:

a. venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

i. to provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank; and

ii. to remove accumulated sludge or other residues from the bottom of a tank;

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

3. the owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures:

a. the fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1761;

c. the owner or operator shall perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection L of this Section;

d. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection K of this Section; and

e. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.B;

H. The owner or operator who controls air pollutant emissions by using a pressure tank shall meet the following requirements:

1. the tank shall be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the tank during filling of the tank to its design capacity;

2. all tank openings shall be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in LAC 33:V.1753.D; and

3. whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except in the event that a safety device, as defined in LAC 33:V.1749, is required to open to avoid an unsafe condition.

I. The owner or operator who controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in Subsection I.1-4 of this Section:

1. the tank shall be located inside an enclosure. The enclosure shall be designed and operated in accordance with

the criteria for 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. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* initially when the enclosure is first installed and, thereafter, annually;

2. the enclosure shall be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in accordance with the standards for either a vapor incinerator, boiler, or process heater specified in LAC 33:V.1761;

3. safety devices, as defined in LAC 33:V.4721, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with the requirements of Subsection I.1 and 2 of this Section; and

4. the owner or operator shall inspect and monitor the closed-vent system and control device as specified in LAC 33:V.1761.

J. The owner or operator shall transfer hazardous waste to a tank subject to this Section in accordance with the following requirements:

1. transfer of hazardous waste, except as provided in Subsection J.2 of this Section, to the tank from another tank subject to this Section or from a surface impoundment subject to LAC 33:V.1757 shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the hazardous waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems; and

2. the requirements of Subsection J.1 of this Section do not apply when transferring a hazardous waste to the tank under any of the following conditions:

a. the hazardous waste meets the average VO concentration conditions specified in LAC 33:V.1751.C.1 at the point of waste origination;

b. the hazardous waste has been treated by an organic destruction or removal process to meet the requirements in LAC 33:V.1751.C.2.

K. The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection C.4, E.3, F.3, or G.3 of this Section as follows:

1. the owner or operator shall make first efforts at repair of the defect no later than five calendar days after detection, and repair shall be completed as soon as possible, but no later than 45 calendar days after detection, except as provided in Subsection K.2 of this Section; and

2. repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the tank and no alternative tank capacity is available at the site to accept the hazardous waste normally managed in the tank. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the hazardous waste managed in the tank stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

L. Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subchapter, subsequent inspection and monitoring may be performed at intervals longer than one year under the following special conditions:

1. in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the owner or operator may designate a cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

a. prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

b. develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable section of this Subchapter, as frequently as practicable during those times when a worker can safely access the cover; and

2. in the case when a tank is buried partially or entirely underground, an owner or operator is required to inspect and monitor, as required by the applicable provisions of this Section, only those portions of the tank cover and those connections to the tank (e.g., fill ports, access hatches, gauge wells, etc.) that are located on or above the ground surface.

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 24:1704 (September 1998).

§1757. Standards: Surface Impoundments

A. The provisions of this Section apply to the control of air pollutant emissions from surface impoundments for which LAC 33:V.1751.B references the use of this Section for such air emission control.

B. The owner or operator shall control air pollutant emissions from the surface impoundment by installing and operating either of the following:

1. a floating membrane cover in accordance with the provisions specified in Subsection C of this Section; or

2. a cover that is vented through a closed-vent system to a control device in accordance with the provisions specified in Subsection D of this Section.

C. The owner or operator who controls air pollutant emissions from a surface impoundment using a floating membrane cover shall meet the requirements specified in Subsection C.1-3 of this Section.

1. the surface impoundment shall be equipped with a floating membrane cover designed to meet the following specifications:

a. the floating membrane cover shall be designed to float on the liquid surface during normal operations and form a continuous barrier over the entire surface area of the liquid;

b. the cover shall be fabricated from a synthetic membrane material that is either:

i. high density polyethylene (HDPE) with a thickness no less than 2.5 millimeters (mm); or

ii. a material or a composite of different materials determined to have both organic permeability properties that are equivalent to those of the material listed in Subsection C.1.b.i of this Section and chemical and physical properties that maintain the material integrity for the intended service life of the material;

c. the cover shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between cover section seams or between the interface of the cover edge and its foundation mountings;

d. except as provided for in Subsection C.1.e of this Section, each opening in the floating membrane cover shall be equipped with a closure device designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device;

e. the floating membrane cover may be equipped with one or more emergency cover drains for removal of stormwater. Each emergency cover drain shall be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening or a flexible fabric sleeve seal; and

f. the closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices shall include: organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the floating membrane cover is installed;

2. whenever a hazardous waste is in the surface impoundment, the floating membrane cover shall float on the liquid and each closure device shall be secured in the closed position except as follows:

a. opening of closure devices or removal of the cover is allowed at the following times:

i. to provide access to the surface impoundment for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the surface impoundment or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly replace the cover and secure the closure device in the closed position, as applicable; and

ii. to remove accumulated sludge or other residues from the bottom of the surface impoundment; and

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition; and

3. the owner or operator shall inspect the floating membrane cover in accordance with the following procedures:

a. the floating membrane cover and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover section seams or between the interface of the cover edge and its foundation mountings; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices; and

b. the owner or operator shall perform an initial inspection of the floating membrane cover and its closure devices on or before the date that the surface impoundment becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection G of this Section;

c. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection F of this Section; and

d. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.C.

D. The owner or operator who controls air pollutant emissions from a surface impoundment using a cover vented to a control device shall meet the requirements specified in Subsection D.1-3 of this Section.

1. the surface impoundment shall be covered by a cover and vented directly through a closed-vent system to a control device in accordance with the following requirements:

a. the cover and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the surface impoundment;

b. each opening in the cover not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the cover is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the cover is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions using the procedure specified in LAC 33:V.1753.D;

c. the cover and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the cover and closure devices shall include organic vapor permeability; the effects of any contact with the liquid or its vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover is installed; and

d. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761;

2. whenever a hazardous waste is in the surface impoundment, the cover shall be installed with each closure device secured in the closed position and the vapor headspace underneath the cover vented to the control device except as follows:

a. venting to the control device is not required, and opening of closure devices or removal of the cover is allowed at the following times:

i. to provide access to the surface impoundment for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the surface impoundment or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the surface impoundment; and

ii. to remove accumulated sludge or other residues from the bottom of the surface impoundment;

b. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition;

3. the owner or operator shall inspect and monitor the air emission control equipment in accordance with the following procedures:

a. the surface impoundment cover and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover section seams or between the interface of the cover edge and its foundation mountings; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;

b. the closed-vent system and control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1761;

c. the owner or operator shall perform an initial inspection of the air emission control equipment on or before the date that the surface impoundment becomes subject to this Section. Thereafter, the owner or operator shall perform the inspections at least once every year, except for the special conditions provided for in Subsection G of this Section;

d. in the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection F of this Section; and

e. the owner or operator shall maintain a record of the inspection in accordance with the requirements specified in LAC 33:V.1765.C.

E. The owner or operator shall transfer hazardous waste to a surface impoundment subject to this Section in accordance with the following requirements:

1. transfer of hazardous waste, except as provided in Subsection E.2 of this Section, to the surface impoundment from another surface impoundment subject to this Section or from a tank subject to LAC 33:V.1755 shall be conducted using continuous hard-piping or another closed system that does not allow exposure of the waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems; and

2. the requirements of Subsection E.1 of this Section do not apply when transferring a hazardous waste to the surface impoundment under either of the following conditions:

a. the hazardous waste meets the average VO concentration conditions specified in LAC 33:V.1751.C.1 at the point of waste origination;

b. the hazardous waste has been treated by an organic destruction or removal process to meet the requirements in LAC 33:V.1751.C.2.

F. The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection C.3 or D.3 of this Section:

1. the owner or operator shall make first efforts at repair of the defect no later than five calendar days after detection, and repair shall be completed as soon as possible, but no later than 45 calendar days, after detection except as provided in Subsection F.2 of this Section;

2. repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the surface impoundment and no alternative capacity is available at the site to accept the hazardous waste normally managed in the surface impoundment. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the hazardous waste managed in the surface impoundment stops operation. Repair of the defect shall be completed before the process or unit resumes operation.

G. Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subchapter, subsequent inspection and monitoring may be performed at intervals longer than one year in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions. In this case, the owner or operator may designate the cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

1. prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

2. develop and implement a written plan and schedule to inspect and monitor the cover using the procedures specified in the applicable section of this Subchapter as frequently as practicable during those times when a worker can safely access the cover.

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 24:1710 (September 1998).

§1759. Standards: Containers

A. The provisions of this Section apply to the control of air pollutant emissions from containers for which LAC

33:V.1751.B references the use of this Section for such air emission control.

B. General Requirements

1. The owner or operator shall control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in Subsection B.2 of this Section apply to the container:

a. for a container having a design capacity greater than 0.1 m^3 and less than or equal to 0.46 m^3, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Subsection C of this Section;

b. for a container having a design capacity greater than 0.46 m^3 that is not in light material service, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Subsection C of this Section; and

c. for a container having a design capacity greater than 0.46 m^3 that is in light material service, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in Subsection D of this Section.

2. When a container having a design capacity greater than 0.1 m^3 is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator shall control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in Subsection E of this Section at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.

C. Container Level 1 Standards

1. A container using Container Level 1 controls is one of the following:

a. a container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation, as specified in Subsection F of this Section;

b. a container equipped with a cover and closure devices that form a continuous barrier over the container openings such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap);

c. an open-top container in which an organic-vapor-suppressing barrier is placed on or over the hazardous waste in the container such that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor-suppressing foam.

2. A container used to meet the requirements of Subsection C.1.b or c of this Section shall be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices shall include organic vapor permeability, the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.

3. Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator shall install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:

a. opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:

i. in the case when the container is filled to the intended final level in one continuous operation, the owner or operator shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and

ii. in the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level, the completion of a batch loading after which no additional material will be added to the container within 15 minutes, the person performing the loading operation leaving the immediate vicinity of the container, or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

b. opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

i. for the purpose of meeting the requirements of this Section an empty container, as defined in LAC 33:V.109, may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container);

ii. in the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in LAC 33:V.109, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

c. opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container or when a worker needs to open a manhole hatch to access equipment inside the container. Following

completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

d. opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and

e. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition.

4. The owner or operator of containers using Container Level 1 controls shall inspect the containers and their covers and closure devices as follows:

a. in the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied (i.e., does not meet the conditions for an empty container as specified in LAC 33:V.109) within 24 hours after the container is accepted at the facility, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection C.4.c of this Section;

b. in the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator shall visually inspect the container and its cover and closure devices initially and, thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection C.4.c of this Section;

c. when a defect is detected for the container, cover, or closure devices, the owner or operator shall make first efforts at repair of the defect no later than 24 hours after detection, and repair shall be completed as soon as possible, but no later than five calendar days, after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

5. The owner or operator shall maintain at the facility a copy of the procedure used to determine that containers with a capacity of 0.46 m^3 or greater, which do not meet applicable DOT regulations as specified in Subsection F of this Section, are not managing hazardous waste in light material service.

D. Container Level 2 Standards

1. A container using Container Level 2 controls is one of the following:

a. a container that meets the applicable DOT regulations on packaging hazardous materials for transportation, as specified in Subsection F of this Section;

b. a container that operates with no detectable organic emissions as defined in LAC 33:V.4721 and determined in accordance with the procedure specified in Subsection G of this Section;

c. a container that has been demonstrated within the preceding 12 months to be vapor-tight by using 40 CFR part 60, appendix A, Method 27 in accordance with the procedure specified in Subsection H of this Section.

2. Transfer of hazardous waste in or out of a container using Container Level 2 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this Paragraph include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container, a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations, or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

3. Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator shall install all covers and closure devices for the container and secure and maintain each closure device in the closed position except as follows:

a. opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:

i. in the case when the container is filled to the intended final level in one continuous operation, the owner or operator shall promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation;

ii. in the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level, the completion of a batch loading after which no additional material will be added to the container within 15 minutes, the person performing the loading

operation leaving the immediate vicinity of the container, or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

b. opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

i. for the purpose of meeting the requirements of this Section an empty container, as defined in LAC 33:V.109, may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container);

ii. in the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in LAC 33:V.109, the owner or operator shall promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

c. opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

d. opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations;

e. opening of a safety device, as defined in LAC 33:V.4721, is allowed at any time conditions require doing so to avoid an unsafe condition.

4. The owner or operator of containers using Container Level 2 controls shall inspect the containers and their covers and closure devices as follows:

a. in the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied (i.e., does not meet the conditions for an empty container as specified in LAC 33:V.109) within 24 hours after the container arrives at the facility, the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection D.4.c of this Section;

b. in the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator shall visually inspect the container and its cover and closure devices initially and, thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of Subsection D.4.c of this Section;

c. when a defect is detected for the container, cover, or closure devices, the owner or operator shall make first efforts at repair of the defect no later than 24 hours after detection, and repair shall be completed as soon as possible, but no later than five calendar days, after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

E. Container Level 3 Standards

1. A container using Container Level 3 controls is one of the following:

a. a container that is vented directly through a closed-vent system to a control device in accordance with the requirements of Subsection E.2.b of this Section;

b. a container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of Subsection E.2.a and b of this Section.

2. The owner or operator shall meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:

a. the container enclosure shall be designed and operated in accordance with the criteria for 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. The enclosure may have permanent or temporary openings to allow worker access, passage of containers through the enclosure by conveyor or other mechanical means, entry of permanent mechanical or electrical equipment, or direct airflow into the enclosure. The

owner or operator shall perform the verification procedure for the enclosure as specified in section 5.0 to *Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure* initially when the enclosure is first installed and, thereafter, annually; and

b. the closed-vent system and control device shall be designed and operated in accordance with the requirements of LAC 33:V.1761.

3. Safety devices, as defined in LAC 33:V.4721, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of Subsection E.1 of this Section.

4. Owners and operators using Container Level 3 controls in accordance with the provisions of this Subchapter shall inspect and monitor the closed-vent systems and control devices as specified in LAC 33:V.1761.

5. Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subchapter shall prepare and maintain the records specified in LAC 33:V.1765.D.

F. For the purpose of compliance with Subsection C.1.a or D.1.a of this Section, containers shall be used that meet the applicable DOT regulations on packaging hazardous materials for transportation as follows:

1. the container meets the applicable requirements specified in 49 CFR part 178—Specifications for Packaging or 49 CFR part 179—Specifications for Tank Cars;

2. hazardous waste is managed in the container in accordance with the applicable requirements specified in 49 CFR part 107, subpart B—Exemptions; 49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements; 49 CFR part 173—Shippers—General Requirements for Shipments and Packages; and 49 CFR part 180—Continuing Qualification and Maintenance of Packagings;

3. for the purpose of complying with this Subchapter, no exceptions to the 49 CFR part 178 or part 179 regulations are allowed except as provided for in Subsection F.4 of this Section; and

4. for a lab pack that is managed in accordance with the requirements of 49 CFR part 178 for the purpose of complying with this Subchapter, an owner or operator may comply with the exceptions for combination packagings specified in 49 CFR 173.12(b).

G. The owner or operator shall use the procedure specified in LAC 33:V.1753.D for determining when a container operates with no detectable organic emissions for the purpose of complying with Subsection D.1.b of this Section.

1. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, shall be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the interface of the cover rim and the container wall, the periphery of any opening on the container or container cover and its associated closure device, and the sealing seat interface on a spring-loaded pressure-relief valve.

2. The test shall be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices shall be secured in the closed position.

H. The owner or operator shall use the procedure for determining a container to be vapor-tight using Method 27 of 40 CFR part 60, appendix A for the purpose of complying with Subsection D.1.c of this Section.

1. The test shall be performed in accordance with Method 27 of 40 CFR part 60, appendix A.

2. A pressure measurement device shall be used that has a precision of ± 2.5 mm water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.

3. If the test results determined by Method 27 indicate that the container sustains a pressure change less than or equal to 750 Pascals within five minutes after it is pressurized to a minimum of 4,500 Pascals, then the container is determined to be vapor-tight.

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 24:1712 September 1998).

§1761. Standards: Closed-Vent Systems and Control Devices

A. This Section applies to each closed-vent system and control device installed and operated by the owner or operator to control air emissions in accordance with standards of this Subchapter.

B. The closed-vent system shall meet the following requirements:

1. shall route the gases, vapors, and fumes emitted from the hazardous waste in the waste management unit to a control device that meets the requirements specified in Subsection C of this Section;

2. shall be designed and operated in accordance with the requirements specified in LAC 33:V.1709.K;

3. in the case when the closed-vent system includes bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device, each bypass device shall be equipped with either a flow indicator as specified in Subsection B.3.a of this Section or a seal or locking device as specified in Subsection B.3.b of this Section. For the purpose of complying with this Paragraph, low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, spring-loaded pressure-relief valves, and other fittings used for safety purposes are not considered to be bypass devices:

a. if a flow indicator is used to comply with this Subsection, the indicator shall be installed at the inlet to the bypass line used to divert gases and vapors from the closed-vent system to the atmosphere at a point upstream of the control device inlet. For this paragraph, a flow indicator means a device that indicates the presence of either gas or vapor flow in the bypass line;

b. if a seal or locking device is used to comply with this Subsection, the device shall be placed on the mechanism

by which the bypass device position is controlled (e.g., valve handle, damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock. Examples of such devices include, but are not limited to, a car-seal or a lock-and-key configuration valve. The owner or operator shall visually inspect the seal or closure mechanism at least once every month to verify that the bypass mechanism is maintained in the closed position;

4. shall be inspected and monitored by the owner or operator in accordance with the procedure specified in LAC 33:V.1709.L.

C. The control device shall meet the following requirements:

1. shall be one of the following devices:

a. a control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least 95 percent by weight;

b. an enclosed combustion device designed and operated in accordance with the requirements of LAC 33:V.1709.C; or

c. a flare designed and operated in accordance with the requirements of LAC 33:V.1709.D;

2. the owner or operator who elects to use a closed-vent system and control device to comply with the requirements of this Section shall comply with the requirements specified in Subsection C.2.a-f of this Section:

a. periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of Subsection C.1.a, b, or c of this Section, as applicable, shall not exceed 240 hours per year;

b. the specifications and requirements in Subsection C.1.a, b, or c of this Section for control devices do not apply during periods of planned routine maintenance;

c. the specifications and requirements in Subsection C.1.a, b, or c of this Section for control devices do not apply during a control device system malfunction;

d. the owner or operator shall demonstrate compliance with the requirements of Subsection C.2.a of this Section (i.e., planned routine maintenance of a control device, during which the control device does not meet the specifications of Subsection C.1.a, b, or c of this Section, as applicable, shall not exceed 240 hours per year) by recording the information specified in LAC 33:V.1765.E.1.e;

e. the owner or operator shall correct control device system malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of air pollutants; and

f. the owner or operator shall operate the closed-vent system such that gases, vapors, or fumes are not actively vented to the control device during periods of planned maintenance or control device system malfunction (i.e., periods when the control device is not operating or not operating normally) except in cases when it is necessary to vent the gases, vapors, and/or fumes to avoid an unsafe condition or to implement malfunction corrective actions or planned maintenance actions;

3. the owner or operator using a carbon adsorption system to comply with Subsection C.1 of this Section shall operate and maintain the control device in accordance with the following requirements:

a. following the initial startup of the control device, all activated carbon in the control device shall be replaced with fresh carbon on a regular basis in accordance with the requirements of LAC 33:V.1709.G or H; and

b. all carbon removed from the control device shall be managed in accordance with the requirements of LAC 33:V.1709.N;

4. an owner or operator using a control device other than a thermal vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with Subsection C.1 of this Section shall operate and maintain the control device in accordance with the requirements of LAC 33:V.1709.J;

5. the owner or operator shall demonstrate that a control device achieves the performance requirements of Subsection C.1 of this Section as follows:

a. an owner or operator shall demonstrate, using either a performance test as specified in Subsection C.5.c of this Section or a design analysis as specified in Subsection C.5.d of this Section, the performance of each control device except for the following:

i. a flare;

ii. a boiler or process heater with a design heat input capacity of 44 megawatts or greater;

iii. a boiler or process heater into which the vent stream is introduced with the primary fuel;

iv. a boiler or industrial furnace burning hazardous waste for which the owner or operator has been issued a final permit under LAC 33:V.Chapter 5 and has designed and operates the unit in accordance with the requirements of LAC 33:V.Chapter 30; or

v. a boiler or industrial furnace burning hazardous waste for which the owner or operator has designed and operates in accordance with the interim status requirements of LAC 33:V.Chapter 30;

b. an owner or operator shall demonstrate the performance of each flare in accordance with the requirements specified in LAC 33:V.1709.E;

c. for a performance test conducted to meet the requirements of Subsection C.5.a of this Section, the owner or operator shall use the test methods and procedures specified in LAC 33:V.1711.C.1-4;

d. for a design analysis conducted to meet the requirements of Subsection C.5.a of this Section, the design analysis shall meet the requirements specified in LAC 33:V.1713.B.4.c; and

e. the owner or operator shall demonstrate that a carbon adsorption system achieves the performance requirements of Subsection C.1 of this Section based on the total quantity of organics vented to the atmosphere from all carbon adsorption system equipment that is used for organic adsorption, organic desorption or carbon regeneration, organic recovery, and carbon disposal;

6. if the owner or operator and the administrative authority do not agree on a demonstration of control device performance using a design analysis, then the disagreement shall be resolved using the results of a performance test

performed by the owner or operator in accordance with the requirements of Subsection C.5.c of this Section. The administrative authority may choose to have an authorized representative observe the performance test; and

7. the control device shall be inspected and monitored by the owner or operator in accordance with the procedures specified in LAC 33:V.1709.F.2 and L. The readings from each monitoring device required by LAC 33:V.1709.F.2 shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures shall be immediately implemented to ensure the control device is operated in compliance with the requirements 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 24:1716 (September 1998).

§1763. Inspection and Monitoring Requirements

A. The owner or operator shall inspect and monitor air emission control equipment used to comply with this Chapter in accordance with the applicable requirements specified in LAC 33:V.1755-1761.

B. The owner or operator shall develop and implement a written plan and schedule to perform the inspections and monitoring required by Subsection A of this Section. The owner or operator shall incorporate this plan and schedule into the facility inspection plan required under LAC 33:V.1509.

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 24:1718 (September 1998).

§1765. Recordkeeping Requirements

A. Each owner or operator of a facility subject to requirements in this Subchapter shall record and maintain the information specified in Subsections B-I of this Section, as applicable to the facility. Except for air emission control equipment design documentation and information required by Subsection I of this Section, records required by this Section shall be maintained in the operating record for a minimum of three years. Air emission control equipment design documentation shall be maintained in the operating record until the air emission control equipment is replaced or otherwise no longer in service. Information required by Subsection I of this Section shall be maintained in the operating record for as long as the tank or container is not using air emission controls specified in LAC 33:V.1755-1761 in accordance with the conditions specified in LAC 33:V.1755.D.

B. The owner or operator of a tank using air emission controls in accordance with the requirements of LAC 33:V.1755 shall prepare and maintain records for the tank that include the following information:

1. for each tank using air emission controls in accordance with the requirements of LAC 33:V.1755, the owner or operator shall record:

a. a tank identification number (or other unique identification description as selected by the owner or operator); and

b. a record for each inspection required by LAC 33:V.1755 that includes the following information:

i. date inspection was conducted; and

ii. for each defect detected during the inspection, include the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of LAC 33:V.1755, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected; and

2. in addition to the information required by Subsection B.1 of this Section, the owner or operator shall record the following information, as applicable to the tank:

a. the owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in LAC 33:V.1755.C shall prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of LAC 33:V.1755.C. The records shall include the date and time the samples were collected, the analysis method used, and the analysis results;

b. the owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.E shall prepare and maintain documentation describing the floating roof design;

c. owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.F shall prepare and maintain the following records:

i. documentation describing the floating roof design and the dimensions of the tank; and

ii. records for each seal gap inspection required by LAC 33:V.1755.F.3 describing the results of the seal gap measurements. The records shall include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in LAC 33:V.1755.F.1, the records shall include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary; and

d. each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in LAC 33:V.1755.I shall prepare and maintain the following records:

i. 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; and

ii. records required for the closed-vent system and control device in accordance with the requirements of Subsection E of this Section.

C. The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of LAC 33:V.1757 shall prepare and maintain records for the

surface impoundment that include the following information:

1. a surface impoundment identification number (or other unique identification description as selected by the owner or operator);

2. documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, 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;

3. a record for each inspection required by LAC 33:V.1757 that includes the following information:

a. date inspection was conducted; and

b. for each defect detected during the inspection, include the following, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of LAC 33:V.1757.F, the owner or operator shall also record the reason for the delay and the date that completion of repair of the defect is expected; and

4. for a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator shall prepare and maintain the records specified in Subsection E of this Section.

D. The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of LAC 33:V.1759 shall prepare and maintain records that include the following information:

1. 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; and

2. records required for the closed-vent system and control device in accordance with the requirements of Subsection E of this Section.

E. The owner or operator using a closed-vent system and control device in accordance with the requirements of LAC 33:V.1761 shall prepare and maintain records that include documentation for the closed-vent system and control device that includes:

1. certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the performance level documented by a design analysis as specified in Subsection E.2 of this Section or by performance tests as specified in Subsection E.3 of this Section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur;

2. if a design analysis is used, then design documentation as specified in LAC 33:V.1713.B.4. The documentation shall include information prepared by the owner or operator or provided by the control device manufacturer or vendor that describes the control device design in accordance with LAC 33:V.1713.B.4.c and certification by the owner or operator that the control equipment meets the applicable specifications;

3. if performance tests are used, then a performance test plan as specified in LAC 33:V.1713.B.3 and all test results;

4. information as required by LAC 33:V.1713.C.1 and 2, as applicable;

5. an owner or operator shall record, on a semiannual basis, the information specified in Subsection E.5.a and b of this Section for those planned routine maintenance operations that would require the control device not to meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable:

a. a description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods; and

b. a description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description shall include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable, due to planned routine maintenance;

6. an owner or operator shall record the information specified in Subsection E.6.a-c of this Section for those unexpected control device system malfunctions that would require the control device not to meet the requirements of LAC 33:V.1761.C.1.a, b, or c, as applicable:

a. the occurrence and duration of each malfunction of the control device system;

b. the duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning; and

c. actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation; and

7. records of the management of carbon removed from a carbon adsorption system conducted in accordance with LAC 33:V.1761.C.3.b.

F. The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of LAC 33:V.1751.C shall prepare and maintain the following records, as applicable:

1. for tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in LAC 33:V.1751.C.1 or 2, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of LAC 33:V.1753;

2. for tanks, surface impoundments, or containers exempted under the provisions of LAC 33:V.1751.C.2.g or h, the owner or operator shall record the identification number

for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.

G. An owner or operator designating a cover as "unsafe to inspect and monitor" in accordance with LAC 33:V.1755.L or 1757.G shall record in a log that is kept in the facility operating record the following information: the identification numbers for waste management units with covers that are designated as "unsafe to inspect and monitor"; the explanation for each cover stating why the cover is unsafe to inspect and monitor; and the plan and schedule for inspecting and monitoring each cover.

H. The owner or operator of a facility that is subject to this Subchapter and to the control device standards in 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V may elect to demonstrate compliance with the applicable sections of this Subchapter by documentation either in accordance with this Subchapter or the provisions of 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, to the extent that the documentation required by 40 CFR part 60 or 61 duplicates the documentation required by this Section.

I. For each tank or container not using air emission controls specified in LAC 33:V.1755 - 1761 in accordance with the conditions specified in LAC 33:V.1747.D, the owner or operator shall record and maintain the following information:

1. a list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in LAC 33:V.1747.D.1;

2. a description of how the hazardous waste containing the organic peroxide compounds identified in Subsection I.1 of this Section are managed at the facility in tanks and containers. This description shall include:

a. for the tanks used at the facility to manage this hazardous waste, sufficient information shall be provided to describe, for each tank, a facility identification number for the tank; the purpose and placement of this tank in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks; and

b. for containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to describe a facility identification number for the container or group of containers, the purpose and placement of this container or group of containers in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste handled in the containers;

3. an explanation of why managing the hazardous waste containing the organic peroxide compounds identified in Subsection I.1 of this Section in the tanks and containers as described in Subsection I.2 of this Section would create an undue safety hazard if the air emission controls, as required under LAC 33:V.1755 - 1761, are installed and operated on these waste management units. This explanation shall include the following information:

a. for tanks used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks, and why installation of safety devices on the required air emission controls, as allowed under this Subchapter, will not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides; and

b. for containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the containers, and why installation of safety devices on the required air emission controls, as allowed under this Subchapter, will not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

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 24:1718 (September 1998).

§1767. Reporting Requirements

A. Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from using air emission controls under the provisions of LAC 33:V.1751.C shall report to the administrative authority each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in LAC 33:V.1751.C.1 or 2, as applicable. Examples of such occurrences include placing in the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in LAC 33:V.1751.C.2.a-f. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

B. Each owner or operator using air emission controls on a tank in accordance with the requirements LAC 33:V.1755.C shall report to the administrative authority each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in LAC 33:V.1755.B. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the

noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

C. Each owner or operator using a control device in accordance with the requirements of LAC 33:V.1761 shall submit a semiannual written report to the administrative authority, except as provided for in Subsection D of this Section. The report shall describe each occurrence during the previous six-month period when either:

1. a control device is operated continuously for 24 hours or longer in compliance with the applicable operating values defined in LAC 33:V.1713.C.4; or

2. a flare is operated with visible emissions for five minutes or longer in a two-hour period, as defined in LAC 33:V.1709.D. The written report shall include the EPA identification number, facility name and address, an explanation why the control device could not be returned to compliance within 24 hours, and actions taken to correct the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

D. A report to the administrative authority in accordance with the requirements of Subsection C of this Section is not required for a six-month period during which all control devices subject to this Chapter are operated by the owner or operator such that:

1. during no period of 24 hours or longer did a control device operate continuously in noncompliance with the applicable operating values defined in LAC 33:V.1713.C.4; and

2. no flare was operated with visible emissions for five minutes or longer in a two-hour period, as defined in LAC 33:V.1709.D.

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 24:1720 (September 1998).

Appendix
Table 1
Compounds With Henry's Law Constant Less Than 0.1 Y/X

[At 25EC]

Compound Name	CAS Number
Acetaldol	107-89-1
Acetamide	60-35-5
2-Acetylaminoflourene	53-96-3
3-Acetyl-5-hydroxypiperidine	
3-Acetylpiperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5
Aniline	62-53-3
o-Anisidine	90-04-0
Anthraquinone	84-65-1
Atrazine	1912-24-9
Benzenearsonic acid	98-05-5
Benzenesulfonic acid	98-11-3
Benzidine	92-87-5
Benzo (a) anthracene	56-55-3
Benzo (k) flouranthene	207-08-9
Benzoic acid	65-85-0
Benzo (g,h,i) perylene	191-24-2
Benzo (a) pyrene	50-32-8
Benzyl alcohol	100-51-6
gamma-BHC	58-89-9
Bis (2-ethylhexyl) phthalate	117-81-7
Bromochloromethyl acetate	
Bromoxynil	1689-84-5
Butyric acid	107-92-6
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2
Catechol (o-dihydroxybenzene)	120-80-9
Cellulose	9004-34-6
Cell wall	
Chlorohydrin (3 Chloro-1,2-propanediol)	96-24-2
Chloroacetic acid	79-11-8
2-Chloracetophenone	93-76-5
p-Chloroaniline	106-47-8
p-Chlorobenzophenone	134-85-0
Chlorobenzylate	510-15-6
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7
3-Chloro-2,5-diketopyrrolidine	
Chloro-1,2-ethane diol	
4-Chlorophenol	106-48-9
Chlorophenol polymers (2-chlorophenol and 4-chlorophenol)	95-57-8 and 106-48-9

1-(o-Chlorophenyl) thiourea	5344-82-1
Chrysene	218-01-9
Citric acid	77-92-9
Creosote	8001-58-9
m-Cresol	108-39-4
o-Cresol	95-48-7
p-Cresol	106-44-5
Cresol (mixed isomers)	1319-77-3
4-Cumylphenol	27576-86
Cyanide	57-12-5
4-Cyanomethyl benzoate	
Diazinon	333-41-5
Dibenzo (a, h) anthracene	53-70-3
Dibutylphthalate	84-74-2
2,5-Dichloroaniline (N,N'-Dichlotoaniline)	95-82-9
2,6-Dichlorobenzonitrile	1194-65-6
2,6-Dichloro-4-nitroaniline	99-30-9
2,5-Dichlorophenol	333-41-5
3,4-Dichlorotetrahydrofuran	3511-19
Dichlorvos (DDVP)	62737
Diethanolamine	111-42-2
N,N-Diethylaniline	91-66-7
Diethylene glycol	111-46-6
Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6
Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5
Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2
Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0
Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3
N,N' -Diethylhydrazine	1615-80-1
Diethyl (4-methylumbelliferyl) thiophosphate	299-45-6
Diethyl phosphorothioate	126-75-0
N,N' -Diethyl propionamide	15299-99-77
Dimethoate	60-51-5
2,3-Dimethoxystrychnidin-10-one	357-57-3
4-Dimethylaminoazobenzene	60-11-7
7,12-Dimethylbenz(a)anthracene	57-97-6
3,3-Dimethylbenzidine	119-93-7
Dimethylcarbamoyl chloride	79-44-7
Dimethyldisulfide	624-92-0
Dimethylformanide	68-12-2
1,1 -Dimethylhydrazine	57-14-7
Dimethylphthalate	131-11-3
Dimethylsulfone	67-71-0
Dimethylsulfoxide	67-68-5
4,6-Dinitro-o-cresol	534-52-1
1,2-Diphenylhydrazine	122-66-7
Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5
Endrin	72-20-8
Epinephrine	51-43-4
mono-Ethanolamine	141-43-5
Ethyl carbamate (urethane)	5-17-96
Ethylene glycol	107-21-1
Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2
Ethylene glycol monoethel ether (Cellosolve)	110-80-5
Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9
Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4
Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6
Ethelene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Ethylene thiourea (2-imidazolidinethione)	9-64-57
4-Ethylmorpholine	100-74-3
3-Ethylphenol	620-17-7
Flouroacetic acid, sodium salt	62-74-8
Formaldehyde	50-00-0
Formamide	75-12-7
Formic acid	64-18-6
Fumaric acid	110-17-8
Glutaric acid	110-94-1
Glycerin (Glycerol)	56-81-5
Glycidol	556-52-5
Glycinamide	598-41-4
Glyphosate	1071-83-6
Guthion	86-50-0

Hexamethylene-1,6-diisocyanate (1,6-Disocyanatohexane)	822-06-0
Hexamethyl phosphoramide	680-31-9
Hexanoic acid	142-62-1
Hydrazine	302-01-2
Hydrocyanic acid	74-90-8
Hydroquinone	123-31-9
Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4
Indeno (1,2, 3-cd) pyrene	193-39-5
Lead acetate	301-04-2
Lead subacetate (lead acetate, monobasic)	1335-32-6
Leucine	61-90-5
Malathion	121-75-5
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Mesityl oxide	141-79-7
Methane sulfonic acid	75-75-2
Methomyl	16752-77-5
p-Methoxyphenol	150-76-5
Methyl acrylate	96-33-3
4,4'-Methylene-bis-(2-chloroaniline)	101-14-4
4,4.-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8
4,4'-Methylenedianiline	101-77-9
Methylene diphenylamine (MDA)	
5-Methylfurfural	620-02-0
Methylhydrazine	60-34-4
Methyliminoacetic acid	
Methyl methane sulfonate	66-27-3
1-Methyl-2-methoxyaziridine	
Methylparathion	298-00-0
Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1
4-Methylthiophenol	106-45-6
Monomethylformanide (N-methylformamide)	123-39-7
Nabam	142-59-6
alpha-Naphthol	90-15-3
beta-Naphthol	135-19-3
alpha-Naphthylamine	134-32-7
beta-Naphthylamine	91-59-8
Neopentyl glycol (dimethylolpropane)	126-30-7
Niacinamide	98-92-0
o-Nitroaniline	88-74-4
Nitroglycerin	55-63-0
2-Nitrophenol	88-75-5
4-Nitrophenol	100-02-7
N-Nitrosodimethylamine	62-75-9
Nitrasoguanidine	674-81-7
N-Nitroso-n-methylurea	684-93-5
N-Nitrosomorpholine (4-Nitrosomorpholine)	59-89-2
Oxalic acid	144-62-7
Parathion	56-38-2
Pentaerythritol	115-77-5
Phenacetin	62-44-2
Phenol	108-95-2
Phenylacetic acid	103-82-2
m-Phenylene diamine	108-45-2
o-Phenlyene diamine	95-54-5
p-Phenylene diamine	106-50-3
Phenyl mercuric acetate	62-38-4
Phorate	298-02-2
Phthalic anhydride	85-44-9
alpha-Piciline (2-methyl pyridine)	109-06-8
1,3-Propane sultone	1120-71-4
Beta-Propiolactone	57-57-8
Proporur (Baygon)	
Porpylene glycol	57-55-6
Pyrene	129-00-0
Pyridinium bromide	39416-48-3
Quinoline	91-22-5
Quinone (p-benzoquinone)	106-51-4
Resorcinol	108-46-3
Simazine	122-34-9
Sodium acetate	127-09-3
Sodium formate	141-53-7
Strychnine	57-24-9
Succinic acid	110-15-6
Succinimide	123-56-8
Sulfanilic acid	121-47-1

Terephthalic acid	100-21-0
Tetraethyldithiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5
3,4-Toluenediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-Trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol dimethyl ether	
Tripropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

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 24:1721 (September 1998).

Chapter 19. Tanks

§1921. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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 24:1724 (September 1998).

Chapter 21. Containers

§2119. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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 24:1724 (September 1998).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I.2]

3. de minimis losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as losses 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; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one percent of the total flow of wastewater into the facility's headworks on an annual basis or with a combined annualized average concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility;

4. Reserved.

* * *

[See Prior Text in I.5 - 5.c]

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 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998).

§2205. Storage of Prohibited Wastes

A. The storage of hazardous wastes prohibited from land disposal is prohibited except under the following conditions.

1. A generator may store such wastes in tanks, containers, or containment buildings on-site solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements of LAC 33:V.1109.E, Chapters 9, 15, 17, 18, 19, 21, 23, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 43, 51, and 53. A small quantity generator as defined in LAC 33:V.Chapter 39 may accumulate hazardous waste in accordance with LAC 33:V.3913.

* * *

[See Prior Text in A.2 - G]

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 15:378 (May 1989), amended LR

16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998).

§2209. Waste-Specific Prohibitions—Wood Preserving Wastes

A. Effective September 20, 1998, the following wastes are prohibited from land disposal: the wastes specified in LAC 33:V.Chapter 49 as EPA Hazardous Waste Numbers F032, F034, and F035.

B. Effective May 12, 1999, the following wastes are prohibited from land disposal: soil and debris contaminated with F032, F034, F035, and radioactive wastes mixed with EPA Hazardous Waste Numbers F032, F034, and F035.

C. Between September 20, 1998 and May 12, 1999, soil and debris contaminated with F032, F034, F035, and radioactive waste mixed with F032, F034, and F035 may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in LAC 33:V.2239.I.2.

D. The requirements of Subsections A and B of this Section do not apply if:

1. an exemption from a prohibition has been granted pursuant to a petition under LAC 33:V.2241 or 2271 with respect to those wastes and units covered by the petition;

2. the wastes meet the applicable alternate treatment standards established in accordance with a petition granted under LAC 33:V.2231;

3. the wastes meet the applicable treatment standards specified in this Subchapter; or

4. persons have been granted an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

E. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Universal Treatment Standard levels of Table 7 of this Chapter, the waste is prohibited from land disposal and all requirements of this Chapter are applicable, except as otherwise specified.

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 15:378 (May 1989), amended LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2211. Waste-Specific Prohibitions—Dioxin-Containing Wastes

* * *

[See Prior Text in A - B.1]

2. the wastes are disposed of at a facility that has been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271 with respect to those wastes covered by the exemption; or

3. an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

* * *

[See Prior Text in C]

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 15:378 (May 1989), amended LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2213. Repealed.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), LR 22:819 (September 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2215. Repealed.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2217. Repealed.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2219. Repealed.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998).

§2221. Schedule of Wastes Identified or Listed After November 8, 1984

* * *

[See Prior Text in A - B]

C. Reserved.

* * *

[See Prior Text in D - E.5]

F. Waste-Specific Prohibitions: Spent Aluminum Potliners and Reactive and Carbamate Wastes

1. Effective April 20, 1998, the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161, and in LAC 33:V.4901.E as EPA Hazardous Waste Numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373,

U387, U389, U394, U395, U404, and U409-U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

* * *

[See Prior Text in F.2-3]

4. On April 20, 1998, radioactive wastes mixed with K088, K156-K159, K161, P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409-U411 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

* * *

[See Prior Text in F.5-7]

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 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 24:1725 (September 1998).

§2223. Applicability of Treatment Standards

* * *

[See Prior Text in A - B]

C. When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

D. Notwithstanding the prohibitions specified in Subsection A of this Section, treatment and disposal facilities may demonstrate (and certify in accordance with LAC 33:V.2247.C) compliance with the treatment standards for organic constituents specified by footnote in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes, provided the following conditions are satisfied:

1. the treatment standards for the organic constituents were established based on incineration in units operated in accordance with the technical requirements of LAC 33:V.Chapter 31 or based on combustion in fuel substitution units operating in accordance with applicable technical requirements;

2. the treatment or disposal facility has used the methods referenced in Subsection D.1 of this Section to treat the organic constituents; and

3. the treatment or disposal facility may demonstrate compliance with organic constituents if good-faith analytical efforts achieve detection limits for the regulated organic constituents that do not exceed the treatment standards specified in this Section by an order of magnitude.

E. For characteristic wastes (D001-D003 and D012-D043) that are subject to treatment standards in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes, all underlying hazardous constituents (as defined in LAC 33:V.2203) must meet Universal Treatment Standards, found in LAC 33:V.Chapter 22.Table 7, prior to land disposal as defined in LAC 33:V.2203.

F. The treatment standards for F001-F005 nonwastewater constituents carbon disulfide, cyclohexanone, and/or methanol apply to wastes that contain only one, two, or three of these constituents. Compliance is measured for these constituents in the waste extract from Test Method 1311, the Toxicity Characteristic Leaching Procedure found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110. If the waste contains any of these three constituents along with any of the other 25 constituents found in F001-F005, then compliance with treatment standards for carbon disulfide, cyclohexanone, and/or methanol are not required.

G. Between August 26, 1996, and August 26, 1998, the treatment standards for the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161 and in LAC 33:V.4901.E-F as EPA Hazardous Waste Numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U404, and U409-U411 and soil contaminated with these wastes were satisfied by either meeting the constituent concentrations presented in LAC 33:V.Chapter 22.Table 2, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at LAC 33:V.Chapter 22.Table 3, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at LAC 33:V.Chapter 22.Table 3, for wastewaters.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:668 (April 1998), LR 24:1726 (September 1998).

§2225. Repealed.

Editor's Note: For the requirements previously found in LAC 33:V.2225, refer to LAC 33:V.2223.

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§2229. Repealed.

Editor's Note: For the requirements previously found in LAC 33:V.2229, refer to LAC 33.V.2223.

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§2237. Exemption for Surface Impoundments Treating Hazardous Waste

* * *

[See Prior Text in A - A.2]

a. Sampling and Testing. For wastes with treatment standards and/or prohibition levels in LAC 33:V.Chapter 22.Subchapter A or RCRA section 3004(d), the residues from the treatment must be analyzed, as specified in LAC 33:V.2245, 2247, or 2213.F and G to determine if they meet the applicable treatment standards or where no treatment standards have been established for the waste, the applicable prohibition levels. The sampling method, specified in the waste analysis plan under LAC 33:V.1519 or 4313, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples.

* * *

[See Prior Text in A.2.b - c]

d. Recordkeeping. Sampling and testing and recordkeeping provisions of LAC 33:V.1519 and 4313 apply.

* * *

[See Prior Text in A.2.e - A.3.c]

4. The owner or operator must submit to the administrative authority a written certification that the requirements of Subsection A.3 of this Section have been met and a copy of the waste analysis plan required under Subsection A.2 of this Section. The following certification is required:

> "I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. 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 fines and imprisonment."

* * *

[See Prior Text in B - C.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 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998).

§2239. Procedures for Case-by-Case Extensions of an Effective Date

* * *

[See Prior Text in A - A.2]

3. written evidence that due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date;

* * *

[See Prior Text in A.4 - E]

F. On the basis of the information referred to in Subsection A of this Section, after notice and opportunity for public comment, and after consultation with appropriate state agencies in all affected states, the administrative authority may grant an extension of up to one year from the effective date of the prohibition. The administrative authority may renew this extension for up to one additional year at the applicant's request if the demonstration required in Subsection A of this Section can still be made. In no event will an extension extend beyond 24 months from the applicable effective date specified in this Subchapter. The length of any extension authorized will be determined by the administrative authority based on the time required to construct or obtain the type of capacity the applicant needs, as described in the completion schedule discussed in Subsection A.5 of this Section. The administrative authority will give public notice of the intent to approve or deny a petition or for an extension and will provide an opportunity for public comment as provided in LAC 33:V.2243. The final decision on a petition or extension will be published in the official state journal.

* * *

[See Prior Text in G-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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998).

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection

* * *

[See Prior Text in A-J]

K. After receiving a petition, the administrative authority may request any additional information that may be reasonably required to evaluate the demonstration.

L. A petition submitted in accordance with this Section must apply to land disposal of the specific prohibited waste at the individual disposal unit described in the showing and demonstration and will not apply to any other prohibited waste at that disposal unit or to that specific prohibited waste at any other disposal unit.

M. The administrative authority will give public notice of the intent to approve or deny a petition and will provide an opportunity for public comment in accordance with LAC 33:V.Chapter 7.Subchapter C and LAC 33:V.2243. Notice will also be given when a final decision on a petition is issued.

N. The term of an exemption granted under this Section shall be no longer than the term of the final operating permit if the disposal unit is operating under a final operating permit, or up to a maximum of five years from the date of approval if the unit is operating under interim status. In either case, the term of the exemption granted shall expire upon the termination, revocation, or denial of a final operating permit or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached. The exemption must be reviewed at least once every three years.

O. During the petition review process, the applicant is required to comply with all prohibitions on land disposal under this Chapter, unless a petition for an exemption has been approved by the EPA, and the administrative authority grants an emergency variance. If EPA has approved the exemption,

the land disposal of the waste may continue for up to one year under an emergency variance issued by the administrative authority until the administrative authority makes a decision on the petition for exemption. In no case shall an emergency variance extend beyond one year after the date of issuance. After the administrative authority issues a decision on the exemption, the waste may be land disposed only in accordance with the provisions of the exemption.

P. The petition granted by the administrative authority does not relieve the petitioner from compliance with all other applicable regulations.

Q. Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm are not eligible for an exemption under this Section.

R. As a condition of the exemption, the petitioner must submit a report by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

S. Whenever the administrative authority determines that the basis for approval of a petition may no longer be valid, he or she shall require a new demonstration in accordance with this Section.

T. Termination of an Approved Petition

1. The administrative authority may terminate an exemption granted under this Section for the following causes:

a. noncompliance by the petitioner with any condition of the exemption;

b. the petitioner's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or

c. a determination that new information shows that the basis for approval of the petition is no longer valid.

2. The administrative authority shall terminate an exemption granted under this Section for the following cause: the petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the administrative authority's decision on the petition.

3. The administrative authority shall follow the procedures in LAC 33:V.323 in terminating any exemption under 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 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. Requirements for generators: determine if the waste has to be treated before being land disposed, as follows: A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in LAC 33:V.2223 or 2230. This determination can be made in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using Test Method 1311 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed. These treatment standards are also found in LAC 33:V.2223 and are described in detail in Table 3 of this Chapter. These wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of LAC 33:V.2246 in addition to any applicable requirements in this Section.

B. If the waste does not meet the treatment standard, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the file. The notice must include the information in column “LAC 33:V.2245.B” of the Generator Paperwork Requirements Table in Subsection D of this Section. No further notification is necessary until such time when the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

C. If the waste meets the treatment standard at the original point of generation:

1. with the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste and place a copy in the file. The notice must include the information indicated in column "LAC 33:V.2245.C" of the Generator Paperwork Requirements Table in Subsection D of this Section and the following certification statement, signed by an authorized representative:

> "I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in LAC 33:V.2223 - 2233. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment";

2. if the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in their files. Generators of hazardous debris excluded from the definition of hazardous waste under LAC 33:V.109 are not subject to these requirements.

D. For reporting, tracking, and recordkeeping when exceptions allow certain wastes that do not meet the treatment standards to be land disposed, there are certain exemptions from the requirement that hazardous wastes meet treatment standards before they can be land disposed. These include, but are not limited to, case-by-case extensions under LAC 33:V.2239, disposal in a no-migration unit under LAC 33:V.2241, or a national capacity variance or case-by-case capacity variance under LAC 33:V.2209-2221. If a generator's waste is so exempt, then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "LAC 33:V.2245.D" of the Generator Paperwork Requirements Table in this Subsection. If the waste changes, the generator must send a new notice to the receiving facility and place a copy in their files.

Generator Paperwork Requirements Table

Required Information	LAC 33:V.2245.B	LAC 33:V.2245.C	LAC 33:V.2245.D	LAC 33:V.2245.I
EPA Hazardous Waste and Manifest numbers	X	X	X	X
Statement: This waste is not prohibited from land disposal.			X	
The waste is subject to the LDRs. The constituents of concern for F001-F005 and F039, and underlying hazardous constituents (for wastes that are not managed in a Clean Water Act (CWA) or CWA-equivalent facility), unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.	X	X		
The notice must include the applicable wastewater/nonwastewater category (see LAC 33:V. 2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).	X	X		
Waste analysis data (when available).	X	X	X	
Date the waste is subject to the prohibition.			X	
For hazardous debris, when treating with the alternative treatment technologies provided by LAC 33:V.2230: the contaminants subject to treatment, as described in LAC 33:V.2230; and an indication that these contaminants are being treated to comply with LAC 33:V.2230.	X		X	
A certification is needed (see applicable section for exact wording)		X		X

[See Prior Text in E.2]

E. If a generator is managing and treating a prohibited waste in tanks, containers, or containment buildings regulated under LAC 33:V.1109.E to meet applicable LDR treatment standards found in LAC 33:V.2223, the generator must develop and follow a written waste analysis plan that describes the procedures the generator will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 8 of this Chapter, however, are not subject to these waste analysis requirements.) The plan must be kept on-site in the generator's records, and the following requirements must be met.

1. The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of this Chapter, including the selected testing frequency.

* * *

3. Wastes shipped off-site in accordance with this Section must comply with the notification requirements of Subsection C of this Section.

F. If a generator determines that the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the Test Method 1311 described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, all waste analysis data must be retained on-site in the generator's files.

G. If a generator determines that a prohibited waste that the generator is managing was excluded from the definition of

hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1, 39, or 41 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified in LAC 33:V.105.D.1.b, or that are CWA-equivalent), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's file.

H. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced in accordance with this Section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority. The requirements of this Paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under LAC 33:V.Chapter 1, 39, or 41, or exempted from regulation under LAC 33:V.Subpart 1, subsequent to the point of generation.

I. If a generator is managing a lab pack that contains hazardous wastes and wishes to use the alternative treatment standard for lab packs found at LAC 33:V.2227.C:

1. with the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "LAC 33:V.2245.I" in the Generator Paperwork Requirements Table of Subsection D of this Section and the following certification. The certification that must be signed by an authorized representative and must be placed in the generator's files, must say the following:

> "I certify under penalty of law that I personally have examined and am familiar with the waste, and that the lab pack contains only wastes that have not been excluded under LAC 33:V.Chapter 22.Table 6, and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at LAC 33:V.2227.C. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment";

2. no further notification is necessary until such time that the wastes in the lab pack change or the receiving facility changes, in which case a new notice and certification must be sent and a copy placed in the generator's file;

3. if the lab pack contains characteristic hazardous wastes (D001-D043), underlying hazardous constituents (as defined in LAC 33:V.2203) need not be determined;

4. the generator must also comply with the requirements in Subsections F and G of this Section.

* * *

[See Prior Text in J - K]

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998).

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

A. The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under this Chapter. For purposes of this Chapter, the waste will carry the waste code for any applicable listing under LAC 33:V.4901. In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (LAC 33:V.4903), except in the case when the treatment standard for the listed waste operates in lieu of the standard for the characteristic waste, as specified in Subsection B of this Section. If the generator determines that his waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of Table 3 of this Chapter), the generator must determine the underlying hazardous constituents (as defined in LAC 33:V.2203.A), in the characteristic waste.

* * *

[See Prior Text in B - D.1.a]

b. a description of the waste as initially generated, including the applicable EPA Hazardous Waste Number(s), treatability group(s), and underlying hazardous constituents (as defined in LAC 33:V.2203), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

* * *

[See Prior Text in D.2 - E.3.c]

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998).

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

A. Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans, as required by LAC 33:V.1519 (for permitted TSDs) or 4313 (for interim status facilities). Such testing must be performed as provided in Subsection A.1-2 of this Section:

1. for wastes with treatment standards expressed as concentrations in the waste extract (Toxicity Characteristic Leaching Procedure, TCLP), the owner or operator of the treatment facility must test an extract of the treatment residues, using Test Method 1311 (the TCLP, described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110), to assure that the treatment residues extract meets the applicable treatment standards;

2. for wastes with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to ensure that they meet the applicable treatment standards.

B. A one-time notice must be sent with the initial shipment of waste to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.

1. No further notification is necessary until such time that the waste or receiving facility changes, in which case a new notice must be sent and a copy placed in the treatment facility's file.

2. The one-time notice must include these requirements:

a. EPA Hazardous Waste and Manifest Numbers;

b. the waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents (for wastes that are not managed in a Clean Water Act (CWA) or CWA-equivalent facility), unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice;

c. the notice must include the applicable wastewater/nonwastewater category (see LAC 33:V.2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide);

d. waste analysis data (when available); and

e. a certification statement is needed (see applicable section for exact wording).

C. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

> "I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in LAC 33:V.2223 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

1. A copy of the certification must be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the file.

2. Debris excluded from the definition of hazardous waste under LAC 33:V.109.Hazardous Waste.6 (i.e., debris treated by an extraction or destruction technology provided by Table 8 of this Chapter, and debris that the administrative authority has determined does not contain hazardous waste), however, is subject to the notification and certification requirements of LAC 33:V.2246.E rather than the certification requirements of this Subsection.

3. For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified in LAC 33:V.2223, the certification, signed by an authorized representative, must state the following:

> "I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by incineration in units operated in accordance with LAC 33:V.Chapter 31 or Chapter 43.Subchapter N, or by combustion in fuel substitution units operating in accordance with applicable technical requirements, and combustion units as specified in Table 3 of this Chapter. I have been unable to detect the nonwastewater organic constituents despite having used best good-faith efforts to analyze for such constituents. I am aware that there are significant penalties for submitting a false certification, including the possibility of fines and imprisonment."

* * *

[See Prior Text in D]

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.A.2-4 regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (the recycler) is not required to notify the receiving facility, in accordance with Subsection C of this Section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in Subsection D of this Section and a notice which includes the information listed in Subsection C of this Section (except the manifest number) to the administrative authority or his delegated representative. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

F. Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal in accordance with LAC 33:V.4139.A.2-4, the owner or operator of any land disposal facility disposing of any waste subject to prohibitions under this Chapter must do the following:

1. he must have copies of the notice and certification specified in either Subsection B, C, D, or E of this Section; and

2. he must test the waste or an extract of the waste or treatment residue developed using Test Method 1311 (the Toxicity Characteristic Leaching Procedure, described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110) to ensure that the wastes or treatment residues comply with the applicable treatment standards set forth in LAC 33:V.2223-2233. Such testing must be performed according to the frequency specified in the facility's waste analysis plan, as required by LAC 33:V.1519 or 4313.

* * *

[See Prior Text in G-H]

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

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Table 2 - TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory[1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS[2] Number	Concentration in mg/l[3]; or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/l TCLP" or Technology Code[4]
D001[9]	Ignitable Characteristic Waste, except for the LAC 33:V.4903.B.1 High TOC Subcategory.	NA	NA	DEACT and meet LAC 33:V.2233 standards[8]; or RORGS; or CMBST	DEACT and meet LAC 33:V.2233 standards[8]; or RORGS; or CMBST
	High TOC Ignitable Characteristic Liquids Subcategory based on LAC 33:V.4903.B.1 - Greater than or equal to 10 percent total organic carbon. (Note: This subcatagory consists of nonwastewaters only.)	NA	NA	NA	RORGS; or CMBST; or POLYM
	* * * [See Prior Text in D002 -F028]				
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in LAC 33.V.4901.C or LAC 33:V.4901.B.Table 1.).	All F024 wastes	NA	CMBST[11]	CMBST[11]
		2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
		3-Chloropropylene	107-05-1	0.036	30
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Hexachloroethane	67-72-1	0.055	30
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP
	* * * [See Prior Text in F025]				

F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with LAC 33:V.4901.B.3 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benz(a)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)flouranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		2-4 Dimethylphenol	105-67-9	0.036	14
		Fluorene	86-73-7	0.059	3.4
		Hexachlorodibenzo-p-dioxins	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Hexachlorodibenzofurans	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Pentachlorodibenzo-p-dioxins	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Pentachlorodibenzofurans	NA	0.000035, or CMBST[11]	0.001, or CMBST[11]
		Pentachlorophenol	87-86-5	0.089	7.4
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	1089-5-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Tetrachlorodibenzo-p-dioxins	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		Tetrachlorodibenzofurans	NA	0.000063, or CMBST[11]	0.001, or CMBST[11]
		2,3,4,6- Tetrachlorophenol	58-90-2	0.030	7.4
		2,4,6- Trichlorophenol	88-06-2	0.035	7.4
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP

F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benz(a)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)flouranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluorene	86-73-7	0.059	3.4
		Indeno (1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol.	Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
* * * [See Prior Text F037-K151]					

K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)[10]	Acetonitrile	75-05-8	5.6	38
		Acetophenone	96-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbaryl	63-25-2	0.006	0.14
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
		Toluene	108-88-3	0.080	10
		Triethylamine	121-44-8	0.081	1.5
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)[10]	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0

		Chloromethane	74-87-3	0.19	30
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		o-Phenylenediamine	95-54-5	0.056	5.6
		Pyridine	110-86-1	0.014	16
		Triethylamine	121-44-8	0.081	1.5
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)[10]	Benomyl	17804- 35-2	0.056	14
		Benzene	71-43-2	0.14	10
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chloroform	67-66-3	0.046	6.0
		Methylene chloride	75-09-2	0.089	30
		Phenol	108-95-2	0.039	6.2
* * * [See Prior Text in K159 -U411]					

* * *

[See Prior Text in Notes 1-10]

11 For these wastes, the definition of CMBST is limited to: (1) combustion units operating under LAC 33:V.Chapter 30, (2) combustion units permitted under LAC 33:V.Chapter 31, or (3) combustion units operating under LAC 33:V.Chapter 43.Subchapter N, which have obtained a determination of equivalent treatment under LAC 33.V.2227.B.

NOTE: NA means not applicable.

Table 3. Technology Codes and Description of Technology-Based Standards	
Technology Code	**Description of Technology-Based Standard**
	* * * [See Prior Text in ADGAS -CHRED]
CMBST	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of LAC 33:V.Chapter 30 or 31 or 41, and 43.Subchapter N, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.
	* * * [See Prior Text in DEACT -NLDBR]
POLYM	Formation of complex high-molecular weight solids through polymerization of monomers in high-TOC D001 nonwastewaters that are chemical components in the manufacture of plastics.
	* * * [See Prior Text in PRECP - WTRRX]

Note 1: When a combination of these technologies (i.e., a treatment train) is specified as a single treatment standard, the order of application is specified in Table 2 by indicating the five-letter technology code that must be applied first, then the designation "fb" (an abbreviation for "followed by"), then the five-letter technology code for the technology that must be applied next, and so on.

Note 2: When two or more technologies (or treatment trains) are specified as alternative treatment standards, the five-letter technology codes (or the treatment trains) are separated by a semicolon (;) with the last technology preceded by the word "or." This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

* * *

[See Prior Text in Table 4]

Table 5
Metal Bearing Wastes Prohibited From Dilution in a Combustion Unit[1] According to LAC 33:V.2207.C.1

Waste Code	Waste Description
D004	Toxicity Characteristic for Arsenic
D005	Toxicity Characteristic for Barium
D006	Toxicity Characteristic for Cadmium
D007	Toxicity Characteristic for Chromium
D008	Toxicity Characteristic for Lead
D009	Toxicity Characteristic for Mercury
D010	Toxicity Characteristic for Selenium
D011	Toxicity Characteristic for Silver
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum
F007	Spent cyanide plating bath solutions from electroplating operations
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process

F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments
K003	Wastewater treatment sludge from the production of molybdate orange pigments
K004	Wastewater treatment sludge from the production of zinc yellow pigments
K005	Wastewater treatment sludge from the production of chrome green pigments
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated)
K007	Wastewater treatment sludge from the production of iron blue pigments
K008	Oven residue from the production of chrome oxide green pigments
K061	Emission control dust/sludge from the primary production of steel in electric furnaces
K069	Emission control dust/sludge from secondary lead smelting
K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting
K106	Sludges from the mercury cell processes for making chlorine
P010	Arsenic acid H_3AsO_4
P011	Arsenic oxide As_2O_5
P012	Arsenic trioxide
P013	Barium cyanide
P015	Beryllium
P029	Copper cyanide Cu(CN)
P074	Nickel cyanide $Ni(CN)_2$
P087	Osmium tetroxide
P099	Potassium silver cyanide
P104	Silver cyanide
P113	Thallic oxide
P114	Thallium (I) selenite
P115	Thallium (I) sulfate
P119	Amonium vanadate
P120	Vanadium oxideV_2O_5
P121	Zinc cyanide
U032	Calcium chromate
U145	Lead phosphate
U151	Mercury
U204	Selenious acid
U205	Selenium disulfide
U216	Thallium (I) chloride
U217	Thallium (I) nitrate

[1] A combustion unit is defined as any thermal technology subject to LAC 33:V.Chapter 30 or Chapter 31 and Chapter 43.Subchapter N.

* * *

[See Prior Text in Tables 6-9]

Table 10. Wastes Excluded from the Treatment Standards under LAC 33:V.2223					
Facility Name[1] and Address	Waste Code	See also	Regulated Hazardous Constituent	Wastewaters	Nonwastewaters
				Concentration (mg/l) (Notes)	Concentration (mg/Kg) (Notes)
Craftsman Plating and Tinning Corp. Chicago, IL	F006	Table 2	Cyanides (Total)	1.2 ([2])	1800 ([4])
			Cyanides (amenable)	0.86 ([2] and [3])	30 ([4])
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA
Northwestern Plating Works, Inc. Chicago, IL	F006	Table 2	Cyanides (Total)	1.2 ([2] and [3])	970 ([4])
			Cyanides (amenable)	0.86 ([2])	30 ([4])
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA

([1])—A facility may certify compliance with these treatment standards according to provisions in LAC 33:V.2245 and 2247.
([2])—Cyanide Wastewater Standards for F006 are based on analysis of composite samples.
([3])—These facilities must comply with 0.86 mg/l for amenable cyanides in the wastewater exiting the alkaline chlorination system. These facilities must also comply with LAC 33:V.2245.D for appropriate monitoring frequency consistent with the facilities' waste analysis plan.
([4])—Cyanide nonwastewaters are analyzed using SW-846 Method 9010 or 9012, sample size 10 grams, distillation time, 1 hour and 15 minutes.
Note: NA means Not Applicable.

* * *

[See Prior Text in Table 12]

Chapter 24. Hazardous Waste Munitions and Explosives Storage

§2401. Applicability

The requirements of this Chapter apply to owners or operators who store munitions and explosive hazardous wastes, except as LAC 33:V.1501 provides otherwise.

[NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (LAC 33:V.Chapter 18), tanks (LAC 33:V.Chapter 19), or containers (LAC 33:V.Chapter 21). See LAC 33:V.5309 for storage of waste military munitions.]

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 24.1739 (September 1998).

§2403. Design and Operating Standards

A. Hazardous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring that:

1. minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated runoff to the soil, groundwater, surface water, and atmosphere;

2. provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;

3. for wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;

4. for liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and

5. provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

B. Hazardous waste munitions and explosives stored under this Chapter may be stored in one of the following:

1. earth-covered magazines, must be:

a. constructed of waterproofed, reinforced concrete or structural steel arches, with steel doors that are kept closed when not being accessed;

b. designed and constructed as follows:

i. to be of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;

ii. to provide working space for personnel and equipment in the unit; and

iii. to withstand movement activities that occur in the unit; and

c. located and designed, with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

2. above-ground magazines must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

3. outdoor or open storage areas must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

C. Hazardous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of LAC 33:V.1507, the preparedness and prevention procedures of LAC 33:V.1511, and the contingency plan and emergency procedures requirements of LAC 33:V.1513, then these procedures will be used to fulfill those requirements.

D. Hazardous waste munitions and explosives must be packaged to ensure safety in handling and storage.

E. Hazardous waste munitions and explosives must be inventoried at least annually.

F. Hazardous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure the explosives' safety and to ensure that there is no migration of contaminants out of the unit.

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 24:1739 (September 1998).

§2405. Closure and Post-Closure Care

A. At closure of a magazine or unit that stored hazardous waste under this Chapter, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste unless LAC 33:V.109.Hazardous Waste.6 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in LAC 33:V.Chapters 35 and 37, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

B. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection A of this Section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (LAC 33:V.2521).

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 24:1740 (September 1998).

Chapter 25. Landfills

§2511. Special Requirements for Ignitable or Reactive Waste

A. Except as provided in LAC 33:V.2511.B and 2519, ignitable or reactive waste must not be placed in a landfill, unless the waste and landfill meet all applicable requirements of LAC 33:V.Chapter 22, and:

* * *

[See Prior Text in A.1]

2. LAC 33:V.1517.B is complied with.

* * *

[See Prior Text in B - 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 Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998).

Chapter 29. Surface Impoundments

2919. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of LAC 33:V.Chapter 17.

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 24:1740 (September 1998).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3007. Interim Status Standards for Burners

* * *

[See Prior Text in A-B.9]

C. Certification of Compliance. The owner or operator shall conduct emissions testing to document compliance with the emissions standards of Subsection A.5.a.iv of this Section and LAC 33:V.3009.B-E, 3011, 3013, and 3015, under the procedures prescribed by this Subsection, except under extensions of time provided by Subsection C.7 of this Section. Based on the compliance test, the owner or operator shall submit to the administrative authority, on or before August 21, 1992, a complete and accurate "certification of compliance" (under LAC 33:V.3007.C.4) with those emission standards establishing limits on the operating parameters specified in LAC 33:V.3007.C.1.

* * *

[See Prior Text in C.1 - L]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142 which has been repealed.]

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998).

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

* * *

[See Prior Text in A-E]

1. during the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A, Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110;

* * *

[See Prior Text in E.2 - I]

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998).

§3013. Standards to Control Metals Emissions

*** * ***

[See Prior Text in A-F.2.b.ii]

G. Metal Emission Testing

1. General. Emission testing for metals shall be conducted using Method 0060, Determinations of Metals in Stack Emissions, EPA Publication SW-846, as incorporated by reference in LAC:33.V.110.

2. Hexavalent Chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061, Determination of Hexavalent Chromium Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in LAC:33.V.110.

* * *

[See Prior Text in H- I]

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998).

§3015. Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl_2) Emissions

* * *

[See Prior Text in A-E]

F. Emissions Testing. Emissions testing for HCl and Cl_2 shall be conducted using the procedures described in 40 CFR 266, appendix IX, as adopted and amended in Methods 0050 or 0051, EPA Publication SW-846, as incorporated by reference in LAC 33:V:110.

* * *

[See Prior Text in G-H]

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:825 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998).

Chapter 31. Incinerators

§3105. Applicability

* * *

[See Prior Text in A-D]

E. The owner or operator of an incinerator may conduct trial burns subject only to the requirements of LAC 33:V.3115.

Table 1. Hazardous Constituents

Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in A2213 -Potassium dimethyldithiocarbamate]			
Common Name	**Chemical Abstracts Name**	**Chemical Abstracts Number**	**Hazardous Waste Number**
Potassium n-hydroxymethyl-n-methyl-dithiocarbamate	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	

* * * [See Prior Text in Potassium n-methyldithiocarbamate -TCDD]			
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	U402
1,2,4,5-Tetrachloro-benzene	Benzene, 1,2,4,5- tetrachloro-	95-94-3	U207
* * * [See Prior Text in Tetrachlorodibenzo-p-dioxins -Ziram]			

[1] The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998).

Chapter 32. Miscellaneous Units

§3203. Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of LAC 33:V.Chapters 17, 19, 21, 23, 25, 27, 29, 31, and all other applicable requirements of LAC 33:V.Subpart 1, and of 40 CFR 146, 1988, pp. 674-694, which are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

* * *

[See Prior Text in A-C.7]

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), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998).

Chapter 33. Groundwater Protection

§3325. Groundwater Monitoring List[1]

Table 4 lists groundwater monitoring constituents.

* * *

[See Prior Text in Table 4 - Note 4]

[5] Suggested Methods refer to analytical procedure numbers used in EPA Report SW-846, *Test Methods for Evaluating Solid Waste*, Third Edition. Analytical details can be found in SW-846 and in documentation on file at the agency. The packed column gas chromatography methods 8010, 8020, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140, 8150, 8240, and 8250 were promulgated methods through Update IIB of SW-846 and, as of Update III, the agency has replaced these methods with "capillary column GC methods," as the suggested methods. Caution: The methods listed are representative SW-846 procedures and may not always be the most suitable method(s) for monitoring an analyte under the regulations.

* * *

[See Prior Text in Notes 6-9]

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), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998).

Chapter 35. Closure and Post-Closure

§3501. Applicability

* * *

[See Prior Text in A-C.1]

2. waste piles, surface impoundments, or any facility from which the owner or operator intends to remove waste at closure, to the extent that these sections are made applicable to such facilities in LAC 33:V.2315 and 2911;

* * *

[See Prior Text in C.3-4]

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 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1742 (September 1998).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulations as follows:

* * *

[See Prior Text in A-B.3]

4. scrap metal that is not excluded under LAC 33:V.105.D.1.m;

* * *

[See Prior Text in B.5-C.2]

3. recycable materials from which precious metals are reclaimed;

4. spent lead-acid batteries that are being reclaimed; and

5. used oil that exhibits one or more of the characteristics of hazardous waste and is burned for energy recovery in boilers and industrial furnaces that are not regulated under LAC 33:V.Chapter 31 or Chapter 43.Subchapter N.

* * *

[See Prior Text in D-F]

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), LR 24:1108 (June 1998), LR 24:1742 (September 1998).

Subchapter C. Special Requirements for Group III Recyclable Materials

§4137. Repealed.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:433 (August 1987), LR 20:1000 (September 1994), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

§4139. Recyclable Materials Used in a Manner Constituting Disposal

* * *

[See Prior Text in A-A.5]

B. General Requirements

1. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to all the requirements of LAC 33.V.Chapters 11 and 13, and LAC 33:V.105.A of these regulations, and the notification requirement under section 3010 of RCRA or 105.A.

2. Owners and operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal but who are not the ultimate users of the materials are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 23, 29, 33, 35, 37; Subchapters A-L of Chapter 43; and the notification requirement under section 3010 of RCRA or 105.A.

3. Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, 37; Subchapters A-M of Chapter 43; and the notification requirement under section 3010 of RCRA or 105.A. (These requirements do not apply to products which contain these recyclable materials under the provisions of LAC 33:V.4139.A.2.)

4. The use of waste or used oil or other material that is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability) for dust suppression or road treatment is prohibited.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), repromulgated LR 22:100 (February 1996), amended LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

Chapter 43. Interim Status

§4301. Purpose and Applicability

* * *

[See Prior Text in A-D]

E. Interim status facilities must comply with LAC 33:V.Chapters 3, 5, 9, 11, 15, 39, 41, 43, and 49. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22, and Chapter 22 standards are material conditions or requirements of interim status standards.

* * *

[See Prior Text in F-I]

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 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

Subchapter A. General Facility Standards

§4313. General Waste Analysis

* * *

[See Prior Text in A-E.5]

6. where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods as specified in LAC 33:V.2245, 2247, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, 4585, and 4727;

* * *

[See Prior Text in E.7-7.c.ii.(a)]

(b). such residues are prohibited from land disposal under LAC 33:V.Chapter 22; and

8. for owners and operators seeking an exemption to the air emission standards of Subchapter V of this Chapter in accordance with LAC 33:V.4725:

a. if direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption; and

b. if knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

* * *

[See Prior Text in F-F.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 16:1057 (December 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998).

§4317. General Inspection Requirements

* * *

[See Prior Text in A-B.2]

3. The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in LAC 33:V.4425, 4437, 4440, 4455, 4470, 4485, 4502, 4519, 4529, 4541, 4555, 4565, 4567, 4577, and 4737, where applicable.

* * *

[See Prior Text in C-D]

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 Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

* * *

[See Prior Text in A-B.4. Table 2]

5. records and results of waste analyses and trial tests performed as specified in LAC 33:V.2237.A, 2245, 4313, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, and 4727;

* * *

[See Prior Text in B.6-7]

8. monitoring, testing, or analytical data, and corrective action when required by LAC 33:V.Chapter 43.Subchapter E, 4320, 4367, 4375, 4433, 4437, 4440, 4449, 4451, 4455, 4470, 4472, 4474, 4483, 4485, 4489.D.1, 4497-4502, 4519, 4529, 4557, 4559, 4587, 4589, 4737, and 4739;

[Comment: As required by LAC 33:V.4375, monitoring data at disposal facilities must be kept throughout the post-closure period.]

* * *

[See Prior Text in B.9]

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with a petition under LAC 33:V.2241 or 2271 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

11. for an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

12. for an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator under LAC 33:V.2245 or 2247;

13. for an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

14. for an on-site land disposal facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

15. for an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required by the generator or the owner or operator under LAC 33:V.2245 or 2247;

16. for an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247.

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 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

§4365. Additional Reports

In addition to submitting the biennial report and unmanifested waste reports described in LAC 33:V.4361 and 4363, the owner or operator must also report to the administrative authority:

* * *

[See Prior Text in A-C]

D. as otherwise required by LAC 33:V.Chapter 43, Subchapters Q, R, and V.

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 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

Subchapter F. Closure and Post-Closure

§4379. Closure Performance Standard

The owner or operator must close his facility in a manner that:

* * *

[See Prior Text in A-B]

C. complies with the closure requirements of these regulations including, but not limited to, LAC 33:V.4442, 4457, 4475, 4489, 4501, 4521, 4531, and 4543.

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 15:181 (March 1989), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998).

Subchapter H. Containers

§4430. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a container in accordance with the applicable requirements of Subchapters Q, R, and V of this Chapter.

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 24:1745 (September 1998).

Subchapter I. Tanks

§4446. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a tank in accordance with the applicable requirements of Subchapters Q, R, and V of this Chapter.

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 24:1745 (September 1998).

Subchapter J. Surface Impoundments

§4456. Air Emission Standards

The owner or operator shall manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of Subchapters R and V of this Chapter.

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 24:1745 (September 1998).

Subchapter M. Landfills

§4511. Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

Lab packs may be placed in a landfill if the following requirements are met:

* * *

[See Prior Text in A-E]

F. Such disposal is in compliance with the requirements of LAC 33:V.Chapter 22. Persons who incinerate lab packs according to the requirements in LAC 33:V.2227.C.1 may use fiber drums in place of metal outer containers. Such fiber drums must meet the specifications of the Louisiana Department of Public Safety and Corrections or its successor agency in LAC 33:V.Subpart 2, Chapter 101, the DOT specifications in 49 CFR 173.12, and be overpacked according to the requirements 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 Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter Q. Air Emission Standards for Process Vents

§4549. Applicability

* * *

[See Prior Text in A]

B. Except for LAC 33:V.1711.D and E, as referenced in LAC 33:V.4557, this Subchapter applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43;

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

[Note: The requirements of LAC 33:V.4553-4559 apply to process vents on hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

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 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter R. Air Emission Standards for Equipment Leaks

§4561. Applicability

* * *

[See Prior Text in A]

B. Except as provided in LAC 33:V.1743.K, as referenced in LAC 33:V.4509, this Subchapter applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43;

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapters 3, 5, 7, 27, 31, and 43; or

3. a unit that is exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a 90-day tank or container).

* * *

[See Prior Text in C-D]

E. Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight

for a period of less than 300 hours per calender year is excluded from the requirements of LAC 33:V.4565 and 4581 if it is identified as required in LAC 33:V.4589.

[Note: The requirements of LAC 33:V.4565-4589 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

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 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998).

Subchapter U. Hazardous Waste Munitions and Explosives Storage

§4707. Applicability

The requirements of this Subchapter apply to owners or operators who store munitions and explosive hazardous wastes, except as LAC 33:V.4301 provides otherwise.

[NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (Subchapter T of this Chapter), tanks (Subchapter I of this Chapter), or containers (Subchapter H of this Chapter). See LAC 33:V.5311 for storage of waste military munitions].

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 24:1746 (September 1998).

§4709. Design and Operating Standards

A. Hazardous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring that:

1. minimize the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated runoff to the soil, groundwater, surface water, and atmosphere;

2. provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;

3. for wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;

4. for liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and

5. provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

B. Hazardous waste munitions and explosives stored under this Subchapter may be stored in one of the following:

1. earth-covered magazines that must be:

a. constructed of waterproofed, reinforced concrete, or structural steel arches, with steel doors that are kept closed when not being accessed;

b. designed and constructed:

i. to be of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;

ii. to provide working space for personnel and equipment in the unit; and

iii. to withstand movement activities that occur in the unit; and

c. located and designed with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion;

2. above-ground magazines that must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion; or

3. outdoor or open storage areas that must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

C. Hazardous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of LAC 33:V.4315, the preparedness and prevention procedures of Subchapter B of this Chapter, and the contingency plan and emergency procedures requirements of Subchapter C of this Chapter, then these procedures will be used to fulfill those requirements.

D. Hazardous waste munitions and explosives must be packaged to ensure safety in handling and storage.

E. Hazardous waste munitions and explosives must be inventoried at least annually.

F. Hazardous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure explosives safety and to ensure that there is no migration of contaminants out of the unit.

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 24:1746 (September 1998).

§4711. Closure and Post-Closure Care

A. At closure of a magazine or unit that stored hazardous waste under this Subchapter, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste unless LAC 33:V.109.Hazardous Waste.6 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in Subchapters F and G of this Chapter, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

B. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection A of this Section, the owner or operator finds that not all contaminated

subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (LAC 33:V.2521).

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 24:1746 (September 1998).

Subchapter V. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§4719. Applicability

Interim status facilities are subject to the requirements of LAC 33:V.1747.

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 24:1747 (September 1998).

§4721. Definitions

As used in this Subchapter, all terms shall have the meanings given to them in LAC 33:V.1703.

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 24:1747 (September 1998).

§4723. Schedule for Implementation of Air Emission Standards

A. Owners or operators of facilities existing on December 6, 1996, and subject to Subchapters H, I, and J of this Chapter shall meet the following requirements:

1. install and begin operation of all control equipment required by this Subchapter by December 6, 1996, except as provided for in Subsection A.2 of this Section;

2. when control equipment required by this Subchapter cannot be installed and in operation by December 6, 1996, the owner or operator shall:

a. install and begin operation of the control equipment as soon as possible, but no later than December 6, 1997;

b. prepare an implementation schedule that includes the following information: specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this Subchapter;

c. for facilities subject to the recordkeeping requirements of LAC 33:V.4357, the owner or operator shall enter the implementation schedule specified in Subsection A.2.b of this Section in the operating record no later than December 6, 1996; and

d. for facilities not subject to LAC 33:V.4357, the owner or operator shall enter the implementation schedule specified in Subsection A.2.b of this Section in a permanent, readily available file located at the facility no later than December 6, 1996.

B. Owners or operators of facilities in existence on the effective date of statutory or regulatory amendments under the act that render the facility subject to Subchapters H, I, or J of this Chapter shall meet the following requirements:

1. install and begin operation of all control equipment required by this Subchapter by the effective date of the amendment, except as provided for in Subsection B.2 of this Section;

2. when control equipment required by this Subchapter cannot be installed and begin operation by the effective date of the amendment, the owner or operator shall:

a. install and operate the control equipment as soon as possible, but no later than 30 months after the effective date of the amendment;

b. for facilities subject to the recordkeeping requirements of LAC 33:V.4357, enter and maintain the implementation schedule specified in Subsection A.2.b of this Section in the operating record no later than the effective date of the amendment; or

c. for facilities not subject to LAC 33:V.4357, the owner or operator shall enter and maintain the implementation schedule specified in Subsection A.2.b of this Section in a permanent, readily available file located at the facility site no later than the effective date of the amendment.

C. The administrative authority may elect to extend the implementation date for control equipment at a facility, on a case by case basis, to a date later than December 8, 1997, when special circumstances that are beyond the facility owner's or operator's control delay installation or operation of control equipment and the owner or operator has made all reasonable and prudent attempts to comply with the requirements of 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 Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998).

§4725. Standards: General

Interim status facilities are subject to the requirements of 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 24:1747 (September 1998).

§4727. Waste Determination Procedures

A. Waste Determination Procedures to Determine Average Volatile Organic (VO) Concentration of a Hazardous Waste at the Point of Waste Origination

1. An owner or operator shall determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air

emission controls in accordance with standards specified in LAC 33:V.4729-4735, as applicable to the waste management unit.

2. For a waste determination that is required by Subsection A.1 of this Section, the average VO concentration of a hazardous waste at the point of waste origination shall be determined using either direct measurement as specified in Subsection A.3 of this Section or by knowledge as specified in Subsection A.4 of this Section.

3. Direct Measurement to Determine Average VO Concentration of a Hazardous Waste at the Point of Waste Origination

a. Identification. The owner or operator shall identify and record the point of waste origination for the hazardous waste.

b. Sampling. Samples of the hazardous waste stream shall be collected at the point of waste origination in a manner such that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i. The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream, but shall not exceed one year.

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection A.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25EC. Each of the analytical methods listed in Subsection A.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection A.3.c.viii of this Section must be followed. At the owner's or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in Subsection A.4.c of this Section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

i. Method 25D in 40 CFR part 60, appendix A;

ii. Method 624 in 40 CFR part 136, appendix A;

iii. Method 625 in 40 CFR part 136, appendix A. Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method;

iv. Method 1624 in 40 CFR part 136, appendix A;

v. Method 1625 in 40 CFR part 136, appendix A;

vi. Method 8260 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

vii. Method 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

viii. any other EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR part 63, appendix D. As an alternative, other EPA standard methods may be validated by the procedure specified in Subsection A.3.c.ix of this Section; and

ix. any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or section 5.3, and the corresponding calculations in section 6.1 or section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

d. Calculations

i. The average VO concentration ($\overline{C}$) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with Subsection A.3.b and c of this Section and the following equation:

$$\overline{C} = \frac{1}{Q_T} \times \sum_{i=1}^{n} (Q_i \times C_i)$$

where:

$\overline{C}$ = average VO concentration of the hazardous waste at the point of waste origination on a mass-weighted basis, ppmw.

I = individual waste determination "i" of the hazardous waste.

n = total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year).

Q_i = mass quantity of hazardous waste stream represented by C_i, kg/hr.

Q_T = total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i = measured VO concentration of waste determination "i" as determined in accordance with the requirements of Subsection A.3.c of this Section (i.e., the average of the four or more samples specified in Subsection A.3.b.ii of this Section), ppmw.

ii. For the purpose of determining C_i, for individual waste samples analyzed in accordance with Subsection A.3.c of this Section, the owner or operator shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

(a). if Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A;

(b). if any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant value at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25EC.

e. Provided that the test method is appropriate for the waste as required under Subsection A.3.c of this Section, the department will determine compliance based on the test method used by the owner or operator as recorded in accordance with LAC 33:V.4735.

4. Use of Owner or Operator Knowledge to Determine Average VO Concentration of a Hazardous Waste at the Point of Waste Origination

a. Documentation shall be prepared that presents the information used as the basis for the owner's or operator's knowledge of the hazardous waste stream's average VO concentration. Examples of information that may be used as the basis for knowledge include: material balances for the source or process generating the hazardous waste stream; constituent-specific chemical test data for the hazardous waste stream from previous testing that are still applicable to the current waste stream; previous test data for other locations managing the same type of waste stream; or other knowledge based on information included in manifests, shipping papers, or waste certification notices.

b. If test data are used as the basis for knowledge, then the owner or operator shall document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the average VO concentration. For example, an owner or operator may use organic concentration test data for the hazardous waste stream that is validated in accordance with Method 301 in 40 CFR part 63, appendix A as the basis for knowledge of the waste.

c. An owner or operator using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous waste may adjust the test data to the corresponding average VO concentration value that would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration for each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}).

d. In the event that the administrative authority and the owner or operator disagree on a determination of the average VO concentration for a hazardous waste stream using knowledge, then the results from a determination of average VO concentration using direct measurement as specified in Subsection A.3 of this Section shall be used to establish compliance with the applicable requirements of this Subpart. The administrative authority may perform or request that the owner or operator perform this determination using direct measurement. The owner or operator may choose one or more appropriate methods to analyze each collected sample in

accordance with the requirements of Subsection A.3.c of this Section.

B. Waste Determination Procedures for Treated Hazardous Waste

1. An owner or operator shall perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air emission controls in accordance with standards specified in LAC 33:V.4729-4735, as applicable to the waste management unit.

2. The owner or operator shall designate and record the specific provision in LAC 33:V.4725 under which the waste determination is being performed. The waste determination for the treated hazardous waste shall be performed using the applicable procedures specified in Subsection B.3 - 9 of this Section.

3. Procedure to Determine the Average VO Concentration of a Hazardous Waste at the Point of Waste Treatment

a. Identification. The owner or operator shall identify and record the point of waste treatment for the hazardous waste.

b. Sampling. Samples of the hazardous waste stream shall be collected at the point of waste treatment in a manner such that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i. The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream, but shall not exceed one year.

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection B.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of LAC 33:V.4723 or 4725 are met, the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3] at 25EC. Each of the analytical methods listed in Subsection B.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses Method 8260 or 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection B.3.c.viii of this Section must be followed. At the owner or operator's discretion, the concentration of each individual chemical constituent measured in the waste by a method other than Method 25D may be corrected to the concentration had it been measured using Method 25D by multiplying the measured concentration by the constituent-specific adjustment factor (f_{m25D}) as specified in Subsection B.4.c of this Section. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

i. Method 25D in 40 CFR part 60, appendix A;

ii. Method 624 in 40 CFR part 136, appendix A;

iii. Method 625 in 40 CFR part 136, appendix A. Perform corrections to the compounds for which the analysis is being conducted based on the "accuracy as recovery" using the factors in Table 7 of the method;

iv. Method 1624 in 40 CFR part 136, appendix A;

v. Method 1625 in 40 CFR part 136, appendix A;

vi. Method 8260 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A.

Maintain a formal quality assurance program consistent with the requirements of Method 8260. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps; and

(b). measurement of the overall accuracy and precision of the specific procedures;

vii. Method 8270 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A. Maintain a formal quality assurance program consistent with the requirements of Method 8270. The quality assurance program shall include the following elements:

(a). documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps;

(b). measurement of the overall accuracy and precision of the specific procedures;

viii. any other EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR part 63, appendix D. As an alternative, other EPA standard methods may be validated by the procedure specified in Subsection B.3.c.ix of this Section;

ix. any other analysis method that has been validated in accordance with the procedures specified in section 5.1 or section 5.3, and the corresponding calculations in section 6.1 or section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301are not required.

d. Calculations. The average VO concentration ($\overline{C}$) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with Subsection B.3.b and c of this Section and the following equation:

$$\overline{C} = \frac{1}{Q_T} \times \sum_{i=1}^{n} (Q_i \times C_i)$$

where:

$\overline{C}$=average VO concentration of the hazardous waste at the point of waste treatment on a mass-weighted basis, ppmw.

I=individual waste determination "i" of the hazardous waste.

n=total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year).

Q_i=mass quantity of hazardous waste stream represented by C_i, kg/hr.

Q_T=total mass quantity of hazardous waste during the averaging period, kg/hr.

C_i=measured VO concentration of waste determination "i" as determined in accordance with the requirements of Subsection B.3.c of this Section (i.e., the average of the four or more samples specified in Subsection B.3.b.ii of this Section), ppmw.

e. Provided that the test method is appropriate for the waste as required under Subsection B.3.c of this Section, compliance shall be determined based on the test method used by the owner or operator as recorded in accordance with LAC 33:V.4739.

4. Procedure to Determine the Exit Concentration Limit (C_t) for a Treated Hazardous Waste

a. The point of waste origination for each hazardous waste treated by the process at the same time shall be identified.

b. If a single hazardous waste stream is identified in Subsection B.4.a of this Section, then the exit concentration limit (C_t) shall be 500 ppmw.

c. If more than one hazardous waste stream is identified in Subsection B.4.a of this Section, then the average VO concentration of each hazardous waste stream at the point of waste origination shall be determined in accordance with the requirements of Subsection A of this Section. The exit concentration limit (C_t) shall be calculated by using the results determined for each individual hazardous waste stream and the following equation:

$$C_t = \frac{\sum_{x=1}^{m} (Q_x \, X \, \overline{C}_x) + \sum_{y=1}^{n} (Q_y \, X \, 500 \; ppmw)}{\sum_{x=1}^{m} Q_x + \sum_{y=1}^{n} Q_y}$$

where:

C_t = exit concentration limit for treated hazardous waste, ppmw.

x = individual hazardous waste stream "x" that has an average VO concentration less than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

y = individual hazardous waste stream "y" that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

m = total number of "x" hazardous waste streams treated by process.

n = total number of "y" hazardous waste streams treated by process.

Q_x = annual mass quantity of hazardous waste stream "x," kg/yr.

Q_y = annual mass quantity of hazardous waste stream "y," kg/yr.

$\overline{C}_x$ = average VO concentration of hazardous waste stream "x" at the point of waste origination as determined in

accordance with the requirements of Subsection A of this Section, ppmw.

5. Procedure to Determine the Organic Reduction Efficiency (R) for a Treated Hazardous Waste

a. The organic reduction efficiency (R) for a treatment process shall be determined based on results for a minimum of three consecutive runs.

b. All hazardous waste streams entering the treatment process and all hazardous waste streams exiting the treatment process shall be identified. The owner or operator shall prepare a sampling plan for measuring these streams that accurately reflects the retention time of the hazardous waste in the process.

c. For each run, information shall be determined for each hazardous waste stream identified in Subsection B.5.b of this Section using the following procedures:

i. the mass quantity of each hazardous waste stream entering the process (Q_b) and the mass quantity of each hazardous waste stream exiting the process (Q_a) shall be determined;

ii. the average VO concentration at the point of waste origination of each hazardous waste stream entering the process ($\overline{C_b}$) during the run shall be determined in accordance with the requirements of Subsection A.3 of this Section. The average VO concentration at the point of waste treatment of each waste stream exiting the process ($\overline{C_a}$) during the run shall be determined in accordance with the requirements of Subsection B.3 of this Section.

d. The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) shall be calculated by using the results determined in accordance with Subsection B.5.c of this Section and the following equations:

$$E_b = \frac{1}{10^6} \sum_{j=1}^{m} (Q_{bj} \times \overline{C_{bj}})$$

$$E_a = \frac{1}{10^6} \sum_{j=1}^{m} (Q_{aj} \times \overline{C_{aj}})$$

where:

E_a = waste volatile organic mass flow exiting process, kg/hr.

E_b = waste volatile organic mass flow entering process, kg/hr.

m = total number of runs (at least 3).

j = individual run "j".

Q_b = mass quantity of hazardous waste entering process during run "j," kg/hr.

Q_a = average mass quantity of hazardous waste exiting process during run "j," kg/hr.

$\overline{C_a}$ = average VO concentration of hazardous waste exiting process during run "j" as determined in accordance with the requirements of Subsection B.3 of this Section, ppmw.

$\overline{C_b}$ = average VO concentration of hazardous waste entering process during run "j" as determined in accordance with the requirements of Subsection A.3 of this Section, ppmw.

e. The organic reduction efficiency of the process shall be calculated by using the results determined in accordance with Subsection B.5.d of this Section and the following equation:

$$R = \frac{E_b - E_a}{E_b} \times 100\%$$

where:

R = organic reduction efficiency, percent.

E_b = waste volatile organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

E_a = waste volatile organic mass flow exiting process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

6. Procedure to Determine the Organic Biodegradation Efficiency (R_{bio}) for a Treated Hazardous Waste

a. The fraction of organics biodegraded (F_{bio}) shall be determined using the procedure specified in 40 CFR part 63, appendix C.

b. The R_{bio} shall be calculated by using the following equation:

$$R_{bio} = F_{bio} \times 100\%$$

where:

R_{bio} = organic biodegradation efficiency, percent.

F_{bio} = fraction of organic biodegraded as determined in accordance with the requirements of Subsection B.6.a of this Section.

7. Procedure to Determine the Required Organic Mass Removal Rate (RMR) for a Treated Hazardous Waste

a. All of the hazardous waste streams entering the treatment process shall be identified.

b. The average VO concentration of each hazardous waste stream at the point of waste origination shall be determined in accordance with the requirements of Subsection A of this Section.

c. For each individual hazardous waste stream that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination, the average volumetric flow rate and the density of the hazardous waste stream at the point of waste origination shall be determined.

d. The RMR shall be calculated by using the average VO concentration, average volumetric flow rate, and density determined for each individual hazardous waste stream and the following equation:

$$RMR = \sum_{y=1}^{n} \left[V_y \times k_y \times \frac{(\overline{C}_y - 500\ ppmw)}{10^6} \right]$$

where:

RMR = required organic mass removal rate, kg/hr.

y = individual hazardous waste stream "y" that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section.

n = total number of "y" hazardous waste streams treated by process.

V_y = average volumetric flow rate of hazardous waste stream "y" at the point of waste origination, m^3/hr.

k_y = density of hazardous waste stream "y," kg/m3.

$\overline{C_y}$ = average VO concentration of hazardous waste stream "y" at the point of waste origination as determined in accordance with the requirements of Subsection A of this Section, ppmw.

8. Procedure to Determine the Actual Organic Mass Removal Rate (MR) for a Treated Hazardous Waste

a. The MR shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be one hour.

b. The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) shall be determined in accordance with the requirements of Subsection B.5.d of this Section.

c. The MR shall be calculated by using the mass flow rate determined in accordance with the requirements of Subsection B.8.b of this Section and the following equation:

$$MR=E_b-E_a$$

where:

MR=actual organic mass removal rate, kg/hr.

E_b=waste volatile organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

E_a=waste volatile organic mass flow exiting process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

9. Procedure to Determine the Actual Organic Mass Biodegradation Rate (MR_{bio}) for a Treated Hazardous Waste

a. The MR_{bio} shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be one hour.

b. The waste organic mass flow entering the process (E_b) shall be determined in accordance with the requirements of Subsection B.5.d of this Section.

c. The fraction of organic biodegraded (F_{bio}) shall be determined using the procedure specified in 40 CFR part 63, appendix C.

d. The MR_{bio} shall be calculated by using the mass flow rates and fraction of organic biodegraded determined in accordance with the requirements of Subsection B.9.b and c of this Section, respectively, and the following equation:

$$MR_{bio}=E_b \times F_{bio}$$

where:

Mr_{bio}=actual organic mass biodegradation rate, kg/hr.

E_b=waste organic mass flow entering process as determined in accordance with the requirements of Subsection B.5.d of this Section, kg/hr.

F_{bio}=fraction of organic biodegraded as determined in accordance with the requirements of Subsection B.9.c of this Section.

C. Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste in a Tank

1. An owner or operator shall determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with the standards specified in LAC 33:V.4729.

2. An owner or operator shall use either direct measurement as specified in Subsection C.3 of this Section or knowledge of the waste as specified by Subsection C.4 of this Section to determine the maximum organic vapor pressure which is representative of the hazardous waste composition stored or treated in the tank.

3. Direct Measurement to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste

a. Sampling. A sufficient number of samples shall be collected to be representative of the waste contained in the tank. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, or in Method 25D in 40 CFR part 60, appendix A.

b. Analysis. Any appropriate one of the following methods may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous waste:

i. Method 25E in 40 CFR part 60 appendix A;

ii. methods described in American Petroleum Institute Publication 2517, Third Edition, February 1989, *Evaporative Loss from External Floating-Roof Tanks*, incorporated by reference in LAC 33:V.110.A;

iii. methods obtained from standard reference texts;

iv. ASTM Method 2879-92, incorporated by reference in LAC 33:V.110.A; and

v. any other method approved by the administrative authority.

4. Use of Knowledge to Determine the Maximum Organic Vapor Pressure of the Hazardous Waste. Documentation shall be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum organic vapor pressure of the hazardous waste is less than the maximum vapor pressure limit listed in LAC 33:V.4729 for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous waste is generated by a process for which, at other locations, it previously has been determined by direct measurement that the waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.

D. Procedure for Determining No Detectable Organic Emissions for the Purpose of Complying with this Subpart

1. The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak

interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure relief valve.

2. The test shall be performed when the unit contains a hazardous waste having an organic concentration representative of the range of concentrations for the hazardous waste expected to be managed in the unit. During the test the cover and closure devices shall be secured in the closed position.

3. The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21shall be for the average composition of the organic constituents in the hazardous waste placed in the waste management unit, not for each individual organic constituent.

4. The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

5. Calibration gases shall be as follows:

a. zero air (less than 10 ppmv hydrocarbon in air); and

b. a mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppmv methane or n-hexane.

6. The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

7. Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

8. The arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of 500 ppmv, except when monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison shall be as specified in Subsection D.9 of this Section. If the difference is less than 500 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.

9. For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level shall be compared with the value of 10,000 ppmw. If the difference is less than 10,000 ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

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 24:1747 (September 1998).

§4729. Standards: Tanks

Interim status facilities are subject to the requirements of LAC 33:V.1755.

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 24:1754 (September 1998).

§4731. Standards: Surface Impoundments

Interim status facilities are subject to the requirements of LAC 33:V.1757.

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 24:1754 (September 1998).

§4733. Standards: Containers

Interim status facilities are subject to the requirements of LAC 33:V.1759.

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 24:1754 (September 1998).

§4735. Standards: Closed-Vent Systems and Control Devices

Interim status facilities are subject to the requirements of LAC 33:V.1761.

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 24:1754 (September 1998).

§4737. Inspection and Monitoring Requirements

Interim status facilities are subject to the requirements of LAC 33:V.1763.

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 24:1754 (September 1998).

§4739. Recordkeeping Requirements

Interim status facilities are subject to the requirements of LAC 33:V.1765.

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 24:1754 (September 1998).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

A. A solid waste is a hazardous waste if it is listed in this Chapter, unless it has been excluded from this list under LAC 33:V.105.M.

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes which are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

Hazard codes are defined as follows for the listed hazardous wastes.

Ignitable waste	(I)
Corrosive waste	(C)
Reactive waste	(R)
Toxicity Characteristic waste	(E)
Acute hazardous waste or acutely hazardous waste	(H)
Toxic waste	(T)

1. Each hazardous waste listed in this Chapter is assigned an EPA Hazardous Waste number,which precedes the name of the waste. This number must be used in complying with the notification requirements of Section 3010 or 105.A of the act and certain recordkeeping and reporting requirements under LAC 33:V.Chapters 3-29, 31-39, and 43.

* * *

[See Prior Text in A.2-D.2]

3. any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, unless the container is empty as defined in LAC 33:V.109.Empty Container.2 ;

4. any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in LAC 33:V.4901.E or F;

[Comment: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance that is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in LAC 33:V.4901.E or F. Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in LAC 33:V.4901.E or F, such waste will be listed in either LAC 33:V.4901.B or C or will be identified as a hazardous waste by the characteristics set forth in LAC 33:V.4903.]

* * *

[See Prior Text in E -Table 3]

F. Commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.3903, 3913, and 3915.A and C. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

Table 4. Toxic Wastes

EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
* * * [See Prior Text]		
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
* * * [See Prior Text]		
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
* * * [See Prior Text]		
U179	100-75-4	Piperidine, 1-nitroso-
U192	23950-58-5	Pronamide
* * * [See Prior Text]		
U205	7488-56-4	Selenium sulfide SeS_2(R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex(2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
* * * [See Prior Text]		
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
* * * [See Prior Text]		
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Thallium(I) acetate
* * * [See Prior Text]		
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
* * * [See Prior Text]		
U244	137-26-8	Thioperoxydicarbonic diamide $[(H_2N)C(S)]_2S_2$, tetramethyl-
U409	23564-05-8	Thiophanatemethyl
* * * [See Prior Text]		
U177	684-93-5	Urea, N-methyl-N-nitroso-

U043	75-01-4	Vinyl chloride
* * * [See Prior Text]		

[1]CAS Number given for parent compound only.

* * *

[See Prior Text in G-Table 6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998).

Chapter 53. Military Munitions

§5301. Applicability

A. The regulations in this Chapter identify when military munitions become a solid waste and if these wastes are also hazardous under this Chapter or LAC 33.V.Chapter 1 and the management standards that apply to these wastes.

B. Unless otherwise specified in this Chapter, all applicable requirements in these regulations apply to waste military munitions.

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 24:1756 (September 1998).

§5303. Definition of Military Munitions as a Solid Waste

A. A military munition is not a solid waste when:

1. used for its intended purpose, including:

a. use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions);

b. use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

c. recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use;

2. an unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in LAC 33:V.109. Solid Waste, or burning for energy recovery as defined in LAC 33:V.109.Solid Waste.

B. An unused military munition is a solid waste when any of the following occurs:

1. the munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in Subsection A of this Section), incinerated, or treated prior to disposal;

2. the munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal;

3. the munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition and cannot reasonably be recycled or used for other purposes; or

4. the munition has been declared a solid waste by an authorized military official.

C. A used or fired military munition is a solid waste:

1. when transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

2. if recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

D. For purposes of RCRA section 1004(27), a used or fired military munition is a solid waste and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v), and 3008(h) or imminent and substantial endangerment authorities under section 7003, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

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 24:1756 (September 1998).

§5305. Standards Applicable to the Transportation of Solid Waste Military Munitions

A. Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Transportation

1. Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste (and thus are subject to regulation under LAC 33:V.Subpart 1) unless all the following conditions are met:

a. the waste military munitions are not chemical agents or chemical munitions;

b. the waste military munitions must be transported in accordance with the Department of Defense (DOD) shipping controls applicable to the transport of military munitions;

c. the waste military munitions must be transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and

d. the transporter of the waste must provide oral notice to the administrative authority within 24 hours from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the transporter becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section.

2. If any waste military munitions shipped under Subsection A.1 of this Section are not received by the receiving facility within 45 days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the administrative authority within five days.

3. The exemption in Subsection A.1 of this Section from regulation as hazardous waste shall apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.

4. The conditional exemption in Subsection A.1 of this Section applies only so long as all of the conditions in Subsection A.1 of this Section are met.

B. Reinstatement of Exemption. If any waste military munition loses its exemption under Subsection A.1 of this Section, an application may be filed with the administrative authority for reinstatement of the exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of Subsection A.1 of this Section. If the adminitrative authority finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the administrative authority may reinstate the exemption under Subsection A.1 of this Section. If the administrative authority does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the administrative authority may terminate a conditional exemption reinstated by default in the preceding sentence if the administrative authority finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the exemption under Subsection A.1 of this Section, the administrative authority may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment.

C. Amendments to DOD Shipping Controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in Subsection A.1.b of this Section are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition-tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of Subsection A.1 of this Section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in Subsection A.1.b of this Section have been amended.

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 24:1756 (September 1998).

§5307. Standards Applicable to Emergency Responses

Explosives and munitions emergencies involving military munitions or explosives are subject to LAC 33:V.1101.H, 1301.G, 1501.7.a, and 4307, or alternatively to LAC 33:V.701.

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 24:1757 (September 1998).

§5309. Standards Applicable to the Storage of Solid Waste Military Munitions

A. Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Storage

1. Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste (and thus are subject to regulation under LAC 33:V.Subpart 1), unless all the following conditions are met:

a. the waste military munitions are not chemical agents or chemical munitions;

b. the waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);

c. the waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions;

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the administrative authority of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Subsection A.1 of this Section is claimed;

e. the owner or operator must provide oral notice to the administrative authority within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section;

f. the owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of Subsection A.1 of this Section, and must maintain records of the findings of these inventories and inspections for at least three years; and

g. access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

2. The conditional exemption in Subsection A.1 of this Section from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

3. The conditional exemption in Subsection A.1 of this Section applies only so long as all of the conditions in Subsection A.1 of this Section are met.

B. Notice of Termination of Waste Storage. The owner or operator must notify the administrative authority when a storage unit identified in Subsection A.1.d of this Section will no longer be used to store waste military munitions.

C. Reinstatement of Conditional Exemption. If any waste military munition loses its conditional exemption under Subsection A.1 of this Section, an application may be filed with the administrative authority for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of Subsection A.1 of this Section. If the administrative authority finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or a demonstration that the violations are not likely to recur, the administrative authority may reinstate the conditional exemption under Subsection A.1 of this Section. If the administrative authority does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the administrative authority may terminate a conditional exemption reinstated by default in the preceding sentence if he/she finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under Subsection A.1 of this Section, the administrative authority may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

D. Waste Chemical Munitions

1. Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are listed or identified as a hazardous waste and shall be subject to the applicable regulatory requirements of RCRA subtitle C.

2. Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under LAC 33:V.Chapter 49 are not subject to the storage prohibition in RCRA section 3004(j), codified at LAC 33:V.2205.

E. Amendments to DDESB Storage Standards. The DDESB storage standards applicable to waste military munitions, referenced in Subsection A.1.c of this Section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards shall become effective for purposes of Subsection A.1 of this Section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in Subsection A.1 of this Section have been amended.

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 24:1757 (September 1998).

§5311. Standards Applicable to the Treatment and Disposal of Waste Military Munitions

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 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 Waste Services, Hazardous Waste Division, LR 24:1758 (September 1998).

H.M. Strong
Assistant Secretary

9809#036

RULE

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

Universal Waste
(LAC 33:V.105, 305, 1501, 2201 and Chapter 38)
(HW059)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 15, 22, and 38 (HW059).

This rule will allow waste antifreeze and fluorescent lamps to be handled as universal wastes rather than hazardous wastes. As this change will facilitate recycling, regulating these items as universal wastes is more cost-effective and environmentally beneficial. The basis for this rule is to utilize LAC 33:V.Chapter 38. The rationale is to improve implementation of the hazardous waste program by regulating potentially hazardous waste antifreeze and fluorescent lamps as universal wastes instead of as hazardous wastes. This is expected to improve the management practices for these wastes by increasing the likelihood that the wastes will be diverted from nonhazardous and hazardous waste management systems to recycling.

This rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

§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 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. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.7.a]

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.

* * *

[See Prior Text in D.8-O.2.c.vi]

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 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (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 (September 1996), LR 22:831 (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 (May 1997), LR 23:567 (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 24:1093 (June 1998), LR 24:1759 (September 1998).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

* * *

[See Prior Text in A-C.11.a]

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.

* * *

[See Prior Text in C.12-G.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 10:496 (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), 24:1759 (September 1998).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.11.a]

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; or

12. LAC 33:V.5309 identifies when the requirements of this Chapter apply to the storage of military munitions classified as solid waste under LAC 33:V.5303. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Subpart 1.

* * *

[See Prior Text in D-G]

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), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1759 (September 1998).

Chapter 22. Prohibitions on Land Disposal
Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-I.5.a]

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.

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 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:1107 (June 1998), LR 24:1759 (September 1998).

Chapter 38. Universal Wastes
Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries, pesticides, thermostats, lamps, and antifreeze as described in LAC 33:V.3813. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 18, 19,

21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 39, 40, 41, 43, 49, and 51.

* * *

[See Prior Text in B - D]

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 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998).

§3809. Applicability—Lamps

A. Lamps Covered Under this Chapter. The requirements for this Chapter apply to persons managing lamps as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Lamps Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following lamps:

1. lamps, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

2. lamps, as described in this Chapter, that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Lamps

1. A used lamp becomes a waste on the date it is discarded (i.e., sent for reclamation).

2. An unused lamp becomes a waste on the date the handler decides to discards it.

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 24:1760 (September 1998).

§3811. Applicability—Antifreeze

A. Antifreeze Covered Under this Chapter. The requirements for this Chapter apply to persons managing antifreeze as described in LAC 33:V.3813, except those listed in Subsection B of this Section.

B. Antifreeze Not Covered Under this Chapter. The requirements of this Chapter do not apply to persons managing the following antifreeze:

1. antifreeze, as described in LAC 33:V.3813, that is not yet a waste under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

2. antifreeze, as described in this Chapter, that is not yet a hazardous waste. Antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Antifreeze

1. Used or unused antifreeze becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. Waste antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

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 24:1760 (September 1998).

§3813. Definitions

Antifreeze—an ethylene glycol based mixture that lowers the freezing point of water and is used as an engine coolant.

* * *

[See Prior Text]

Lamp—the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infra-red (IR) regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to, incandescent, fluorescent, high intensity discharge, and neon lamps.

Large Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, lamps, or antifreeze, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

Mercury-Containing Lamp—an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp.

* * *

[See Prior Text]

Small Quantity Handler of Universal Waste—a universal waste handler (as defined in this Section) who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, thermostats, lamps, or antifreeze, calculated collectively) at any time.

* * *

[See Prior Text]

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. batteries as described in LAC 33:V.3803;
2. pesticides as described in LAC 33:V.3805;
3. thermostats as described in LAC 33:V.3807;
4. lamps as described in LAC 33:V.3809; and
5. antifreeze as described in LAC 33:V.3811.

* * *

[See Prior Text]

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 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998).

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3821. Waste Management

* * *

[See Prior Text in A-C.3.b]

D. Universal Waste Lamps. A small quantity handler of universal waste must manage universal waste lamps in a way

that prevents releases of any universal wastes or a component of any universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

2. a small quantity handler of universal waste must contain broken lamps in packaging that will minimize the releases of lamp fragments and residues.

E. Universal Waste Antifreeze. A small quantity handler of universal waste must manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze must be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Subsection E.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection E.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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 23:571 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998).

§3823. Labeling/Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

* * *

[See Prior Text in A.1-4]

5. universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamps," or "Waste Lamps," or "Used Lamps;"

6. universal waste antifreeze, or a container in which the antifreeze is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

* * *

[See Prior Text in A-B.3]

4. a list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats, lamps, antifreeze); and

5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats, lamps, antifreeze) the handler is accumulating above this quantity.

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 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

§3843. Waste Management

* * *

[See Prior Text in A-C.3.b]

D. Universal Waste Lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

2. a large quantity handler of universal waste must contain broken lamps in packaging that will minimize the releases of lamp fragments and residues.

E. Universal Waste Antifreeze. A large quantity handler of universal waste must manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze must be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Subsection E.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection E.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C;

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

§3845. Labeling/Marking

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

* * *

[See Prior Text in A.1-4]

5. Universal waste lamps (i.e., each lamp), or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamps," or "Waste Lamps," or "Used lamps."

6. Universal waste antifreeze, or a container in which the antifreeze is contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998).

§3855. Tracking Universal Waste Shipments

* * *

[See Prior Text in A-A.1]

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

* * *

[See Prior Text in A.3-B.1]

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

* * *

[See Prior Text in B.3-C.2]

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 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998).

Subchapter E. Standards for Destination Facilities

§3877. Tracking Universal Waste Shipments

* * *

[See Prior Text in A-A.1]

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, lamps, antifreeze); and

* * *

[See Prior Text in A.3-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 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998).

H. M. Strong
Assistant Secretary

9809#021

RULE

Louisiana Lottery Corporation

On-Line Lottery Games (LAC 42:XV.105)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has amended the rules and regulations pertaining to the operations of on-line lottery games, in particular LAC 42:XV.105, to allow the Louisiana Lottery Corporation to offer the following on-line lottery games: "Cash Quest" and "Pick 4."

Title 42
LOUISIANA GAMING
Part XV. Lottery
Chapter 1. On-Line Lottery Games
§105. General Provisions

A. These game rules authorize the corporation to offer the following on-line lottery games.

1. Pick 3 Daily Game. An on-line numbers game permitting a player to choose a three-digit number, the winner being determined by a drawing.

2. Lotto. An on-line lotto game permitting a player a choice of six numbers out of a specified field of numbers, the winner being determined by a drawing.

3. Easy 5. An on-line lotto game permitting a player a choice of five numbers out of a specified field of numbers, the winner being determined by a drawing.

4. Cash Quest. An on-line lotto game providing a player multiple sets of four numbers out of a specified field of numbers, the winner being determined by a drawing.

5. Pick 4 Game. An on-line numbers game permitting a player to choose a four-digit number, the winner being determined by a drawing.

B. Introduction of a new on-line lottery game may only be accomplished by amendment of these game rules to include the game as an authorized game. These game rules shall apply to the on-line lottery games listed in this Section. The detailed information regarding each on-line game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. Each game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of the particular game.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 22, 1992 and promulgated in *The Advocate* November 3, 1992, amended October 21, 1994, promulgated in *The Advocate* October 28, 1994, repromulgated LR 23:63 (January 1997), amended LR 24:1762 (September 1998).

Charles R. Davis
President

9809#077

RULE

Office of the Governor
Office of Elderly Affairs

Adult Protective Services for the Elderly (LAC 4:VII.1239)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends §1239, "Adult Protective Services for the Elderly," effective September 20, 1998. The purpose of this rule change is to improve the efficiency of program operations and clarify

existing policy. The rule change will (1) identify Elderly protective Services as the agency statutorily authorized to protect the elderly as opposed to Adult Protective Services; (2) update definitions to conform to current statutory language in related legislation; and (3) create a policy for Complaints against Elderly Protective Services. This rule complies with LA R.S. 14:403.2.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1239. Adult Protective Services for the Elderly

A. Overview of Elderly Protective Services

1. Purpose. The purpose of Elderly Protective Services (EPS) is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other persons.

2. Goal and Objectives

a. The goal of Elderly Protective Services is to assure that adults in need of protection are able to maintain the highest quality of life in the least restrictive environment appropriate to their individual capabilities and life style and wishes.

b. The objectives of Elderly Protective Services are:

i. - v. ...

3. Philosophy

a. The following principles are basic to the delivery of Elderly Protective Services:

i. - ii. ...

iii. a client has the right to make decisions on his/her own behalf unless it is clearly evident to EPS that he/she is unable to do so, or until the court grants that responsibility to another individual;

iv. ...

4. Client Rights

a. The elderly protective services client, if mentally able, has the right to:

i. - iv. ...

v. withdraw from or refuse consent for protective services if the law has not been broken and the elderly client has the capacity to refuse services.

5. Framework for Elderly Protective Services

a. The principles of family based services provide the framework for elderly protective services. Family based services are designed to provide the maximum services to a family at the time of crisis to prevent the breakup of the family unit. This approach to the delivery of social services focuses on families rather than individuals. Services in this context are intended to strengthen and maintain families and prevent family dissolution and out of home placement of the adult.

b. Elderly protective services assist families in regaining or maintaining family autonomy while at the same time assuring the protection of individuals.

c. ...

6. Definitions

Abandonment—the withdrawal of support, care, or responsibility for an elderly adult without intending to return.

Abuse—the infliction of physical or mental injury on an adult by other parties including, but not limited to, such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Adult—any individual eighteen years of age or older or an emancipated minor.

Capacity to Consent—the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment or investigative findings, observation, or medical or mental health evaluations.

Caregiver—any person or persons, either temporarily or permanently responsible for the care of an elderly person.

Caregiver Neglect—the inability or unwillingness of the caregiver to provide for basic needs (food, clothing, medicine, etc.) of an elderly person.

Collateral ...

Coordinating Counsel—according to R.S. 14:403.2 EPS is to form regional coordinating counsels to maximize community input into program operations.

Curator (Guardian) ...

Elderly ...

Elderly Protection Agency—the Office of Elderly Affairs in the Office of the Governor (GOEA) for any individual sixty years of age or older in need of elderly protective services as provided in this Section. The Department of Health and Hospitals is the Adult Protection Agency for any individual between the ages of eighteen and fifty-nine years of age in need of adult protective services as provided in this Section.

Exploitation—the illegal or improper use or management of an elderly person's assets, or property, or the use of an elderly person's power of attorney or guardianship for one's own profit or advantage.

Extortion ...

Incompetency ...

Interdict (Ward) ...

Interdiction (Guardianship)—a judicial proceeding which authorizes a court, upon petition, to appoint a curator (guardian) for a person found to be incapable of managing his/her person, estate, or property because of mental deficiency, deviation or physical infirmity. (In accordance with the Civil Code Articles 389-426.)

Neglect ...

Physical Abuse ...

Protective Services—include but are not limited to:

i. conducting investigations and assessments of complaints of possible abuse, neglect, or exploitation to determine if the situation and condition of the adult warrant further action;

ii. preparing a social services plan utilizing community resources aimed at remedying abuse, neglect, and exploitation;

iii. case management to assure stabilization of the situation;

iv. referral for legal assistance to initiate any necessary extrajudicial remedial action.

Provisional Curator—an individual appointed by the court to manage the affairs and/or person of the interdict. The authority of the provisional curator expires thirty days after the date of appointment or when a curator is appointed. (In accordance rev Civil code Articles 389-426.)

Regional Office—one of the seven (7) EPS Region offices located throughout the state. Region 1, New Orleans; Region 2, Baton Rouge; Region 3, Lafayette; Region 4, Lake Charles; Region 5, Alexandria; Region 6, Monroe; Region 7, Shreveport.

Self-Neglect—the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical, surgical or any other care necessary for his/her own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

Sexual Abuse ...

7. Legal Basis

a. R.S. 14:403.2 provides the statutory authority for elderly protective services. The intent of the law is to authorize the least possible restriction on the exercise of personal and civil rights consistent with the adult's need for services and to require that due process be followed in imposing such restrictions.

b. The major areas covered by R.S. 14:403.2 include:

i. Responsibilities of the Elderly Protection Agency—GOEA is responsible for the provision of elderly protective services to persons age 60 or older. These services shall include a prompt investigation and assessment;

ii. - iii. ...

iv. Consent to Service—Protective services may not be provided in cases of self neglect to any adult who does not consent to such service or who, having consented, withdraws such consent based on the functional capacity of the individual.

B. Confidentiality

1. For purposes of elderly protective services, confidentiality is defined as the protection of social and other information concerning an adult, his/her family and his/her situation which is disclosed to the EPS program/worker by the elder, the reporter and/or collaterals. The intent of confidentiality is to prevent information and/or records concerning an elder from being released to persons who have no legitimate need for or right to such information and/or records.

2. When making a determination regarding release of the elderly case information, the following criteria shall be considered:

a. has the elder, or his/her legally authorized representative consented to the release of the information;

b. ...

c. if the elder lacks the capacity to consent and has no legally authorized representative, will the release of the information directly benefit the adult, facilitate treatment, or prevent or ameliorate the abuse/neglect/exploitation problem?

3. If the answer to any of the questions in Paragraph 2 of this Subsection is yes, the information may be released. If there are any questions regarding whether information should be released, the information shall not be released without supervisory and/or legal consultation with the GOEA staff attorney.

4. ...

C. Intake

1. ...

2. Eligibility for Elderly Protective Services. To be eligible to receive protective services through GOEA the adult must be:

a. - b. ...

c. alleged to be unable to provide for his/her own well being which results in danger to his/her own health and/or safety; and/or

d. alleged to be unable to protect him/herself from abuse/neglect/financial exploitation.

3. Types of Abuse/Neglect Accepted for Investigation

a. - f. ...

g. Abandonment.

4. - 6.a. ...

b. Subsequent. A report of another incident of abuse/neglect involving the same adult while the case is open which alleges a type of abuse/neglect different from the Initial Report. The EPS worker responsible for the case shall investigate all Subsequent Reports as if they were Initial Reports.

6.c. - d. ...

7. Nonacceptance of a Report

a. When a report is not accepted for investigation, the EPS worker shall advise the reporter of the reason for nonacceptance and will provide the following, as appropriate:

i. - ii. ...

ii. referral to a law enforcement agency or to the district attorney;

iii. referral to the appropriate agency for investigation if the client is not within the jurisdiction of the EPS program.

b. ...

D. Investigation Procedures

1. Priorities for Investigation of Cases. Cases accepted for investigation shall be prioritized as high, medium and low according to the severity of factors of abuse/neglect based on information provided by the reporter and other sources. The priority level of the case determines the time frame and agency commitment of staff and resources for the investigation. Investigation of low and medium priority cases may be limited if all EPS workers in a regional office have 35 active cases in any one month period.

2. - 3.c. ...

4. Determination of Appropriate EPS Regional Office to Investigate the Report.

a. The EPS Regional Office responsible for the investigation shall be the one which serves the parish in which the adult normally resides.

b. If the adult's residence changes to another region before completion of the investigation, the original EPS worker will be responsible for the case unless it is determined that distances between offices are too great.

5. - 6. ...

7. Report to the District Attorney. A report shall be sent to the district attorney on all cases where it appears after investigation that an adult has been abused and neglected by a third party or parties and that the problem cannot be remedied by EPS through extrajudicial means. A list of services which are available to ameliorate the abuse and neglect situation shall be provided in the report. Such reports shall be reviewed and approved by the EPS Program Manager or his/her designee prior to referral.

8. Exceptions to EPS Investigation Procedures.

a.i. ...

ii. Licensed and Certified Nursing Facilities (includes all Title XIX Facilities). Allegations of abuse/neglect of an adult who resides in a nursing facility shall not be accepted for investigation except as provided below. Reporters will be referred to the Department of Health and Hospitals, Bureau of Health Standards, Baton Rouge, LA and/or to the State Long Term Care Ombudsman Program. The exception to this rule is in cases where a resident of a nursing facility is alleged to be abused or exploited by someone visiting the facility or while visiting outside the facility.

iii. ...

b. Accepted for investigation:

i. Adult Residential Care Home. Allegations of abuse/neglect of an adult who resides in a board and care home will be accepted for investigation. Such reports should also be reported to the Department of Social Services, Division of Licensing, and the State Long-Term Care Ombudsman Program.

E.1. ...

2. Service Plan

a. Development. The service plan is the basis for the activities that the EPS worker and service providers will undertake. The focus of the service plan is time limited and it is expected that involvement of the EPS worker in the case will not exceed three months. Therefore, time frames for service delivery which require EPS worker participation should take this limitation into consideration.

b. ...

F. Complaints Against Elderly Protective Services (EPS)

1. For purposes of this policy the following definitions apply:

a. *Complaint*—any allegation of wrongdoing of misconduct by EPS. Complaints may submitted orally or in writing.

b. *Misconduct*—any action by an Elderly Protective Services Investigator which is considered detrimental to the welfare of an elderly person that is in violation of laws and regulations that govern the EPS Program, including Section 721 of the Older Americans Act, LA R.S. 14:403.2 et seq., and LAC 4:VII.1229.

Any complaint or allegation of misconduct should be referred to the EPS Regional Supervisor who will subsequently investigate these complaints. Following the Regional Supervisor's investigation of said complaint, the information will be forwarded to the EPS Director for review and disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:327 (March 1993), amended LR 20:543 (May 1994), LR 24:1763 (September 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9809#047

RULE

Office of the Governor
Office of Elderly Affairs

Long Term Care Assistance
Program (LAC 4:VII.1237)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends §1237, "Long Term Care Assistance Program," effective September 20, 1998. The purpose of this rule change is to modify §1237.E to specify how the benefits paid to program participants shall be established. This rule complies with R.S. 40:2802.

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1237. Long Term Care Assistance Program

A. - D.2.d. ...

E. Program Benefits

1. In accordance with R.S. 40:2802(c), the benefits under the program shall be established by the Commissioner of Administration, with an upper limit of $350 per participant per month. The rate shall be set by the Commissioner with oversight by the Senate and House Committee on Health and Welfare, through rules and regulations.

E.2. - F.2. ...

G. Eligibility Determinations

1. The agency shall provide written notification to each applicant found to be ineligible within thirty (30) days of receipt of application.

2. Those applicants found to be eligible will begin receiving reimbursements within thirty (30) days of receipt of application.

3. Prior to making a final determination, the agency shall return applications which are incomplete or questionable (e.g., expenses reported exceed all income) for additional information.

4. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in §1237.D.1, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

H.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19:627 (May 1993), LR 24:1765 (September 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9809#048

RULE

Office of the Governor
Office of Elderly Affairs

Senior Community Service
Employment Program (LAC 4:VII.1231)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends §1231 of the GOEA Policy Manual effective August 20, 1998. The purposes of this amendment are: to redefine the terms for participation in the Older Americans Act Senior Community Service Employment Program; to redefine enrollment priorities and benefits to participants; and to establish the goal for placement at 20 percent of the number of enrollees. This rule complies with Title V of the Older Americans Act (Sections 501-508).

Title 4
ADMINISTRATION
Part VII. Governor's Office
Chapter 11. Elderly Affairs
Subchapter D. Service Provider Responsibilities
§1231. Senior Community Service Employment Program

A. ...

B. Program Administration. This program is funded by the U.S. Department of Labor. The Governor's Office of Elderly Affairs administers the program in the southeastern portion of Louisiana through three subgrantees. The balance of the state is served under the administration of seven national contractors:

1. Green Thumb;
2. the National Council on Aging;
3. the National Council of Senior Citizens;
4. the National Association of Hispanic Elderly;
5. the U.S. Forest Service;
6. the American Association of Retired Persons; and
7. the National Indian Council on Aging.

Slots are distributed by parish according to an equitable distribution formula. All organizations administering the Senior Community Service Employment Program are expected to comply with the distribution formula. The formula was developed by the sponsoring organizations and is reviewed annually by that group.

C. Definitions

* * *

Grantee—an eligible organization which has entered into an agreement with the U.S. Department of Labor.

Host Agency—a public agency or a private non-profit organization, other than a political party or any facility used or to be used as a place for sectarian religious instruction or worship and is exempt under 501(c)(3) of IRS Code, which provides a work site and supervision for an enrollee.

Subgrantee—an eligible organization which has a contractual agreement with the grantee to deliver services on the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

* * *

D. Eligible Applicants for Subgrantee Status

1. - 7. ...

E. Application Procedure. Organizations must submit an application in the form designated by the grantee to be considered for subgrantee status.

F. Program Description

1. Enrollees are selected according to income guidelines, residence and age. Enrollment priorities shall be:
   a. eligible individuals with greatest economic need;
   b. eligible individuals age 60 and older; and
   c. eligible individuals seeking re-enrollment.

2. Enrollees shall be offered a physical examination prior to participation in the program. Physical examinations are furnished at no cost to the enrollees and are offered only as a fringe benefit. When an enrollee objects to a physical examination, a written statement or waiver must be properly documented and signed.

3. As soon as possible after completion of enrollee's orientation and training, the subgrantee, in conjunction with the grantee, shall assign the enrollee to useful part-time community service employment in non-profit host agency. Subgrantees shall continually work toward placing enrollees in unsubsidized employment, thereby creating additional opportunities for persons to enroll. The goal for placement is 20 percent of the number of enrollees.

4. ...

5. Enrollees shall not be required to work more than 20 hours during one week. Shorter hours may be authorized by the subgrantee by means of a written agreement with the enrollee.

6. ...

7. Community service employment of an enrollee shall not result in the displacement of currently employed workers.

G. Monitoring of the Governor's Office of Elderly Affairs Subgrantees

1. Subgrantees funded through the Governor's Office of Elderly Affairs shall submit monthly and/or quarterly program reports to the Governor's Office of Elderly Affairs by the 10th working day of each month. Reports shall reflect current

enrollment, placements, follow-ups and include a narrative description of activities conducted during the month.

2. Monthly financial reports shall be submitted by the subgrantee in the form designated by the Governor's Office of Elderly Affairs.

3. The Governor's Office of Elderly Affairs shall conduct biennial assessments to ensure that its subgrantees are performing in accordance with Senior Community Service Employment Program rules and regulations.

H. Project Termination. The grantee has the authority to terminate any of its contracts with a subgrantee which is not operating in accordance with Senior Community Service Employment Program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9809#049

RULE

Department of Health and Hospitals
Office of Public Health

Public Water System Capacity
Development (LAC 48:V.7707-7719)

Under the authority of the Act to amend and reenact R.S. 40:4(A)(8) and 5.8 relative to the State Sanitary Code, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has adopted the Drinking Water Capacity Development regulations, LAC 48:V.Chapter 77, Subchapter B.

Title 48
PUBLIC HEALTH—GENERAL
Part V. Preventive Health Services
Subpart 25. Drinking Water
Chapter 77. Drinking Water Program
Subchapter B. Public Water System Capacity Development

§7707. Introduction

A. The Department of Health and Hospitals, Office of Public Health (OPH) is the state agency within Louisiana granted primary enforcement responsibility from the United States Environmental Protection Agency (USEPA) to ensure that Public Water Systems (PWSs) within the state are in compliance with state drinking water regulations which are as stringent or more stringent than federal drinking water regulations adopted in accordance with the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f et seq.). The SDWA Amendments of 1996 authorized the State to develop and implement a Capacity Development strategy for new public water systems, public water systems applying for Drinking Water State Revolving Fund (SRF) monies, and existing public water systems to assess and ensure that such systems acquire and maintain technical, managerial, and financial capacity to facilitate compliance with and further the health protection objectives of the SDWA.

B. In accordance with the Louisiana Constitution and authorizing legislation, regulations governing Public Water System Capacity Development are promulgated by OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1767 (September 1998).

§7709. Authority

Act 814 of the 1997 Regular Session of the Louisiana Legislature amended and reenacted R.S. 40:4(A)(8) and 5.8, relative to the State Sanitary Code; to require the state health officer to provide for a strategy for public water systems to comply with federal and state drinking water regulations; to define types of public water systems; and to provide for related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1767 (September 1998).

§7711. Definitions

The following terms used in these regulations shall have the following meanings:

Business Plan—includes, but not limited to, an explanation of the assets of the system, the service area's basic needs, how these needs are to be addressed, and how the system is going to operate and sustain itself over time.

Committee of Certification—the committee created by LSA-R.S. 40:1141 through 1151, responsible for certification of public water system operators.

Community Water System—a public water system that serves year-round residents within a residential setting.

Department—the Office of Public Health (OPH) of the LA Department of Health and Hospitals (DHH).

Financial Capacity—relates to, but not limited to, revenue sufficiency, credit worthiness, and fiscal management and controls.

Managerial Capacity—relates to, but not limited to, ownership accountability, staffing and organization, and effective external linkages.

Non-Transient Non-Community Water System—a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator—the individual(s), as determined by the State, who is in attendance, onsite at a public water system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Public Water System—a system intended to provide potable water to the public, which system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

State—the state of Louisiana or any agency or instrumentality thereof.

State Health Officer—the assistant secretary of the Department of Health and Hospitals and/or his authorized representative.

Technical Capacity—relates to, but not limited to, source water adequacy, infrastructure adequacy, and technical knowledge and implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1767 (September 1998).

§7713. New Systems

A. Business Plan. All community and non-transient non-community public water systems wanting to commence operation after January 1, 1999 shall be required to submit a Business Plan to the Department to aid in the Department's determination of technical, managerial and financial capacity. Required information for the Business Plan shall be provided by the Department.

B. Operator Requirements. All such prospective public water systems meeting the population requirements to require a certified operator must have an operator who holds a certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any such prospective public water system not meeting the population requirements at the time of request to commence operation must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Management Training. As a part of meeting the managerial capacity requirements, all such new public water systems wanting to commence operation after January 1, 1999, must make arrangements to attend the next scheduled training session provided by the State for Board Members/Council Members/Mayors, Owners, etc. Such arrangements shall be made upon making application to the Department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation for such new public water systems will be given by the Department only after the Department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998).

§7715. Systems Applying For Drinking Water Revolving Loan Fund (DWRLF) Monies

A. Business Plan. Beginning with Federal Fiscal Year 98 (FFY98) Capitalization Grant Monies (DWRLF Monies), all public water systems applying for such monies must submit a Business Plan with the final application packet to the Department to aid in the Department's determination of technical, managerial, and financial capacity. Required information for the Business Plan shall be provided by the Department.

B. Operator Requirements. All such public water systems meeting the population requirements to require a certified operator must have an operator who holds a certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any such public water system not meeting the population requirements at the time of application for DWRLF monies must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Financial Capacity. In addition to any financial information required in the Business Plan, the public water system must meet all financial requirements of the Department of Environmental Quality (DEQ), the financial administrator for the Drinking Water Revolving Loan Fund (DWRLF).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998).

§7717. Existing Systems

A. Business Plan. All existing public water systems shall be required to submit a Business Plan to the Department to aid in the Department's determination of technical, managerial, and financial capacity. Required information for the Business Plan will be provided by the Department. Such plan must be

submitted to the Department within six (6) months after the initial visit by the designated party of the State who is providing assistance to the public water system in preparation of the business plan.

B. Operator Requirements. All such public water systems meeting the population requirements to require a certified operator must have an operator who holds a certificate in the appropriate classes(es) of certification for the population served by the system. The system must have an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Any such public water system not meeting the population requirements at the time of submission of the business plan must have an operator who has had at least sixteen (16) hours of operator training which meets the guidelines of the State Committee of Certification, and must have at least sixteen (16) hours of continuing training yearly. The system must provide such an operator on duty at all times, or the operator must be available to respond and be on-site within an hour of notification. Such requirement for systems not meeting the population requirements for a certified operator shall remain in effect until such time as the United States Environmental Protection Agency (USEPA) requires that all public water systems have certified operators or the State requires same, whichever occurs first. At such time, the then current requirements would be applied.

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing public water systems shall attend a training session provided by the State for Board Members, Council Members/Mayors/Owners, etc. Training sessions shall be provided periodically and appropriate parties as noted above must attend one of the scheduled sessions within six (6) months after the system has been notified that is it being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998).

§7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the Department and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 5.8 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1769 (September 1998).

David W. Hood
Secretary

9809#069

RULE

Department of Public Safety and Corrections
Board of Private Investigator Examiners

Apprentice Licensing (LAC 46:LVII.512)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505(B)(1), the Department of Public Safety and Corrections, State Board of Private Investigator Examiners, hereby amends LAC 46:LVII.512.B and C.1 pertaining to licensing of apprentice private investigators.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the State Board of Private Investigator Examiners.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LVII. Private Investigator Examiners
Chapter 5. Application, Licensing, Training, Registration and Fees
§512. Licensing of Apprentices

* * *

B. An apprentice license shall be effective for one year only; and the apprentice shall operate as a private investigator only under the immediate direction, control and supervision of the sponsoring agency during that time.

C.1. The sponsoring agency shall be directly responsible for the supervising and training of the apprentice.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(A)(3) and (B)(1); and R.S. 37:3514(A)(4)(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:459 (June 1996), amended LR 24:1769 (September 1998).

Linda F. Magri
Chairman

9809#011

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Compulsory Liability Insurance
(LAC 55:III.Chapter 17)
(Repeal of LAC 37:VII.125 and 127)

The Department of Public Safety and Corrections, Office of Motor Vehicles hereby adopts new rules relating to notification of the initiation, termination, or modification of liability security pursuant to R.S. 32:863.2, and hereby repeals the existing rules contained in LAC 37:VII.125 and 127. These rules implement the significant change in the reporting period for liability insurance information from 45 days to 15 working days. These rules also contain the only acceptable reporting method for compliance in accordance with R.S. 32:861-866.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 17. Compulsory Insurance
Subchapter B. Reporting of Initiation and any Subsequent Change in Insurance Coverage

§1751. Definitions

As used in this subchapter, the following terms have the meanings described below.

Business Days—Monday through Friday, between 8:00 a.m. and 4:30 p.m. central time. Business days do not include Saturdays, Sundays, or state holidays, or any additional holidays which may be declared by the governor.

Change in Coverage—shall be considered either an initiation of coverage or a termination of coverage based on the nature of the change. The addition of a vehicle shall be considered an initiation of coverage. The deletion of a vehicle shall be considered a termination of coverage. The replacement of a covered vehicle with another vehicle shall be considered both a termination of coverage for the replaced vehicle and an initiation of coverage for the replacement vehicle. Changes in coverage not related to the vehicle should not be reported.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Edit Error—a record submitted by an insurance company or servicing agent unacceptable for filing purposes due to the absence of information in a required field or the presence of invalid information in the key data fields identified and detailed in the technical filing specifications given to the security provider by the department pursuant to LAC 55:III.Chapter 17, Subchapter B. Any record which is returned to an insurance company or servicing agent as an edit error is not a filing and counts against the overall match rate. The filing must be corrected and re-reported within 15 days. (Disposition code is "E.")

Filing Report—a report prepared by the department for an insurance company or servicing agent following completion of processing (record matching) containing the disposition of each record. It is the responsibility of the insurance company or servicing agent to review and take the necessary corrective action as required by these regulations. This return report is written on the same medium submitted by the insurance company, i.e., tape or cartridge.

Fleet Policy—a policy insuring a business with a fleet of five or more vehicles registered in Louisiana, issued on a fleet basis, by any insurance company, either admitted or non-admitted, writing motor vehicle liability insurance.

Hit—a record submitted by an insurance company or servicing agent which matches the department vehicle registration record. (Disposition code is "H.")

Initiation of Coverage—the issuing or making of a liability policy, liability bond, deposit or other security.

Insurance Company Code—a unique number assigned to each insurance company. National Association of Insurance Commissioners Code (NAIC code) will be used or a temporary identification number assigned by the department to an insurance company for the purpose of R.S. 32:863.2 of the Compulsory Motor Vehicle Liability Security Law.

Insured Owner—the name of the lessee or owner of the listed motor vehicle as obtained by the security provider.

Magnetic Tape—a magnetically encoded computer tape or cartridge which is machine readable by the installed computer system of the department and which conforms with the technical filing specifications given to the security provider by the department.

Match Rate—the percentage of hits relative to the total number of filings reported.

Nonrenewal—

a. a nonrenewal of a motor vehicle liability insurance policy shall include:

i. a refusal by the insurer to issue a superseding policy or a renewal of such policy;

ii. a request by the insured that a superseding policy not be issued or such policy not be renewed; or

iii. a failure of the insured to make the first premium payment due upon a superseding policy or a renewal of such policy offered by the insurer;

b. nonrenewals are to be reported in the same manner as cancellations or terminations.

Notification—the furnishing of information by a security provider to the department concerning liability security or lack of liability security on a motor vehicle, or a change or correction of data concerning the item of security, the vehicle or the lessee or owner, as required by R.S. 32:863.2 of the Motor Vehicle Liability Security Law and these regulations.

Owner—every person who holds the legal title to a motor vehicle or in the event a motor vehicle is the subject of an agreement for the conditional sale, lease or transfer of the possession, however, thereof, with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee, lessee, possessor or in the event such or similar transaction is had by means of a mortgage, and the mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, possessor or mortgagor shall be deemed the owner for the purpose of this Chapter.

Owner ID Number—driver's license number for an individual lessee or owner (the leftmost nine characters of driver's license number) or federal tax identification number for the lessee or owner if the lessee or owner is not a natural person.

Recall of Notification—a notice submitted to the department by a security provider or servicing agent, which rescinds a notification previously submitted to the department in error.

Record—insurance information pertaining to the items required by law and these regulations for an individual vehicle or fleet coverage.

Resolved No-Hit Exception—a no-hit exception which is resolved during the department's exception matching process and results in a match to the department's vehicle registration record. Effective October 1, 1998, the department will no longer attempt to resolve no-hits. (Disposition code is "R.")

Return Date—the department will provide a return date in its filing report. The date, in year, month, date (YYMMDD) format, will be placed in character positions 237-242 of the returned filing record. The return date will be the date the department writes the filing report to tape and will equal the date in the DATE-PROCESSED field of the trailer record.

Security Provider—a liability insurance company or other provider of liability security required under the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.).

Servicing Agent—any person or organization duly designated by a security provider to prepare, transmit or deliver records on behalf of such insurance company.

Tape Receipt—a two-part document furnished and prepared by an insurance company or servicing agent containing information prescribed in the technical filing specifications. Such receipt, along with a self-addressed return envelope, must accompany each magnetic tape or cartridge transmitted to the department, one copy of which, when duly endorsed and dated upon delivery and returned to the insurance company, shall constitute proof that such magnetic tape or cartridge was received by the department.

Termination/Cancellation of Liability Security—any cancellation or termination of liability security on a motor vehicle (whether caused by the insurer or insured).

Unresolved No-Hit Exception—a no-hit exception which is not resolved during the department's exception matching process. Insurance company must respond with corrected information within 15 business days from department's returned filing report. (Disposition code is "U.") (See §1761.B.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1770 (September 1998).

§1753. Introduction

A. Effective July 1, 1998, security providers shall report to the Department of Public Safety and Corrections, Office of Motor Vehicles, certain information, on a vehicle-by-vehicle basis, with certain exceptions, in accordance with the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.), the Compulsory Security Law, and with these regulations regarding the initiation of liability coverage.

B. Effective July 9, 1998, security providers shall report to the Department of Public Safety and Corrections, Office of Motor Vehicles, certain information, on a vehicle by vehicle basis, with certain exceptions, in accordance with the Compulsory Motor Vehicle Liability Security Law (R.S. 32:861 et seq.), the Compulsory Security Law, and with these regulations regarding the termination, withdrawal, cancellation, lapsing, or otherwise rendering ineffective of liability coverage.

C. As required by law and LAC 55:III.Chapter 17, Subchapter B, reports shall be made to the department whenever a liability policy on a motor vehicle is issued, procured, recalled, reinstated, terminated, canceled, or to change binder status to active policy number. Such information must be transmitted to the department in an efficient and timely manner in accordance with these regulations. Security providers shall not provide information to the department except as required by law or LAC 55:III.Chapter 17, Subchapter B. Examples of information which shall not be submitted to the department by security providers include, but are not limited to, the following:

1. information on non-liability coverage such as collision and comprehensive policies;

2. information on liability policies not in compliance with the Compulsory Security Law such as umbrella policies with excess coverage and non-ownership policies;

3. addition or deletion of other drivers.

D. The notification required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B, shall be made in the manner and form required by the department as set forth in these regulations. A separate notice shall be submitted for each vehicle. The failure of a security provider to properly notify the department may result in the imposition of the fee authorized in R.S. 32:863.2(B).

E. The purpose of the required information is to enforce the Motor Vehicle Safety Responsibility Law, R.S. 32:851 et seq., and particularly the Compulsory Security Law, R.S. 32:861 et seq. Consistently with this purpose, the information maintained by the department shall only be provided to a person making proper written request under R.S. 32:863.2(C) and R.S. 32:871 only after an accident is reported in accordance with R.S. 32:871. The information will be provided on a single individual or vehicle basis only. In order to preserve the proprietary information of security providers, insurance coverage information compiled by company, by zip code, or by other classifications shall not be made available to inquirers. Additionally, the department will not develop or maintain any composite list by insurance company or insurance company identifier except for unresolved no-hits and edit errors. The department will cooperate fully with the insurance industry in preserving the security of customer lists and related data.

F. *Louisiana Administrative Code* 55:III.Chapter 17, Subchapter B provides for adjustments to technical specifications of reporting requirements. The security providers will be advised by mail of any changes in the technical specifications of the reporting requirements. The department will always attempt to give 90 days notice of these adjustments so that security providers may have enough time to implement the changes, however, legislative changes or other circumstances may result in notice of less than 90 days. Such mailings may be called "Advisory Bulletins" or "Memorandums" from the assistant secretary, Office of Motor Vehicles. These bulletins or memorandums may also contain clarifications, helpful hints, and such additional information as may be deemed applicable to compliance with the Compulsory Security Law. Moreover, in the event that an unusual situation is not covered by these regulations, a reasonable procedure consistent with the Compulsory Security Law will be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1771 (September 1998).

§1755. Failure to Comply with Reporting Requirements

A. In cases where, after written notice, a security provider fails to supply the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B in the manner approved by the department for the security provider, or fails to provide the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B within the 15 business day period established in R.S. 32:863.2, the fees as provided by R.S. 32:863.2(B) may be imposed. A security provider will not be charged a fee for providing data based on a reasonable assumption, such as assuming in good faith that the owner's address is the same as the named insured's address. Special consideration shall be given to unusual problems in compliance, proved in writing.

B. The security provider shall have 30 days from the date of the notice imposing a fee to make a written request for an administrative hearing to review the imposition of the fee. The security provider may also make a written request for an informal review of the imposition of the fee described in §1755.A. A request for an informal review shall suspend the running of the 30-day period contained in this Subsection. Upon completion of the informal review and the issuance of a written determination by the Office of Motor Vehicles, the remaining balance of the 30-day period within which to request an administrative hearing shall resume running.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1771 (September 1998).

§1757. Questions Regarding Procedures and Technical/Data Issues

A. Procedural questions concerning LAC 55:III.Chapter 17, Subchapter B, or the official policies of the department shall be referred to the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, Box 64886, Baton Rouge, LA 70896, Attention: Cancellation Unit, telephone (504) 925-7285, (504) 925-6983, or FAX (504) 922-0158.

B. Technical/data questions concerning the official policies of the department should be referred to the Louisiana Department of Public Safety and Corrections, Data Processing Center, 8001 Independence Boulevard, Baton Rouge, LA 70806, DMB Project Leader, telephone (504) 925-6246, or FAX (504) 925-4019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1759. Match Rate and Reporting Period

A. The department shall enforce a 92 percent match rate insofar as reporting liability insurance information in accordance with R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The 92 percent match rate is one of the criteria used to evaluate compliance with reporting requirements.

B. The match rate is evaluated on any given one year reporting period. The match rate will not be evaluated for a period to exceed one year. This reporting period will be used in determining any possible fee assessments for failure to report or successfully report information in accordance with LAC 55:III.Chapter 17, Subchapter B. The department will send to the security provider at least once a year a report of said company's current match rate. The notice provided for in this Section may be combined with any notice issued pursuant to §1755.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1761. Credit for Correcting Unresolved No-Hits

A. A direct "match" or "hit" is based on the Vehicle Identification Number (VIN). When the vehicle identification number does not match with Louisiana motor vehicle records and fails the vehicle identification number edit check, the record is coded "Unresolved." In accordance with LAC 55:III.Chapter 17, Subchapter B, the security provider has 15 business days from receipt of the return filing to correct the vehicle identification number and resubmit the report. The failure to resubmit the report or the failure to submit corrected vehicle identification number data results in a "no-hit" filing which goes against the match rate.

B. A credit is given when an identified "Unresolved" is resubmitted with the correct vehicle identification number and matches with the Department's motor vehicle files. The program will "+1" in Hits and "-1" in the Unresolved category. Any vehicle data resubmitted with corrected vehicle identification number information will be coded as transaction "C" or "1" and will not count against the match rate a second time if the corrected information is unmatched and it will also not apply as a credit to the original error. In cases of resubmitted information, the original "unresolved" will be counted against the match rate only once.

C. If a security provider submits a vehicle identification number (VIN) for a 1981 or newer vehicle, and the Department's VIN check determines that the VIN is valid, but the VIN is not matched to a VIN in the department's records, the company is returned a disposition "R," resolved. In these records, the insurance company VIN and the VIN returned as the "Matched" VIN are identical. Effective October 1, 1998, the disposition code will change to "H," Hit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1763. Reporting an Initiation of Coverage and Cancellation of Coverage at the Same Time

All records must be submitted in chronological order. The last record received from a security provider for a vehicle is considered to reflect the status of the vehicle with the company. Multiple filings for a single vehicle having the same company code and owner-ID will result in the last record received being maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1765. Recalling Notification by Security Provider

When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider shall submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1767. Warning on Notice of Acknowledgment of Termination to Insured

The Notice of Acknowledgment of Termination sent to an insured shall contain the following warning notice:

"If you do not keep your liability insurance in force during the entire registration period, your registering privileges will be subject to revocation. By law your insurance carrier is required to report specific termination information to the Secretary of the Department of Public Safety and Corrections."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1772 (September 1998).

§1769. Timely Insurance Filings

A. In accordance with LAC 55:III.Chapter 17, Subchapter B, the security provider shall notify the department after motor vehicle liability security is initiated, terminated, or modified. Such notification shall be made within 15 business days from the date such policy, liability bond, deposit, or other security was issued or made. In the case of such policy, bond, deposit or other security being terminated, withdrawn, canceled, lapsed or otherwise made ineffective, such notification shall be made within 15 business days of the date such policy, bond, deposit or other security becomes ineffective. The security provider has 15 days from receipt of the department's returned filings to correct the "Unresolved No-Hit Exception" and resubmit the report.

B. A report of initiation of coverage received prior to the issue date shall result in an edit error. A report of termination of coverage received prior to the effective date shall also result in an edit error. An edit error shall not be considered a filing, but shall be corrected by the security provider and resubmitted to the Department as provided in Chapter 17, Subchapter B.

C. A security provider who violates §1769 may be subject to possible fee assessments pursuant to R.S. 32:863.2(B) even though a 92 percent match rate is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1773 (September 1998).

§1771. Manual Filings

A. Eligibility. The department may authorize a security provider to use manual filing of reports of initiation, termination and other reportable information changes by a security provider insuring less than 250 motor vehicles registered in this state on a calendar year basis.

B. Authorization. All requests for manual filing shall be in writing. Authorizations for manual filing shall be made by the Department on a company by company basis. A request for authorization should be mailed to the Department of Public Safety and Corrections, Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70896, Attention: Cancellation Unit. If approval is granted, these filings shall to be mailed to the Cancellation Unit.

C. Conditions of Filing. A security provider must notify the department after motor vehicle liability security is initiated, terminated, or in certain ways modified. Such notification shall be made within 15 business days from the date such policy, liability bond, deposit, or other security was issued or made. In the case of such policy, bond, deposit or other security being terminated, withdrawn, canceled, lapsed or otherwise made ineffective, such notification shall be made within 15 business days of the date such policy, bond, deposit or other security becomes ineffective.

D. Format and Content. Each notification must be transmitted by an official of the company on the company's letterhead in a typewritten or typeset format. Multiple notices may be reported under a single submission. However, notices so submitted shall be numbered in a sequential order beginning with the designation "Notice 1:". Information items shall be inset, and single spaced separated by a double space. Notices must be submitted as specified in the manual filing data field requirements using the formats provided in LAC 55:III.Chapter 17, Subchapter B.

E. Alternative Format. A security provider may, at its option, develop its own form based upon the sample below, provided that the same formatting and display of information are utilized. Any alternative format is subject to prior approval by the department.

F. Frequency of Filing. Security providers shall not submit written notices more frequently than weekly.

G. Confirmation of Receipt. The department shall provide a filing report to the security provider. If the notice information provided by an insurance company is not in accordance with format and reporting requirements, or does not match a corresponding registration record, or if there are discrepancies in informational content, the company will be so advised. All filings will contain a disposition code indicating the disposition of each notice.

H. Recalling Notification. When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider shall submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification. (See Record Format and Field Descriptions.)

I. Field Requirements. The following fields are required for reporting new business, termination or modification of liability security. (See Record Format and Field Descriptions):

1. vehicle identification number (VIN);
2. year of vehicle;
3. make or model of vehicle;
4. insurance company code;
5. type of transaction;
6. lessee or owner's address(to be reported only for termination);
7. lessee or owner's city(to be reported only for termination);
8. lessee or owner's state(to be reported only for termination);
9. lessee or owner's zip code;
10. policy number (or "binder");
11. termination, change date, or effective date (terminations and initiations);
12. issue date (initiations only);
13. lessee or owner's name;
14. lessee or owner's name indicator;
15. lessee or owner's identification number;

J. Sample Manual Filing

INSURANCE COMPANY LETTERHEAD (RESERVED) (FOR) (DPS&C USE)

DATE:_____

TO: Louisiana Department of Public Safety & Corrections

Pursuant to R.S. 32:863.2 of the Louisiana Compulsory Motor Vehicle Liability Security Law and the Rules and Regulations of the Department, the following information is hereby submitted for filing with your office.

MANUAL REPORTING
OF
LIABILITY SECURITY

NOTICE 1:

VIN:	12345678901234567
YEAR:	85
MAKE/MODEL:	FORD
INS. CO. CODE:	11000
TYPE OF TRANSACTION:	0
LESSEE OR OWNER ADDRESS:	100 South Swan Street
LESSEE OR OWNER CITY:	New Orleans
LESSEE OR OWNER STATE:	Louisiana
LESSEE OR OWNER ZIP CODE:	70110
POLICY NUMBER (OR "BINDER"):	0013081883
TERMINATION, CHANGE DATE OR EFFECTIVE DATE:	880115
LESSEE OR OWNER NAME:	Motorist Michael A
LESSEE OR OWNER NAME INDICATOR:	2
LESSEE OR OWNER IDENTIFICATION NUMBER:	1234567

NOTICE 2:

VIN:	2314567890232224567
YEAR:	85
	etc .

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1773 (September 1998).

§1773. Guidelines for Fleet Filings

A. Eligibility. Any insurance company writing motor vehicle liability insurance in Louisiana and insuring a fleet of five or more vehicles registered in Louisiana for which vehicle identification number (VIN) information is not maintained on each vehicle must manually report said fleet coverage as specified in LAC 55:III.Chapter 17, Subchapter B. If the insurance company maintains the VIN number of each vehicle within the fleet, the filing shall be reported on a vehicle-by-vehicle basis.

B. Conditions of Filing. A security provider must notify the department after motor vehicle liability security has begun, ended, or in certain ways modified. Such notification shall be made within 15 business days from the date such policy, liability bond, deposit, or other security was issued or made. In the case of such policy, bond, deposit or other security being terminated, withdrawn, canceled, lapsed, or otherwise made ineffective, such notification shall be made within 15 business days of the date such policy, bond, deposit or other security becomes ineffective. After the initiation has been reported, the cancellation is not to be reported until the entire fleet policy has been canceled. (Do not report the addition or deletion of individual vehicles.)

C. Format and Content. Each notification must be transmitted by an official of the company on the company's letterhead in a typewritten or typeset format. Multiple notices may be reported under a single submission. However, notices so submitted shall be numbered in a sequential order beginning with the designation "Notice 1:." Information items shall be inset, and single spaced separated by a double space. Notices must be submitted as specified in the manual filing data field requirements using the formats provided in these rules and regulations.

D. No Special Forms Required. A company may, at its option, develop its own form based upon our sample, provided that the same formatting and display of information are utilized, and the form has received prior approval of the department.

E. Frequency of Filing. Insurance companies may submit written notices daily.

F. Confirmation of Receipt. The department shall provide a filing report to the insurance company. If the notice information provided by an insurance company is not in accordance with format and reporting requirements or if there are discrepancies in informational content, the company will be so advised. All filings will contain a disposition code indicating disposition of such notice.

G. Number of Vehicles. The estimated number of vehicles in a fleet is reported in lieu of vehicle identification number information on a vehicle-by-vehicle basis.

H. Recalling Notification. When a security provider discovers that a cancellation or initiation of coverage was reported by mistake, the security provider must submit to the department a notice of recall of notification. All the data but the transaction type must be the same as originally submitted in order to match the recall with the notification. (See Record Format and Field Descriptions.)

I. Fields. The following fields are required for reporting new business, termination, or modification of liability security (See Record Format and Field Descriptions.):

1. insurance company code;
2. type of transaction;
3. lessee or owner's address (to be reported only for termination);
4. lessee or owner's city (to be reported only for termination);
5. lessee or owner's state (to be reported only for termination);
6. lessee or owner's zip code;
7. policy number (or "binder");
8. termination, change date, or effective date (terminations and initiations);
9. issue date (initiations only);
10. lessee or owner's name;
11. lessee or owner's name indicator;
12. lessee or owner's federal tax identification number driver's license number for individual;
13. estimated number of vehicles in fleet.

J. Sample Fleet Filing

INSURANCE COMPANY LETTERHEAD (RESERVED) (FOR) (DPS&C USE)

DATE:_____

To: Louisiana Department of Public Safety & Corrections

Pursuant to R.S. 32:863.2 of the Louisiana Compulsory Motor Vehicle Liability Security Law and the Rules and Regulations of the Department, the following information is hereby submitted for filing with your office:

MANUAL REPORTING
OF
LIABILITY SECURITY

NOTICE 1:

INS. CO. CODE:	11000
TYPE OF TRANSACTION:	0
LESSEE OR OWNER ADDRESS:	321 Tulane Avenue
LESSEE OR OWNER CITY:	New Orleans
LESSEE OR OWNER STATE:	Louisiana
LESSEE OR OWNER ZIP CODE:	70734
POLICY NUMBER (OR BINDER):	0013081883
TERMINATION, CHANGE DATE, OR EFFECTIVE DATE:	880201
LESSEE OR OWNER NAME:	JRS TOOL CO.
LESSEE OR OWNER NAME INDICATOR:	4
LESSEE OR OWNER IDENTIFICATION NUMBER:	721234567
ESTIMATED NUMBER OF VEHICLES:	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1774 (September 1998).

§1775. Fee Assessments

A. The failure by a security provider to report the required information, failure to timely report the required information and/or failure to maintain at least a 92 percent match rate may result in the insurance company being assessed a $50 fee per vehicle coverage in accordance with R.S. 32:863.2(B).

B. The department's motor vehicle records will be checked against liability insurance filings on an ongoing basis. Fees will continue to be assessed to those companies in noncompliance with the statute and LAC 55:III.Chapter 17, Subchapter B. Further, in cooperation with the insurance commissioner's office, continuous violations and noncompliance could result in additional administrative or judicial action.

C. Fees will not be assessed to those security providers who continue to report all insured vehicles, report on a timely basis, and maintain at least a 92 percent match rate during any given one-year reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998).

§1777. Transaction Types and How the Transaction Types are Used

A. Described below are the transaction types and how each may be used for cancellations.

1. 0 = Termination. A termination or cancellation notice is submitted whenever liability security is canceled or terminated.

2. 1 = Recall. The recall is used whenever a cancellation notice is submitted in error. A cancellation notice was incorrectly reported. The cancellation date was reported as February 2 instead of February 13. A recall of the February 2 cancellation notice is submitted followed by a cancellation notice of having a canceled date of February 13.

3. 2 = Re-reporting. A re-reporting is used whenever the department returns a cancellation notice with a disposition of "U." A cancellation notice was returned with a disposition of "U." Corrected information is available and the cancellation notice is resubmitted.

4. 4 = Back-dated. Back-dating is used whenever a company back-dates a cancellation at the request of the insured, and where it would be impossible to submit a cancellation notice within 15 business days of the date of cancellation. As an example, an individual notifies his insurance company that he sold one of his vehicles two months ago. He requests a credit for two months of coverage. A back-dated cancellation notice is submitted with the cancellation date equaling the date the vehicle was sold.

5. 6 = Termination for NSF Check. A termination or cancellation notice pursuant to this code is submitted whenever a security provider backdates the effective date of a cancellation because the insured submitted an NSF check as payment in response to a notice of cancellation, and the check was returned by the bank more than fifteen days after the effective date contained in the notice of cancellation sent to the insured.

B. Described below are the transaction types and how each may be used for initiations of coverage.

1. A = Initiation. An initiation notice is submitted whenever liability security is initiated (new business).

2. B = Recall. The recall is used whenever an initiation notice is submitted in error. As an example, an initiation notice was incorrectly reported with a starting date reported as February 2 instead of February 13. A recall of the February 2 initiation notice is submitted followed by an initiation notice having a starting date of February 13.

3. C = Re-reporting. A re-reporting is used whenever the department returns an initiation notice with a disposition of "U." As an example, an initiation notice was returned with a disposition of "U." Corrected information is available and the initiation notice is resubmitted.

4. E = Back-dated. Back-dating is used whenever a company back-dates new business at the request of the insured, and where it would be impossible to submit an initiation notice within 15 business days of the issue date of the policy. As an example, an individual notifies his insurance company that he purchased a vehicle two months ago. The insured's company back-dates the coverage to the date the vehicle was purchased. A back-dated initiation notice is submitted with the starting date equal to the date the vehicle was purchased.

5. F = Change. A change notice is submitted only for changing the policy number from a binder to an active policy

number. As an example, an initiation notice was submitted with a policy number of "Binder." A change notice is submitted with an active policy number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1775 (September 1998).

§1779. Contact Person Information

A. Certain updated information is periodically needed by the department in order for the department to implement and enforce the provisions of R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. Each security provider shall give the department the name of a contact person within the insurance company to provide the most updated information or to correct problems as they arise.

B. The contact information sheet shall be completed and returned to this department. The contact sheet shall be submitted during January of each year and whenever there is a change in any of a security provider's contact personnel. A contact information sheet shall be submitted for each insurance company.

C. The security provider shall furnish the name of the company representative responsible for compliance with each of the following areas:

1. administrative reporting requirements
2. data processing;
3. commercial lines;
4. personal lines;
5. manual/fleet filings;
6. other personnel responsible for filings or fee assessments.

CONTACT PERSON INFORMATION SHEET
LA. OFFICE OF MOTOR VEHICLES
CANCELLATION UNIT
P.O. BOX 64886
BATON ROUGE, LA 70896

Certain updated information is needed periodically by this agency in order for us to contact the correct person within your insurance company to provide the most updated information or to correct problem areas. The contact information sheet is to be completed and returned to this department. The contact sheet must be submitted during the month of January each year and whenever there is a change in any of your company's contact personnel. A contact information sheet must be submitted for each insurance company. Please furnish the name of the representative responsible for compliance with administrative reporting requirements, data processing, commercial lines, personal lines, manual/fleet filings, and other personnel responsible for filings or fee assessments. This information will assist us in contacting your company's representative(s) in regard to specific compliance regulations.

NAIC# _____ NAME OF INSURANCE COMPANY _____

ADMINISTRATIVE COMPLIANCE			DATA PROCESSING
NAME: _____			NAME: _____
ADDRESS: _____			ADDRESS: _____
_____			_____
_____			_____
PHONE: ( ) _____			PHONE: ( ) _____
FAX: ( ) _____			FAX: ( ) _____
E-MAIL ADDRESS: _____			E-MAIL ADDRESS: _____
_____			_____
AREA OF RESPONSIBILITY: _____			AREA OF RESPONSIBILITY: _____
NAME: _____			NAME: _____
ADDRESS: _____			ADDRESS: _____
_____			_____
_____			_____
PHONE: ( ) _____			PHONE: ( ) _____
FAX: ( ) _____			FAX: ( ) _____
E-MAIL ADDRESS: _____			E-MAIL ADDRESS: _____
_____			_____

CONTACT PERSON INFORMATION SHEET
LA. OFFICE OF MOTOR VEHICLES
CANCELLATION UNIT
P.O. BOX 64886
BATON ROUGE, LA 70896

NAIC# _____ NAME OF INSURANCE COMPANY _____

AREA OF RESPONSIBILITY: _____			AREA OF RESPONSIBILITY: _____
NAME: _____			NAME: _____
ADDRESS: _____			ADDRESS: _____
_____			_____
_____			_____
PHONE: ( ) _____			PHONE: ( ) _____
FAX: ( ) _____			FAX: ( ) _____
E-MAIL ADDRESS: _____			E-MAIL ADDRESS: _____
_____			_____
AREA OF RESPONSIBILITY: _____			AREA OF RESPONSIBILITY: _____
NAME: _____			NAME: _____
ADDRESS: _____			ADDRESS: _____
_____			_____
_____			_____
PHONE: ( ) _____			PHONE: ( ) _____
FAX: ( ) _____			FAX: ( ) _____
E-MAIL ADDRESS: _____			E-MAIL ADDRESS: _____
_____			_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998).

§1781. Reporting Methods

A. Reporting via Magnetic Tape

1. The magnetic tape/cartridge sent by a security provider or servicing agent shall be received during business hours only, 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays, by the Louisiana Department

of Public Safety and Corrections, Data Control, 8001 Independence Boulevard, Baton Rouge, LA 70806.

2. Each magnetic tape containing required notices shall be accompanied by, and uniquely identified with, a duly prepared tape receipt in accordance with the technical filing specifications. Such magnetic tape may contain all types of notification. Insurance groups may report multiple companies on the same tape provided the servicing agent code is the same for all records on the tape.

3. When the department receives a magnetic tape from a security provider or servicing agent, an employee of the department shall endorse a copy of the tape receipt with the date of delivery and return such copy to the insurance company or servicing agent.

4. Each record accepted as a filing shall be deemed received by the department on the date the magnetic tape containing said record was delivered to the department as evidenced in the tape receipt.

B. First Time Filing. First time filings should be coordinated by contacting the department prior to the filing. All contact information must be provided and a test tape/cartridge processed and checked before live data will be processed on a routine basis.

C. Reporting via File Transfer Protocol. Effective October 1, 1998, security providers which currently file via magnetic tape may begin filing using the file transfer protocol method. Effective January 1, 1999 security providers shall only make filings using the file transfer protocol method. The only acceptable procedures for contacting the Department's computer shall be via the IBM Global Services "Information Exchange." The security provider shall have connectivity to the IBM Global Network, either through Insurance Value Added Network Services (IVAN) or directly. All record formats shall be as described in Chapter 17, Subchapter B. The Department will provide, upon request, all technical specifications to accomplish this connectivity. All security providers requiring additional assistance may contact the Information Services Deputy Director of the Data Processing Center at (225) 925-6226. Section 1781.C shall not apply to security providers authorized to file reports manually or fleet coverage reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1776 (September 1998).

§1783. Technical Specifications

A. The technical specifications for magnetic tape and cartridges are contained in Office of Motor Vehicles policies, and shall be made available to a security provider upon the security provider notifying the department that the security provider will be submitting the reports required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The technical specifications are not contained in LAC 55:III.Chapter 17, Subchapter B, so as to allow for flexibility as technology changes.

B. The technical specifications for reporting via file transfer protocol are contained in Office of Motor Vehicles policies, and shall be made available to a security provider upon the security provider notifying the department that the security provider will be submitting the reports required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B. The technical specifications are not contained in LAC 55:III.Chapter 17, Subchapter B, so as to allow for flexibility as technology changes.

C. The department shall provide the security provider with the appropriate technical specifications, and the security provider shall acknowledge receipt of the technical specifications in writing, on company letterhead, dated, and signed by a company officer, director, or other person authorized to sign on behalf of the company.

D. The failure of a security provider to submit a report pursuant to the technical specifications provided by the department pursuant to §1785.C shall be deemed a failure to provide the information required by R.S. 32:863.2 and LAC 55:III.Chapter 17, Subchapter B in the manner approved by the department for the security provider as provided in §1755 for purposes of assessing the fee authorized in R.S. 32:863.2(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1777 (September 1998).

§1785. Editing Vehicle Identification Numbers for Improved Match Rates

A. In order to insure high match rates, security providers should check the vehicle identification numbers (VIN) for a valid check digit as 1981 and newer motor vehicles have a 17-digit vehicle identification number in which the check digit is the ninth character of the VIN.

B. A worksheet with instructions for computing the check digit follows §1787. A security provider may write a computer program from the information on the worksheet. A security provider may also obtain copies of the department's COBOL program to compute the check digit upon receipt of a written request. Such a program used at the insurance agent, or policy initiation level would greatly increase the likelihood that the VINs on 1981 and newer motor vehicles are correct when they enter the insurance company's database.

C. Security providers needing assistance may contact the DMB Project Leader of the Data Processing Center at (504) 925-6246.

COMPUTING THE VIN CHECK DIGIT
(9TH CHARACTER OF THE 17-DIGIT VIN)

CHECK DIGIT COMPUTATION WORKSHEET

Nth VIN Digit	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
LINE A																		
LINE B																		
LINE C	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2	= Final Sum
LINE D								0										

1. On LINE A, enter 17-digit VIN.

2. On LINE B, enter "Assigned Value" of each VIN character using the ASSIGNED VALUE TABLE below.

3. Multiply the numbers in LINE B by the numbers in LINE C for each of the 17 digits in the VIN. Record the product of each of these separate computations in LINE D of the same column.

4. Add together all the numbers recorded in LINE D and enter the FINAL SUM in the space provided.

5. Divide the FINAL SUM by the number "11." If the remainder of this division is a single digit number, then this number must equal the ninth character of the 17-digit VIN. If the remainder is the number "10," then the check digit (ninth character of VIN) must be the letter "X."

ASSIGNED VALUE TABLE

A-1	J-1	T-3	1-1	6-6	RECORD THE NUMBER ASSIGNED TO EACH VIN CHARACTER IN THE APPROPRIATE BOX ON **LINE B**.
B-2	K-2	U-4	2-2	7-7	
C-3	L-3	V-5	3-3	8-8	
D-4	M-4	W-6	4-4	9-9	THE LETTERS "**I**," "**O**," AND "**Q**," ARE **NEVER** USED IN THE 17-DIGIT **VIN**.
E-5	N-5	X-7	5-5	0-0	
F-6	P-7	Y-8			
G-7	R-9	Z-9			
H-8	S-2				

Example:

1981 Ford Mustang **1FABP12A4BR101093**, **FINAL SUM = 246**

ù

246 Divided By 11= 22 R 4

Year of Manufactured Code Values (10th Character of VIN)		
1980 - A	1990 - L	2000 - Y
1981 - B	1991 - M	2001 - 1
1982 - C	1992 - N	2002 - 2
1983 - D	1993 - P	2003 - 3
1984 - E	1994 - R	2004 - 4
1985 - F	1995 - S	2005 - 5
1986 - G	1996 - T	2006 - 6
1987 - H	1997 - V	2007 - 7
1988 - J	1998 - W	2008 - 8
1989 - K	1999 - X	2009 - 9

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1777 (September 1998).

§1787. Identification Card Specifications

A. General Information

1. Pursuant to R.S. 32:863, which became effective July 1, 1985, all vehicles registered in the state of Louisiana must contain within the vehicle, documentation indicating compliance with the Compulsory Motor Vehicle Liability Security Law. An identification card (ID card) may be used in lieu of the actual policy as a means of showing evidence of liability insurance coverage.

2. The purpose of developing an approved ID card is to provide insured owners with a document to be used as proof of compliance with Louisiana's compulsory insurance laws.

3. Those ID cards, in conformance with the attached specifications as to content, will be accepted as proof of liability insurance by law enforcement and the Office of Motor Vehicles.

4. In order for the security provider to insure compliance with specification requirements, the security provider shall furnish the department with sample copies of the Louisiana Liability Insurance Identification Card provided to the security provider's insured. The sample copies shall be mailed to the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, Cancellation Unit, P.O. Box 64886, Baton Rouge, LA 70896-4886, or sent by FAX to (504) 922-0158, Attention: Cancellation Unit.

5. A security provider with any questions in regard to implementation of §1789 may call the Cancellation Unit at (504) 925-7285.

B. Louisiana Identification Card Specifications

1. The size of document need not be uniform.

2. The identification card should be a one-part form on at least 20-pound white paper stock.

3. The security provider shall designate on the card in either bold print or contrasting color the following information:

a. on the front of the identification card:

i. the following language, verbatim:

"Louisiana Auto Insurance Identification Card";

ii. the following language, verbatim:

"An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.";

iii. the following language, verbatim:

"This card must be carried in the vehicle at all times as evidence of liability insurance.";

b. on the reverse or backside of the identification card, the following language, verbatim:

"IMPORTANT NOTICE. La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times. Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.".

4. The security provider shall include the following information on the identification card:

a. on the front of the identification card:

i. the name, address, and NAIC number of the insurance company;

ii. the name of insured, policy number, effective date and expiration date;

iii. vehicle description: the year may be shown as two digits and the make may be abbreviated. The full 17-digit vehicle identification number, with the exception of those model vehicles 1981 or older, must be shown. Only when the insurer does not have the VIN information under a fleet policy, is the word "Fleet" to be entered. The federal tax identification number of the listed insured must be provided when "Fleet" is used;

iv. any excluded drivers on the policy shall be listed. The inclusion of the following information is optional: the excluded driver's date of birth and/or operator's license number;

b. on the front or back of the identification card: the insurance agent's name, address and telephone number.

5. The identification card shall be provided to each liability policy holder at least annually or at each renewal, at the discretion of the security provider.

6. Other items may be included on the reverse side of the card, at the discretion of the security provider, including but not limited to the company logo or trademark, or any other message including claim locations, what actions to take in the event of an accident or other claim.

C. Example of Louisiana Identification Card

LOUISIANA AUTO INSURANCE IDENTIFICATION CARD

An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.

NAIC NUMBER COMPANY

POLICY NUMBER EFFECTIVE DATE EXPIRATION DATE

VEHICLE DESCRIPTION
YEAR MAKE/MODEL VEHICLE IDENTIFICATION NUMBER

INSURED

THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES
AS EVIDENCE OF INSURANCE

IMPORTANT NOTICE

La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.

Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.

INSURANCE AGENT:

EXCLUDED DRIVERS:

1. Sample with Vehicle Identification Number

LOUISIANA AUTO INSURANCE IDENTIFICATION CARD

An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.

NAIC NUMBER
12345

COMPANY
Compulsory Insurance Company
1234 Liability Lane
Security, LA 10000

POLICY NUMBER EFFECTIVE DATE EXPIRATION DATE
ABC 12345 01/01/95 01/01/96

VEHICLE DESCRIPTION
YEAR MAKE/MODEL VEHICLE IDENTIFICATION NUMBER
95 Chev/Cam 1GTCE1456PB123456

INSURED
John Doe
203 Doe Street
Baton Rouge, LA 70895

THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES
AS EVIDENCE OF INSURANCE

IMPORTANT NOTICE

La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.

Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.

INSURANCE AGENT:
All Day Insurance Agency
1000 Anywhere Street
Baton Rouge, LA 70806
Phone # (504) 123-4567

EXCLUDED DRIVERS: Johnny Doe DOB 10/01/75 DL# 1234567

2. Sample with Fleet Information

LOUISIANA AUTO INSURANCE IDENTIFICATION CARD

An insurer authorized to transact business in Louisiana has issued the Motor Vehicle Policy identified hereon. The coverage provided by this policy meets the minimum liability insurance limits prescribed by law.

NAIC NUMBER
12345

COMPANY
Compulsory Insurance Company
1234 Liability Lane
Security, LA 10000

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
ABC 12345	01/01/95	01/01/96

VEHICLE DESCRIPTION
YEAR MAKE/MODEL VEHICLE IDENTIFICATION NUMBER
FLEET - FEDERAL TAX ID# 720000000

INSURED
John Doe Trucking, Inc.
203 Doe Street
Baton Rouge, LA 70895

THIS CARD MUST BE IN THE VEHICLE AT ALL TIMES
AS EVIDENCE OF INSURANCE

IMPORTANT NOTICE

La. R.S. 32:863.1 requires that an operator of a motor vehicle produce upon demand by a law enforcement officer documentation of motor vehicle security which is required to be maintained within the vehicle at all times.

Failure to comply may result in fines, revocation of registration privileges and block against the renewal or issuance of a driver's license.

INSURANCE AGENT:
All Day Insurance Agency
1000 Anywhere Street
Baton Rouge, LA 70806
Phone # (504) 123-4567

EXCLUDED DRIVERS: N/A

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1778 (September 1998).

§1789. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of R.S. 32:863.2, or any other statute, or the applicability or validity of any rule, to the reporting of initiation and any subsequent change in insurance coverage shall submit a written petition to the assistant secretary for the Office of Motor Vehicles. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a report submitted to the Office of Motor Vehicles by a security provider, the person submitting the petition shall notify the security provider who submitted the report, if the person submitting the petition is not the security provider. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the security provider cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the security provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:1780 (September 1998).

Title 37
INSURANCE
Part VII. Motor Vehicles
Chapter 1. Insurance
Subchapter B. Compulsory Motor Vehicle Liability Security

§125. Termination of Liability Insurance Coverage, Motor Vehicle Liability Bonds and Deposits of Security with State Treasurer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicle, LR 11:874 (September 1985), amended LR 13:667 (November 1987), repealed LR 24:1780 (September 1998).

§127. Record Format and Field Descriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 11:874 (September 1985), amended LR 13:667 (November 1987), repealed LR 24:1780 (September 1998).

Lt. Col. Ronnie Jones
Acting Undersecretary

9809#042

RULE

Department of Social Services
Office of Family Support

Family Independence Temporary Assistance Program (FITAP)—Disqualifications (LAC 67:III.1118)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, a change in the eligibility of a recipient convicted of a drug-related felony offense is required, since the governing date of the federal statute now applies to the date of the offense rather than the date of conviction.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Family Independence Temporary Assistance Program
Chapter 11. Application, Eligibility, and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§1118. Individuals Convicted of a Felony Involving a Controlled Substance

Effective May 7, 1998, an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C.802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:233.1. and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1708 (December 1997), LR 24:1781 (September 1998).

Madlyn B. Bagneris
Secretary

9809#070

RULE

Department of Social Services
Office of Family Support

Family Independence Work Program (FIND Work) Participation Requirements (LAC 67:III.2907)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work."

Public Law 104-193, as amended by Public Law 105-33, the Balanced Budget Act of 1997 mandated certain changes in the Individual Participation Requirements for each fiscal year from 1997 to the year 2003. This rule is necessary to affect those changes.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Family Independence Work Program (FIND Work)
Chapter 29. Organization
Subchapter B. Participation Requirements
§2907. Individual Participation Requirements

A.1. ...

2. A parent/caretaker not included in the cash assistance certification, for any reason other than a FIND Work sanction, is exempt.

B. ...

1. A single parent/caretaker eligible for cash assistance is required to participate at least 25 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

2. In any two-parent family eligible for cash assistance, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 35 hours per week, with not fewer than 30 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10. If child care is provided, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 55 hours per week, with not fewer than 50 hours per week attributable to an activity described in §2911.A.1,2,3,4,5,9 or 10.

3. All participation in activities described in §2911.A.6 and 7 may be counted for heads of household who have not attained 20 years of age. For all other participants, participation in activities described in §2911.A.6, 7 and 8 may be counted if the parent/caretaker meets the requirements described in §2907.B.1 or 2 for the first 20 hours of participation in all families and the first 30 hours of participation in two-parent families.

4. Not more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of individuals who meet countable participation requirements in the vocational education activity described in §2911.A.5.

C. A parent or caretaker who has received cash assistance for 24 months (whether or not consecutive) since January 1, 1997 is required to engage in work, unless determined exempt as described in §2907.A. Engaged in work is defined as:

1. satisfactorily participating in a countable FIND Work activity as described in Subchapter C, §2911; or

2. satisfactorily participating in an alternate FIND Work activity approved by the Office of Family Support.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April

1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998).

Madlyn B. Bagneris
Secretary

9809#068

RULE

Department of Social Services
Office of Family Support

Food Stamps—Drug-Related Disqualification
(LAC 67:III.1707 and Chapter 19)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 3, Food Stamps.

In 1996 Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, provided that recipients who had been convicted after the date of enactment for certain drug-related offenses would be disqualified from participation in the Food Stamp Program. Public Law 105-33, the Balanced Budget Act of 1997, amended the law to provide that the offense had to have occurred after that date.

Also, since Louisiana now issues food stamp benefits electronically, additional sections citing the actual food coupons and the Authorization-to-Participate (ATP) cards will be repealed or amended to remove such references. Section 1917 includes updating of regulations affecting meal providers pursuant to USDA, FNS Waiver Number 970311 granted to the OFS Electronic Benefits Transfer section (see Notice of Intent, LR 24:816). In §1935 reference to an obsolete policy manual is being deleted with no essential change in the regulation.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 17. Administration
Subchapter B. General Administrative Requirements
§1707. Elimination of Food Stamp Purchase

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 43:47846 et seq. and R.S. 49:954.1(C), 7 CFR 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 4:511 (December 1978), repealed by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

Chapter 19. Certification of Eligible Households
Subchapter B. Application Processing
§1913. Determination of Eligibility of Migrant or Seasonal Farmworkers

A. ...

1. Proration of Initial Month's Benefits. The first provision affects the proration of benefits after a break in participation in the Food Stamp Program. This provision requires that migrant and seasonal farmworkers receive the full allotment for a month of application when the household has participated in the program within 30 days prior to the date of application. Thus, unless the household's break in participation exceeds 30 days, the migrant or seasonal farm worker household is eligible for a full month's allotment, rather than a prorated allotment, in the month of application.

A.2. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 14:602 (September 1988), LR 14:871 (December 1988), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

§1917. Homeless Meal Provider

A. A *homeless meal provider* is a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter) approved by the Office of Family Support that feeds homeless food stamp households. To be eligible to accept food stamp benefits, a meal provider must also be authorized by Food and Nutrition Service (FNS) after the Office of Family Support approves it.

B. The provider must serve meals that include food purchased by the establishment. A meal provider serving only meals which consist wholly of donated foods is not eligible for authorization.

C. Only those food stamp households determined to be homeless shall be permitted to use food stamp benefits to purchase prepared meals served by authorized homeless meal providers. To ensure that the use of food stamp benefits for prepared meals is restricted to homeless persons, homeless meal providers shall establish that person's right to use food stamp benefits to purchase meals.

D. Applicant meal providers must apply for approval at the Office of Family Support in their parish. An approval review at the provider's establishment will be conducted by the regional program specialist. After approval has been granted by OFS, the provider must then make application to an FNS field office to receive authorization to accept food stamp benefits. The FNS office is located at 777 Florida Street, Room 174, Baton Rouge, Louisiana 70801, telephone number 504-389-0491.

E. Homeless meal providers may accept food stamp benefits as authorized retail redemption points after authorization from the Office of Family Support and FNS. The provider will receive settlement from the Federal Treasury as an electronic deposit directly to the provider's account at a financial institution. Homeless meal providers that redeem food stamp benefits in excess of $100 per month will be provided equipment that will allow acceptance, redemption and settlement of program funds electronically. Others may participate by using manual vouchers.

F. The use of food stamp benefits to purchase meals from homeless meal providers is voluntary on the part of food stamp recipients. Food stamp recipients must continue to be given the option of using cash if payment for a meal is required. In addition, if others have the option of eating free or making a monetary donation, homeless food stamp recipients must be given the same option (eat free, or donate money or food stamp benefits). The amount requested from homeless food stamp recipients using food stamp benefits to purchase meals may not exceed the average cost to the homeless meal provider of the

food contained in a meal served to the patrons of the meal provider. If a homeless recipient voluntarily pays more than the average cost of food contained in a meal served, such payment may be accepted by the meal provider.

G. Homeless meal providers will not be permitted to serve as "authorized representative" for homeless food stamp households.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:437 (August 1987), LR 3:287 (May 1987), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

Subchapter E. Students

§1935. Dependent Care for Students

Eligible students with dependents must be responsible for a dependent household member under the age of six; or be responsible for the care of dependent household member who has reached the age of six but is under age 12 where the Office of Family Support has determined that adequate child care is not available; or be receiving benefits from the Family Independence Temporary Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998).

Subchapter J. Determining Household Eligibility and Benefit Levels

§1985. Determining Eligibility

A.1. - 4. ...

5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:53309 et seq., 7 CFR 271, 272, 273.10, 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998).

§1987. Categorical Eligibility for Certain Recipients

A.1. - 2. ...

3. "Recipient" includes a person determined eligible to receive zero benefits, e.g., a person whose benefits are being recouped or a FITAP recipient whose benefits are less than $10 and therefore does not receive any cash benefits.

4. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998).

§1988. Eligibility Disqualification of Certain Recipients

* * *

B. Effective May 7, 1998, an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998).

§1992. Issuing Benefits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 274.2(c)(1).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:1268 (November 1992), LR 19:783 (June 1993), repealed LR 24:1783 (September 1998).

§1993. Replacement of Benefits

A. Replacement issuances shall be provided only if a household timely reports a loss (food purchased with food stamp benefits has been destroyed in a household misfortune) and executes the proper affidavit. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

B. If the signed statement or affidavit is not received by the agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received. Replacement issuances shall be provided to households within 10 days after report of loss or within two working days of receiving the signed affidavit, whichever date is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6989 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 19:783 (June 1993), LR 24:1783 (September 1998).

Madlyn B. Bagneris
Secretary

9809#076

RULE

Department of the Treasury
Louisiana Housing Finance Agency

HOME Affordable Rental
Housing (LAC 16:II.105)

In accordance with R.S. 49:950 et seq., the Louisiana Housing Finance Agency has adopted the following rule

amending the regulations governing the criteria used to award HOME Funds to Affordable Rental Housing Projects.

The purpose of the amendment is to increase the categories in which the projects may be awarded points toward selection for the award of HOME Funds.

Title 16
COMMUNITY AFFAIRS
Part II. Housing Finance Agency
Chapter 1. HOME Investment Partnership Program
§105. Selection Criteria to Award HOME Funds for Affordable Rental Housing

Applications for HOME Funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

APPENDIX IX
Selection Criteria to Award Home Funds to Affordable Rental Housing Projects

The Applicant hereby requests priority consideration based upon the Project satisfying one or more of the following conditions (minimum threshold of 115 points required):

POINTS

A. *Project Provides Amenities* (attach description of amenities to be provided) 20 _____
B. *Project Provides Community Facilities* 20 _____
C. *Ratio of Project's Intermediary Cost to Development Costs* (See Page 5 for formula to calculate ratio)
  (i) Less than or equal to 10 percent 20 _____
  (ii) More than 10 percent but less than or equal to 15 percent 15 _____
  (iii) More than 15 percent but less than or equal to 20 percent 10 _____
  (iv) More than 20 percent 0 _____
D. *As indicated in Section V on Page 8, thirty percent or more of project units serve households whose incomes are at the following percentages of median income*
  (i) 20 percent or less 25 _____
  (ii) more than 20 percent but less than 30 percent 20 _____
  (iii) more than 30 percent but less than 40 percent 15 _____
  (iv) more than 40 percent but less than 45 percent 10 _____
E. *Project will enter Extended Low Income Use Agreement years of compliance period agreement to continue low income restrictions*
  (i) 20 years or more 10 _____
  (ii) 25 years or more 15 _____
  (iii) 30 years or more 20 _____
F. *Project Located in Qualified Census Tract/ Difficult Development Area* / RD Target Area 25 _____
G. *Project Serves Special Needs Groups* [Check one or more]
  (i) Elderly _____
  (ii) Homeless _____
  (iii) Handicapped _____
    (a) 100 Percent of units or 50 units serve special needs group 20 _____
    (b) 50 Percent or 25 units serve special needs group 15 _____
    (c) 25 Percent or 15 units serve special needs group 10 _____
H. *Project contains Handicapped Equipped Units*
  (i) 5 percent but less than 10 percent 5 _____
  (ii) 10 percent but less than 15 percent 10 _____
  (iii) 15 percent or more 15 _____
I. *Project Serves Large Families Percentage of Units having Four or more Bedrooms*
  (i) 5 percent but less than 10 percent 5 _____
  (ii) 10 percent but less than 15 percent 10 _____
  (iii) 15 percent but less than 20 percent 15 _____
J. *Project to Provide Supportive Services (attach description of Supportive Services to be provided, the costs thereof and the source of funding such services)* 25 _____
K. *Project is Single Room Occupancy* 10 _____
L. *Project is Scattered Site* 30 _____
M. *Developer submitted an executed Referral Agreement with Local PHA pursuant to which Developer agrees to rent low income units to households at the top of PHA's waiting list* 10 _____
N. *Project has RD Financing Commitment Letter* 10 _____
O. *Project involves New Construction in Areas with 95 percent or more residential rental occupancy* 10 _____
P. *Local Nonprofit Sponsor of Project* 10 _____
Q. *Distressed Properties (written certification from HUD or RD that property is distressed must be included in application)* 20 _____
R. *Project Receives Historic Tax Credits or involves Substantial Rehabilitation* 25 _____
  or
  Project located in historic district but does not qualify for historic credits 15 _____
  (Certification by local jurisdiction is required)
S. *Project is an Abandoned Project* 15 _____
T. *Vacant Units in Project as Percentage of Total Units*
  (i) Minimum of 25 percent and less than 50 percent 10 _____
  (ii) Minimum of 51 percent and less than 75 percent 20 _____
  (iii) Minimum of 76 percent and less than 100 percent 30 _____
U. *Project involves Low Income Units which do not exceed:*
  (i) 60 percent of the Total Project units 10 _____
  (ii) 50 percent of the Total Project units 15 _____
  (iii) 40 percent of the Total Project Units 20 _____
V. *Leverage Ratio (Divide Total Dollars from Sources other than HOME Funds by HOME Funds and round to nearest whole multiple*)
  1 0 _____
  2 5 _____
  3 10 _____
  4 15 _____
  5 20 _____
  6 25 _____
  7 30 _____
  8 35 _____
W. *Project Involves Lease-to-Own of one unit buildings with Title Transfer to Occupant within 20 years of Placed in Service* 25 _____
X. *Contact Person who Attended Agency sponsored Workshop*
  Specify Name of Contact Person: _____ 10 _____
Y. *Developer Fees (including Builder Profit and Builder Overhead when there exists Identity of Interest between Builder and Developer) are 10 percent or less of Developer Fee Base* 15 _____
Z. *Penalty Points*
  (i) Net Syndication Proceeds $\leq$ 110 percent Developer Fee 15 _____
  (ii) Incomplete or Missing Exhibits, Appendices or Documents
    (5 - Points to be deducted per item)
    Item 1. _____ 5 _____
    Item 2. _____ 5 _____
    Item 3. _____ 5 _____
    Item 4. _____ 5 _____
    5 or more Items:
    Application will be deemed incomplete 5 _____
AA. *Match Certification*
  Matching Certification exceeds $50,000 50 _____
AB. *LDED - Economic Development*
  Project located in a geographic area certified by the Louisiana Department of Economic Development are eligible for points as follows:
  Areas with an Empowerment Zone/Empowerment Community (EZ/EC) designation 20 _____
  Areas showing growth of 50 percent or more in economic indicators determined by LDED 15 _____
  Areas with an EZ/EC Champion Community Designation 10 _____
AC. Phase I Environmental Site Assessment prepared by qualified environmental specialist provided with application 10 _____

Formula to Calculate Ratio of Project's Intermediary Cost to Development Costs:

Step 1: Add following amounts from Appendix II.
Line II.B (Land Improvements) $ _____
Line II.C(ii) (Demolition) $ _____
Line II.C(iii) (Rehab or New Construction) $ _____
TOTAL: $ _____
Step 2: Add Following Amounts from Appendix II.
Line II.D (Subtotal) $ _____
Line II.F (Subtotal) $ _____
Line II.G (Subtotal) $ _____
TOTAL: $ _____
Step 3: Divide Total of Step II by Total of Step I and specify percentage:

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (August 1996), LR 22:717 (August 1996), LR 23:749 (June 1997), LR 24:1784 (September 1998).

V. Jean Butler
President

9809#058

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Commercial Fisherman's Assistance Program
(LAC 76:XVII.101)

The Wildlife and Fisheries Commission does hereby amend the rule on proof of income for the Commercial Fisherman's Assistance Program, in accordance with R.S. 56:13.1(D).

Title 76
WILDLIFE AND FISHERIES
Part XVII. Commercial Fisherman's Assistance Program
Chapter 1. Proof of Income

§101. Criteria for Establishing Proof of Income and Procedures

A. The eligibility of applicants for economic assistance under R.S. 56:13.1, Commercial Fisherman's Assistance Program, shall be determined in accordance with the following criteria:

1. the applicant shall have purchased a saltwater gill net license in at least two of the years 1993, 1994 and 1995; and

2. the applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the years 1993, 1994 and 1995; and

3. the applicant shall have suffered a loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995; and

4. applicant must have been a bona fide resident of Louisiana on June 30, 1995 and must provide proof of such as defined under R.S. 56:8(12)(a); and

5. the applicant must have submitted his/her application not later than October 1, 1998.

B. Proof of such income for any of the years 1993, 1994 and 1995 shall be provided by applicant using any of the methods listed below.

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), which has been certified by the Internal Revenue Service (IRS).

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), which has been filed and stamped "received" at a local IRS office accompanied with a signed cover letter acknowledging receipt by the IRS.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (i.e., Schedule C of federal form 1040, form W-2, etc.), along with IRS stamped transcripts and IRS signed cover letter. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicants income eligibility as defined by R.S. 56:13.1(B)(1). Proof of loss of income by the applicant shall be provided in the form of federal tax returns as specified in §101.B and determined by using the method below.

1. Proof of income loss will be determined by comparing the applicants average earned income from the legal capture and sale of seafood species for two of the years 1993, 1994 and 1995 and the earned income for tax years 1996 or 1997 as reported on their federal income tax returns. Proof of such income shall be provided by the applicant using any of the methods listed in §101.B.

2. The criteria for providing economic assistance shall be determined by the Department of Wildlife and Fisheries, and shall be based on an individuals loss of income due to the enactment of the Louisiana Marine Resources Conservation Act of 1995.

D. Applicants who receive economic assistance under the Commercial Fisherman's Assistance Program (R.S. 56:13.1) shall be disqualified from receiving any mullet license permit pursuant to R.S. 56:333.

E. The Department of Labor will provide to the Department of Wildlife and Fisheries Licensing Section a quarterly status report containing the name, address, social security number, type of training with beginning date and estimated ending date, the anticipated cost and actual cost as incurred, for each fisherman receiving economic assistance under the Commercial Fisherman's Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1(D).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:235 (March 1996), amended LR 24:1785 (September 1998).

James H. Jenkins, Jr.
Secretary

9809#035