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Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§101. Scope and Purpose

A. These regulations establish requirements and procedures for permitting, enforcement, monitoring, and surveillance, and spill control activities of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000).

§103. Authority

A. These regulations are promulgated under authority of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) by order of the Secretary of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000).

§105. Repeals

These regulations replace in their entirety the following rules, regulations, and/or orders:

A. "A Regulation Requiring the Submission of Reports for the Discharge of Industrial Waste and for the Construction or Alteration of Treatment Works" adopted August 1, 1951.

B. "Rule Relative to Effluent Limitations on Process Generated Wastewater and Mine Dewatering Discharges Associated with Extraction of Sand and/or Gravel" effective February 20, 1979.

C. "Rule Relative to Discharges Associated with Extraction of Sand and/or Gravel" effective July 1, 1978.

D. "Order Relative to the Discharge of Wastes From Sugar Mills" effective September 1, 1955.

E. "Proposed Effluent Limitations Guidelines for Sugar Processing Industries, Both Raw Cane Sugar Processing and Cane Sugar Refining" never formally adopted; public meeting to consider these guidelines was held on July 22, 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

§107. Definitions

Act—Act 449 of the 1979 Louisiana Legislature which established Section 2001 et seq. of Title 30 of the Louisiana Revised Statutes of 1950 and any subsequent amendment to these Sections.

Activity—any conduct, operation or process which causes or may cause the discharge of pollutants into the waters of the state.

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

Applicant—the person or other legal entity applying for a permit under the Louisiana Water Discharge Permit System (LWDPS).

Application—the standard LWDPS permit forms for applying for a permit, including any additions, revisions or modifications to the forms.

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

Artificial Heat—heat that is derived from unnatural sources such as power plant and other industrial cooling processes.

Assistant Secretary—the assistant secretary of the appropriate office of the Department of Environmental Quality.

Average Monthly Discharge Limitation—the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation—the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Basin—the drainage area of the designated body of water and its tributaries.

Best Available Control Technology Economically Achievable (BAT)—the degree of effluent reduction attainable through the application of the very best control and treatment technology employed by a specific point source within the industrial category or subcategory taking

into account such factors as the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction in relation to the effluent reduction benefits to be achieved, non-water-quality environmental impact (including energy requirements), and such other factors as the administrative authority deems appropriate.

Best Conventional Pollutant Control Technology (BCT)—the degree of effluent reduction attainable through consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, taking into account such factors as the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water-quality environmental impact (including energy requirements), and such other factors as the administrative authority deems appropriate.

Best Management Practices (BMP)—schedules of activities, prohibitions of practices, maintenance procedures and other management practices designed to prevent or reduce the pollution of the waters of the state, including treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal, or drainage from raw material storage.

Best Practicable Control Technology Currently Available (BPT)—the degree of effluent reduction attainable through the application of the average of the best existing performance by plants of various sizes, ages, and unit processes within the industrial category and/or subcategory taking into account consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application and taking into account such factors as the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water-quality environmental impact (including energy requirements), and such other factors as the administrative authority deems appropriate.

Biological Monitoring—the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and location.

Certification—approval by the administrative authority that any activity which may result in any discharge into or potential change of the waters of the state and as such requires application for a federal permit, will comply with the applicable provisions of Sections 301 (Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance) and 307 (Toxic and Pretreatment Effluent Standards) of the Federal Water Pollution Control Act (FWPCA) as amended.

Clean Water Act (CWA)—the Public Law 92-500 as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq. The CWA was formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972.

Construction—the commencement of on-site placement, fabrication, assembly, erection, or installation of a wastewater source, treatment works, or sewer, or the reinstallation at a new site of any wastewater source, existing treatment works, or sewer.

Contaminant—any physical, chemical, biological, or radiological substance or matter in water.

Conventional Pollutant—biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil and grease.

Cooling Water—any water which is used primarily for cooling of raw materials, products, or equipment.

Daily Average Concentration—the arithmetic average (weighted by flow value) of all the daily determination of concentrations made during a calendar month. Daily determinations of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily determination of concentration shall be the arithmetic average (weighted by flow value) of all the samples collected during that calendar day or specified 24-hour period that reasonably represents the calendar day for purposes of sampling.

Daily Average Mass Discharge—the total discharge by weight during a calendar month divided by the number of days in the month that the facility was operating. Where less than daily sampling is required, the daily average discharge shall be determined by the summation of all the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.

Daily Discharge—the discharge of a pollutant measured during a calendar day or within any specified 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Daily Maximum Concentration—the daily determination of concentration for any calendar day or specified 24-hour period that reasonably represents the calendar day for purposes of sampling.

Daily Maximum Mass Discharge—the total discharge by weight during any calendar day or specified 24-hour period that reasonably represents the calendar day for purposes of sampling.

Department—the Department of Environmental Quality.

DEQ—the Department of Environmental Quality.

Designated Use—a use of the waters of the state as established by the water quality standards provided in LAC 33:IX.1111. These uses include, but are not limited to, primary and secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters.

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

Discharge Monitoring Report (DMR) Form—the approved state form, including any subsequent additions, revisions or modifications, for the reporting of self-monitoring results by permittees.

Disposal—the discharging, depositing, injecting, dumping, spilling, leaking, or placing of any solid or semi-solid sludge, liquid waste, hazardous waste, radioactive material, or solid waste into or on any land or water so that such waste, or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Disposal Well—a well which is used for the injection of pollutants into subsurface strata.

Dissolved Oxygen—the amount of oxygen dissolved in water, commonly expressed as a concentration in terms of milligrams per liter, mg/L.

Drilling Fluids—any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

Drilling Mud—a heavy suspension used in drilling a well, introduced down the drill pipe and through the drill bit.

Dystrophic Waters—waters which are stained with organic material and which are low in dissolved oxygen due to natural conditions.

Effluent—wastewater discharged to the waters of the state.

Effluent Limitations—any applicable state or federal quality or quantity limitation which imposes any restriction or prohibition on quantities, discharge rates, and concentrations of pollutants which are discharged into the waters of the state.

Effluent Limited Segment (EL)—any stream segment where water quality is meeting and will continue to meet applicable water quality standards or where there is adequate demonstration that water quality will meet applicable standards after the application of effluent limitations required by the Clean Water Act as amended or these regulations.

Emergency Condition—any condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the water environment, or cause severe damage to property.

EPA—the United States Environmental Protection Agency.

Facility—a pollution source, or any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where any activity is conducted which discharges or may result in the discharge of pollutants into waters of the state.

Fecal Coliform—a gram negative, non-spore-forming, rod-shaped bacteria found in the intestinal tract of warm-blooded animals.

Freeboard—the distance between the fluid surface in an impoundment or other container and the lowest portion of the impoundment levee or other potential overflow point.

Fresh Warmwater Fish—those fish species whose populations reproduce in relatively warm water (above 20°C, 68°F), and low salinity (less than 2 ppt), including but not limited to, black basses, and freshwater sunfish and catfish.

General Permit—a LWDPS permit authorizing a category of similar discharges within a geographical area.

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

Hazardous Substance—any hazardous material, hazardous waste, or reusable material which has corrosive, ignitable, infectious, or reactive characteristics as defined by department regulations.

LC50—the numerical limit or concentration of a test material which is lethal to 50 percent of exposed aquatic organisms in a specified period of time.

Land Management Plan—a land use plan approved by the United States Soil Conservation Service or the State Department of Transportation and Development, Soil and Water Conservation Committee.

Landfill—a secured area in which waste is deposited for ultimate disposal and covered with soil.

Leachate—any liquid, including any soluble, suspended, or miscible materials in the liquid, that has percolated through, or drained from, hazardous waste or other substances.

Major Facility—any facility classified as such by the administrative authority.

Maximum Daily Discharge Limitation—the highest allowable daily discharge.

mg/L—milligrams per liter; it is essentially equivalent to parts per million in dilute aqueous solutions.

Migrating—any movement by leaching, spilling, discharging, or any other uncontained or uncontrolled manner except as permitted by law or other regulations of the department.

Minor Facility—any facility not classified as a major facility by the administrative authority.

ng/L—nanograms per liter; it is essentially equivalent to parts per trillion in dilute aqueous solutions.

National Pollutant Discharge Elimination System (NPDES)—EPA's national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA.

Nonconventional Pollutants—all pollutants (including toxic pollutants) other than those listed as conventional pollutants.

Nonpoint Source—a diffuse source of water pollution that does not discharge through a point source but instead flows freely across exposed natural or man-made surfaces such as agricultural or urban runoff and runoff from construction, mining, or silvicultural activities.

Operator—the person or legal entity responsible for the operation and/or maintenance of a facility with a discharge covered by these regulations.

Owner—the person or legal entity holding legal title to a facility with a discharge covered by these regulations.

Permit—written authorization issued by the administrative authority to discharge, emit or dispose of liquid, gaseous, semi-solid or solid waste or reusable materials, or radioactive material from, or at, a site or facility, including all conditions set forth therein.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person.

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

Pollutant—any substance introduced into the waters of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment.

Pollution Source—the immediate site or location of a discharge or potential discharge, including such surrounding property necessary to secure or quarantine the area from access by the general public.

Primary Contact Recreation—any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

Priority Pollutant—any substance listed in LAC 33:IX.325. Appendix D, Tables II and III.

Process Wastewater—any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Proposed Permit—a document prepared indicating the tentative decision by the administrative authority to issue, deny, modify, revoke and reissue, terminate or renew a permit.

Public Water Supply—a surface or underground raw water source which, after conventional treatment, will provide safe, clear, potable, and aesthetically pleasing water for uses which include, but are not limited to human consumption, food processing and cooking, and as a liquid ingredient in foods and beverages.

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

Receiving Waters—the waters of the state into which an effluent is, or may be, discharged.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, or dumping of pollutants which, when released, become wastes into or on any land, water, or groundwater.

Sanitary Landfill—a type of facility for the disposal of solid waste by deposit in a landfill in layers, covered with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors, and in such a manner that protects the environment, and is so located, contoured, and drained that it will not constitute a source of water pollution.

Sanitary Sewage—treated or untreated wastewaters which contain human metabolic and domestic wastes.

Secondary Contact Recreation—any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

Secondary Treatment—that level of treatment described in LAC 33:IX.711 of these regulations.

Secretary—the Secretary of the Department of Environmental Quality.

7Q10 Flow—the minimum seven consecutive day average stream flow with a recurrence interval of once every 10 years.

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, Type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Site—the geographic location, other than a facility, of a discharge.

Source—a facility, activity or location which discharges pollutants into the waters of the state.

Spill Event—the accidental or unauthorized leaking or releasing of a substance from its intended container or conveyance structure that has the potential to be discharged or results in a discharge to waters of the state. Discharges resulting from circumstances identified, reviewed, and made part of the public record with respect to a valid LWDPS permit are not considered spill events.

Stream Segment—a section of a stream for which hydraulic and water quality characteristics are reasonably uniform. A river basin is subdivided into stream segments.

Surface Water—all lakes, bays, rivers, streams, springs, ponds, impounding reservoirs, wetlands, swamps, marshes, water sources, drainage systems and other surface water, natural or artificial, public or private within the state or under its jurisdiction that are not a part of a treatment system allowed by state law, regulation, or permit.

10 Year, 24 Hour Rainfall Event—a statistical projection of the maximum amount of rain that falls at a given location in a 24-hour period at a frequency of once every 10 years.

Total Dissolved Solids (TDS)—the amount of solid material dissolved in water commonly expressed as a concentration in terms of mg/L.

Total Suspended Solids (TSS)—the amount of solid material suspended in water commonly expressed as a concentration in terms of mg/L.

Toxic Pollutants—those priority pollutants designated as such by the U.S. Environmental Protection Agency and listed in LAC 33:IX.325.Appendix D, Tables II and III.

Toxic Substances—any element, compound, or mixture which at sufficient exposure levels induces deleterious, acute or chronic physiological effects on an organism.

Treatment—any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any reusable material or waste so as to neutralize such reusable material or waste or render it nonhazardous, safer for transport, amenable for recovery or storage, or reduced in volume. The term also includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render it nonhazardous.

Treatment Works—any plant or other works which accomplishes the treating, stabilizing, or holding of wastes or pollutants.

ug/L—micrograms per liter; it is essentially equivalent to parts per billion in dilute aqueous solutions.

Unauthorized Discharge—a continuous, intermittent or one-time discharge, whether intentional, anticipated, or unanticipated, from any source, permitted or unpermitted, which is in contravention of any provision of the act or of any permit terms and conditions, or of any applicable regulation, compliance schedule, variance or exception of the administrative authority.

Untreated Wastes—wastes which have not been treated in any treatment works.

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

Waste—any material for which no use or reuse is intended and which is to be discarded.

Waste Load Allocation—that portion of the assimilative capacity of the receiving water apportioned to a specific discharger in such a way that water quality standards are maintained under design conditions.

Wastewater—liquid waste resulting from commercial, municipal, private or industrial processes. This includes but is not limited to, cooling and condensing waters, sanitary sewage, industrial waste and contaminated rainwater runoff.

Water Pollution—the introduction into waters of the state by any means, including dredge and fill operations, of any substances in concentrations which tend to degrade the chemical, physical, biological, or radiological integrity of such waters, including, but not limited to, the discharge of brine from salt domes which are located on the coastline of Louisiana and Gulf of Mexico into any waters off said coastline and extending therefrom 3 miles into the Gulf of Mexico.

Water Quality Limited Segment (WQL)—any stream segment where the stream does not meet applicable water quality standards or will not meet applicable water quality standards even after application of the effluent limitations required by the Clean Water Act, as amended, or these regulations.

Water Quality Management Plan—an approved water quality management plan prepared pursuant to the Act [R.S. 30:1094(A)(1)].

Water Quality Standard (WQS)—a definite numerical criterion value or general criterion statement or policy statement promulgated by the administrative authority to enhance or maintain water quality, and to provide for, and fully protect, a designated use of the waters of the state.

Waters of the State—both the surface and underground waters within the state of Louisiana including all rivers, streams, lakes, estuaries, ground waters and all other water courses and waters within the confines of the state, and all bordering waters and the Gulf of Mexico.

Wetlands—those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1857 (October 2006), LR 33:2365 (November 2007).

§109. Severability

A. If any provisions of these rules and regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application; and, to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

§111. Effective Date

A. These rules and regulations shall be in full force and effective as of the date of their promulgation except where specifically exempted within the text of these chapters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

Chapter 3. Permits

Subchapter A. General Requirements

§301. Scope

A. This Chapter prescribes procedures and guidelines for implementation and operation of the Louisiana Water Discharge Permit System (LWDPS).

B. Without first obtaining a LWDPS permit from the department (with the exceptions noted in LAC 33:IX.301.D and F below), no person shall:

1. discharge or allow to be discharged any pollutants into the waters of the state from any facility or activity;

2. construct any new facility or undertake a new activity, the operation or conduct of which would result in a discharge into the waters of the state;

3. construct, install, operate, or alter any facility or activity or any extension or modification thereof or addition thereto, the operation or conduct of which would cause increases in the quantity or degradation in the quality of the discharge of pollutants into the waters of the state or which would otherwise alter the physical, chemical, or biological properties of any waters of the state in any manner not already lawfully authorized;

4. construct or use any new outlet for the discharge of any pollutants into the waters of the state.

C. Specific types of facilities or activities which require a permit include, but are not limited to, the following:

1. discharge of leachate or runoff to surface waters from facilities under the jurisdiction of the Louisiana Solid Waste Management and Resource Recovery Law and the Hazardous Waste Management Law;

2. discharge of rainwater runoff from areas where liquid or solid materials are stored or handled, such as to pose a potential threat of pollution to the waters of the state;

3. concentrated *animal feeding operations* as defined in LAC 33:IX.301.J below;

4. *concentrated aquatic animal production facilities* as defined in LAC 33:IX.301.K below;

5. discharges into *aquaculture projects* as defined in LAC 33:IX.301.L below;

6. *silvicultural point sources* as defined in LAC 33:IX.301.M below;

7. discharge of waters/sediments resulting from the commercial dredging of shell or other natural resources.

D. A person discharging or proposing to discharge the following types of wastes or wastewaters shall not be required to apply for a permit from the department pursuant to this regulation:

1. human sewage discharged from vessels from onboard toilet facilities (refer to LAC 33:IX.709.F);

2. except as otherwise provided in this Chapter, storm sewer systems including canals and pumping stations operated and maintained by local, state, or federal agencies solely for the purposes of conveyance of storm water runoff, unless a particular storm water discharge has been identified by the department as a significant contributor to pollution; and the operator of such discharge has been notified of such determination. Such storm sewer systems are considered to be waters of the state and any facility or activity discharging into storm sewer systems shall be required to have permits according to the requirements of these regulations;

3. a discharge directed solely into a publicly or privately owned treatment works provided the owner of such treatment works has a valid discharge permit and the department has determined that the waste may be adequately treated by the treatment works;

4. water, gas, and other materials injected into a well to facilitate production of oil, gas, or other minerals;

5. disposal of water derived in association with the production of oil, gas, or other minerals into a well authorized by the state Office of Conservation;

6. any introduction of pollutants from nonpoint sources resulting from normal agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, rangelands, and forest lands. Discharges from concentrated animal feeding operations, concentrated aquatic animal production facilities, silvicultural point sources or to aquaculture projects as specified in LAC 33:IX.301.C above shall be required to have a permit;

7. a discharge of dredged or fill material resulting from activities which are permitted by the U.S. Army Corps of Engineers, such as channel dredging and construction. This does not include commercial dredging of shell or other natural resources;

8. any discharge in compliance with the instructions of an on-scene representative designated by the administrative authority to grant on-scene authorization to discharge.

E. A permit shall not be issued for, nor will any of the following discharges be allowed:

1. a discharge of any radiological, chemical, or biological warfare agent or a high-level radioactive waste (that nuclear-industry waste resulting from the reprocessing of spent fuel rods or unreprocessed spent fuel rods);

2. a discharge which, as determined by the secretary of the army acting through the chief of engineers of the U.S. Army Corps of Engineers, would substantially impair anchorage or navigation, or both;

3. a point source discharge in conflict with an areawide waste treatment management plan, or amendments thereto, prepared by a management agency pursuant to Section 208(b) of the Clean Water Act (CWA), unless the administrative authority determines a variance to be appropriate;

4. after the state receives delegation of the federal NPDES program, a discharge to which the regional administrator of EPA objects in writing to the department;

5. a discharge to the ground waters of the state except as authorized under the Underground Injection Control Program. The administrative authority may at its discretion exempt additional classes of activities which are authorized by other state regulation;

6. a discharge of oil or oil-based products for dust control or other purposes without prior approval of the administrative authority. Waste oil shall not be used for these purposes unless the origin, physical properties, and chemical properties are documented to the satisfaction of the administrative authority;

7. a discharge which the administrative authority determines to be in conflict with applicable requirements of the act, these regulations, and/or constitutional and statutory mandates.

F. Any unpermitted facility or activity that exists or is under construction on the effective date of these regulations and falls under the jurisdiction of Subsection B of this Section shall submit a completed application to the Office of Environmental Services within 180 days of the effective date. Upon receipt of the application by the department within the prescribed 180 days, the facility shall be deemed in compliance with Subsection B of this Section except where the administrative authority has initiated action against the facility following an investigation or complaint. All facilities or activities that meet the requirements outlined in Paragraph J.4 or K.4 of this Section shall be exempt from the requirements of this Subsection.

G. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

H. On the effective date of these regulations the status of state permits shall be as follows.

1. All LWDPS permits shall be issued for a period not to exceed five years.

2. All existing state permits issued prior to January 1, 1980 shall expire within one year of the effective date of these regulations.

3. All existing state permits issued subsequent to January 1, 1980 shall expire six years after their effective date.

I. Upon delegation of the NPDES program to the state, the status of NPDES permits shall be as follows.

1. For facilities with NPDES permits only, existing NPDES permits shall be adopted as LWDPS permits effective upon receipt by the permittee of written notification by the state, with an expiration date consistent with that originally designated.

2. For facilities with both NPDES and existing state permits, the NPDES and existing state permit shall be consolidated into one permit. In case of conflicting permit requirements the more stringent requirement will control. This consolidated permit will be adopted as a LWDPS permit effective upon receipt by the permittee of written notification by the state and shall remain effective for a period in accordance with LAC 33:IX.301.H above (the NPDES permit expiration date shall be void).

J. Concentrated Animal Feeding Operations

1. Permit Requirement. Discharges from concentrated animal feeding operations are subject to the LWDPS permit program.

2. Definitions

a. *Animal Feeding Operation*—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

i. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

ii. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

b. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

c. *Concentrated Animal Feeding Operation*—an animal feeding operation which meets the criteria in LAC 33:IX.321.Appendix B or which the department designates under Paragraph 3 of this Section.

3. Case-by-Case Designation of Concentrated Animal Feeding Operations

a. The department may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the state. In making this designation the department shall consider the following factors:

i. the size of the animal feeding operation and the amount of wastes reaching waters of the state;

ii. the location of the animal feeding operation relative to waters of the state;

iii. the means of conveyance of animal wastes and process waste waters into waters of the state;

iv. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the state; and

v. other relevant factors.

b. No animal feeding operation with less than the numbers of animals set forth in LAC 33:IX.321.Appendix B shall be designated as a concentrated animal feeding operation unless:

i. pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or

ii. pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

4. A permit application shall not be required from a concentrated animal feeding operation until the department has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. However, all concentrated animal feeding operations that meet the criteria in LAC 33:IX.321.Appendix B shall so notify the Office of Environmental Services within 180 days of the effective date of these regulations.

K. Concentrated Aquatic Animal Production Facilities

1. Permit Requirement. *Concentrated aquatic animal production facilities*, as defined in this Section, are subject to the LWDPS permit program.

2. Definition

Concentrated Aquatic Animal Production Facility—a hatchery, fish farm, or other facility which meets the criteria in LAC 33:IX.323.Appendix C of these regulations, or which the department designates under LAC 33:IX.301.K.3 of this Section.

3. Case-by-Case Designation of Concentrated Aquatic Animal Production Facilities

a. The department may designate as a concentrated aquatic animal production facility any warm or cold water aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the state. In making this designation the department shall consider the following factors:

i. the location and quality of the receiving waters of the state;

ii. the holding, feeding, and production capacities of the facility;

iii. the quantity and nature of the pollutants reaching waters of the state; and

iv. other relevant factors.

4. A permit application shall not be required from a concentrated aquatic animal production facility until the department has conducted an on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program. However, all concentrated aquatic animal production facilities that meet the criteria in LAC 33:IX.321.Appendix C shall so notify the Office of Environmental Services within 180 days of the effective date of these regulations.

L. Discharges into Aquaculture Projects

1. Permit Requirement. Discharges into *aquaculture projects*, as defined in this Section, are subject to the LWDPS permit program.

2. Definitions

Aquaculture Project—a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

Designated Project Area—the portions of the waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan of operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

M. Silvicultural Point Sources

1. Permit Requirement. *Silvicultural point sources*, as defined in this Section, are point sources subject to the LWDPS permit program.

2. Definitions

Log Sorting and Log Storage Facilities—facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark, or after removal of bark, held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking).

Silvicultural Point Source—any discernible, confined and discrete conveyance related to log sorting or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the state. The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA Section 404 permit.

N. Confidentiality of Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2538 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), LR 34:1901 (September 2008).

§303. Permit Application Information

A. Any person desiring to obtain a LWDPS permit from the department shall make application on forms prescribed by the department and shall submit such information as required in LAC 33:IX.303.E below. Such person shall submit any reasonable additional information deemed necessary by the department to complete or correct deficiencies in the application before processing of the application will be completed. No application shall be deemed complete and ready for disposition until all reasonable additional information has been supplied. A site visit by department personnel shall be required if determined to be necessary by the department. The department shall not make a final determination on any application until such time as the applicant has supplied the requested information and otherwise corrected any deficiencies.

B. All applications and supporting documents shall be filed in triplicate with the department.

C. Applicants shall keep records of all data used to complete permit applications for a period of at least five years from the date the application is signed.

D. A person discharging waste from more than one facility or activity shall file a separate application for each one. A single application may be filed for multiple outfalls discharging from a single facility or activity, however the discharge from each outfall shall be described separately in the application.

E. All applicants for a LWDPS permit shall provide the following information to the Office of Environmental Services using the application form provided by the department, unless the department determines that such information is not required for applicant's facility or activity:

1. name, mailing address, and street location of the facility for which the application is submitted;

2. the operator's name, address, telephone number, ownership status, including the name and address of the owner, if different, and status as federal, state, private, public, or other entity;

3. name of applicant's parent corporation(s);

4. a brief description of the nature of the business, including the activities conducted by the applicant which require it to obtain a permit;

5. up to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility;

6. a listing of all DEQ and EPA permits for the facility received or applied for by the applicant or its parent corporation;

7. the location of all sites, excluding temporary storage bins, involved in the storage of solid or liquid waste at the facility for which the application is being made; and, the method of ultimate disposal for solid or liquid waste generated by the facility;

8. a topographic map (or other map if a topographic map is unavailable) drawn to a reasonable scale and extending not less than 1 mile beyond the property boundaries of the site, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and when deemed necessary by the department, those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant to be in the map area;

9. for each discharge outlet:

a.i. the latitude and longitude to the nearest second [or if this information is unavailable to at least the nearest 15 seconds];

ii. the Section, Township, and Range information or other means, acceptable to the department, to locate each discharge outlet; and

iii. the name of the immediate receiving water body and river mile point where applicable;

b. when the discharge is to an unnamed receiving water, the first named water, and the approximate distance thereto, shall be indicated;

10. a line drawing of the water flow through the facility with a water balance showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under LAC 33:IX.303.E.13. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures;

11. a narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outlet, including process wastewater, cooling water, sewage, and storm water runoff (including material storage area runoff); the average flow which each wastewater contributes; and a description of the treatment, if any, each wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Information may also be required concerning raw waste loads and efficiencies of treatment systems. Processes, operations or production areas may be described in general terms (for example, "dye-making reactor," "distillation tower"):

a. for a privately owned treatment works receiving waste from off-site users, this information shall include the identity and type of operation of each user of the treatment works. If wastes received by such a privately owned treatment works are limited to sanitary wastes, the number and types of units to be tied into the system shall be indicated. All publicly owned treatment works shall include the identity and type of operation of each user of the treatment works whose discharge may not be adequately treated by the treatment works;

12. a description of the frequency duration and flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks), if any of the discharges described in LAC 33:IX.303.E.13 are intermittent or seasonal;

13. a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline, if an effluent guideline applies to the applicant and is expressed in terms of production (or other measure of operation). A reasonable measure of actual production may be production during the high month of the previous year, or the monthly average for the highest of the previous five years. For new sources or new discharges, actual production may be estimated using projected production. The time period of the measure of production should correspond to the time period of the calculated permit limitations; for example, monthly production should be used to calculate average monthly discharge limitations;

14. if the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates;

15. an applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. Analyses should be made using methods approved by the department:

a. each applicant must report quantitative data for every outfall for the following pollutants:

i. oil and grease;

ii. biochemical oxygen demand (BOD_5);

iii. chemical oxygen demand;

iv. total organic carbon;

v. total suspended solids;

vi. ammonia (as N);

vii. temperature (both winter and summer);

viii. pH;

ix. sulfates;

x. total dissolved solids;

xi. chlorides;

b. each applicant with processes in one or more primary industry category (see LAC 33:IX.319.Appendix A) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

i. the organic toxic pollutants in the fractions designated in Table I of LAC 33:IX.325.Appendix D for the applicant's industrial category or categories. Table II of LAC 33:IX.325.Appendix D lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes;

ii. the pollutants listed in Table III of LAC 33:IX.325.Appendix D (the toxic metals, cyanide, and total phenols);

c. each applicant must report for each outfall quantitative data for the following pollutants, if the applicant knows or has reason to believe that the pollutant is discharged from the outfall:

i. all pollutants listed in Table II or Table III of LAC 33:IX.325.Appendix D (the toxic pollutants) for which quantitative data is not otherwise required;

ii. all pollutants in Table IV of LAC 33:IX.325.Appendix D (certain conventional and nonconventional pollutants);

d. each applicant must indicate whether he knows or has reason to believe that any of the pollutants in Table V of LAC 33:IX.325.Appendix D (certain hazardous substances and asbestos) is discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant;

e. each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

i. uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

ii. knows or has reason to believe that TCDD is or may be present in an effluent;

f. the requirements in LAC 33:IX.303.E.15.c and d of this Section that an applicant must provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present;

g. at the applicant's request, the administrative authority may waive the reporting requirements for one or more of the pollutants listed in LAC 33:IX.303.E.15.a-e of this Section. Additionally, at the applicant's request, the administrative authority may authorize the substitution of alternative pollutants in the analysis and reporting requirements of LAC 33:IX.303.E.15.a-e;

h. each applicant should report any pollutant listed in LAC 33:I.3931 (Reportable Quantity List of Pollutants) of the Notification Regulations and Procedures for Unauthorized Discharges;

16. if a contract laboratory or consulting firm performed any of the analyses required by LAC 33:IX.303.E.15, the identity of each laboratory or firm and the analyses performed;

17. a listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate, feedstock, final product, or byproduct. The administrative authority may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the administrative authority has adequate information to issue the permit;

18. an identification of any biological toxicity tests which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or on a receiving water in relation to a discharge;

19. a report of the history of water violations and enforcement actions for that facility (including, but not limited to, a summary of permit excursions for the last two years, administrative orders, compliance orders, notices of violation, cease and desist orders and any other enforcement actions either already resolved or still pending). The department may choose, at its discretion, to require a more in-depth report of violations and compliance for the applicant himself/herself covering any law, permit, or order concerning pollution;

20. a discussion of feasible alternative treatment methods, including no discharge, and reasons why those methods were not chosen;

21. in addition to the information reported on the application form, applicants shall provide such other information as may reasonably be required to assess the discharges of the facility and to determine whether to issue a permit. The additional information may include quantitative data and bioassays to assess the relative toxicity to aquatic life of the discharges and requirements to determine the cause of toxicity.

F. The following additional information shall be required in all applications for new permits and if not addressed by the applicant, the application is incomplete and not acceptable for review.

1. Have the potential and real adverse environmental effects of the proposed facility been avoided to the maximum extent possible?

2. Does a cost benefit analysis of the environmental impact costs balanced against the social and economic benefits of the proposed facility demonstrate that the latter outweighs the former?

3. Are there alternative projects which would offer more protection to the environment than the proposed facility without unduly curtailing nonenvironmental benefits?

4. Are there alternative sites which would offer more protection to the environment than the proposed facility site without unduly curtailing nonenvironmental benefits?

5. Are there mitigating measures which would offer more protection to the environment than the facility as proposed without unduly curtailing nonenvironmental benefits?

G. Enforcement Actions

1. The department may take enforcement action as prescribed by state law or regulation against any person who:

a. fails to submit an application as required by law;

b. knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the department pursuant to the state law or the rules and regulations pursuant to state law. Violations of this provision can subject the violator to the penalties provided for in the act for perjury or false statements.

2. The department may take enforcement action as prescribed by state law or regulation against any person who:

a. fails to correct deficiencies in the application; or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

b. fails to submit when requested in writing any additional information deemed necessary by the department;

c. fails to take necessary action(s) to complete permit issuance such as payment of fees or publication of required notices.

3. Exception. In cases where the application is withdrawn by the applicant, a written notification must be provided to the Office of Environmental Services stating that no discharge or other activity that would require a permit under these regulations is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under Paragraph G.2 of this Section.

H. Signatories and Authorization

1. All permit applications shall be signed as follows:

a. for a corporation, by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

i. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. for a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

c. for a municipality, parish, state, federal or other public agency, by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes:

i. the chief executive officer of the agency; or

ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. A state permit application and all other forms and reports required by these regulations may be signed by a duly authorized representative of the applicant, if:

a. the authorization is made in writing by a person described in LAC 33:IX.303.H.1 of this Section;

b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as a position of plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. the written authorization is submitted to the Office of Environmental Services.

3. If an authorization under this Subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Paragraph H.2 of this Section shall be submitted to the Office of Environmental Services prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Any person signing any document under this Subsection shall make the following certification.

> "I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2539 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:2161 (October 2007).

§305. Permit Limitations and Other Requirements

In general, the limitations imposed on discharges shall be those indicated by the appropriate effluent limitations or standards. All permits must contain effluent limitations requiring control and treatment equivalent to secondary treatment, best practicable control technology currently available (BPT), best conventional technology (BCT) for conventional pollutants, and/or best available control technology economically achievable (BAT) for

nonconventional or toxic pollutants. However, the permitting authority may impose different or more stringent limitations in accordance with the following.

A. More stringent or seasonally variable effluent limitations or New Source Performance (NSP) standards may be imposed when they are necessary to assure compliance with water quality standards for the receiving water bodies.

B. More stringent or seasonally variable effluent limitations or New Source Performance (NSP) standards may be imposed when so indicated by levels of treatment or wasteload allocations contained in approved basin plans.

C. In the absence of applicable effluent limitations or standards the discharge limitations shall be based on the best professional judgement (BPJ) of the permitting authority. In the exercise of best professional judgement the permitting authority shall consider:

1. the raw materials and processes involved;

2. the potential for waste generation of such materials and processes;

3. applicable in-plant and end-of-pipe treatment and control;

4. the levels of reduction of pollutants attainable by various treatment and control measures;

5. other pertinent factors such as non-water-quality environmental impacts and costs of treatment and control; and

6. potential impacts upon the receiving water body as indicated by predictive mathematical water quality models, biological toxicity tests, and/or other environmental assessment techniques currently in use, established or recognized by relevant environmental scientific disciplines.

D. An individual discharger or other interested person may submit evidence to the permitting authority that factors relating to the equipment or facilities involved, the processes applied, or other factors related to such discharger are fundamentally different from the factors considered in the establishment of the effluent limitations. On the basis of such evidence or other available information, the permitting authority will make a written determination that such factors are, or are not, fundamentally different for that facility compared to those utilized in the establishment of the effluent limitations. If such fundamentally different factors are found to exist, the permitting authority shall establish, to the extent dictated by such fundamentally different factors, water discharge permit limitations either more or less stringent than the limitations indicated by the promulgated effluent limitations and standards.

E. Permits issued to a publicly or privately owned treatment works may impose conditions on one or more users of those treatment works.

F. Pollutants in Intake Water

1. Upon request of the discharger, technology-based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if:

a. the applicable effluent limitations and standards contained in Chapter 7 specifically provide that they shall be applied on a net basis; or

b. the discharger demonstrates that the control system it proposes or uses to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters.

2. Credit for generic pollutants such as biochemical oxygen demand (BOD) or total suspended solids (TSS) should not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

3. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with permit limits.

4. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. The administrative authority may waive this requirement if he finds that no environmental degradation will result.

5. The discharge of raw water clarifier sludge generated from the treatment of intake water will be exempt from the requirements of this Section (LAC 33:IX.303.F).

G. Internal Waste Streams

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by these regulations shall also be applied to the internal waste streams.

2. Circumstances which make the imposition of internal waste streams necessary include, but are not limited to:

a. the final discharge point is inaccessible;

b. the wastes at the point of discharge are so diluted as to make monitoring impracticable;

c. the interferences among pollutants at the point of discharge would make detection or analysis impracticable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

§307. Modification, Revocation and Reissuance

A. Any permittee shall report to the Office of Environmental Services any facility changes that result in increases in the quantity of pollutants discharged or decreases in the quality of the discharges. The permittee shall also report any facility changes that result in decreases in the quantity of pollutants discharged or increases in the quality of discharges of pollutants where such change is expected to last in excess of 180 days. Such report shall be by submission of a modified permit application or, if the discharge does not violate the effluent limitations specified in the permit, by submission of notice to the Office of Environmental Services of the nature of such facility changes. The permittee shall not commence any facility expansion, production increases, or process modifications that result in new or increased discharges of pollutants without receiving a modified LWDPS permit or written authorization from the Office of Environmental Services. The provisions of this Subsection shall not apply to facility changes that were considered during the permitting process.

B. When the Office of Environmental Services receives any new information or receives a request for modification or revocation, such permit may, after an opportunity for hearing, be modified, or alternatively revoked and reissued, in whole or in part, for cause, including but not limited to:

1. violations of any terms or conditions of the permit;

2. obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

3. a change in any condition that results in either a temporary (greater than 180 days) or permanent reduction or elimination of any discharge controlled by the permit;

4. the department has received new information; permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance;

5. material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

6. the standards, or prohibitions on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued;

7. failure to report any facility changes as described in LAC 33:IX.307.A;

8. change of ownership or operational control (see LAC 33:IX.311.D);

9. when the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under a BPJ determination;

10. when the permittee demonstrates operation and maintenance costs that are totally disproportionate from the operation and maintenance costs considered in the development of a subsequently promulgated effluent limitations guideline, but in no case may the limitations be made less stringent than the subsequent guideline;

11. the nonconformance of the discharge with any applicable facility, basin or areawide plans; or

12. permit inconsistency with any duly promulgated effluent limitation, permit, regulation, statute, or other applicable state law.

C. Only those permit conditions that are subject to modification are reopened for comment in a public hearing. When a permit is revoked and reissued, the administrative authority may either allow only those portions modified to be reopened, or may decide that the entire permit is reopened just as if the permit has expired and is being reissued.

D. If a permit modification satisfies the following minor modification criteria, the permit may be modified without issuance of a draft permit or public review. Any permit modification not processed as a minor modification shall be made in accordance with a fact sheet and public notice requirements as described in LAC 33:IX.313 and 315. Minor modifications may only:

1. correct typographical errors;

2. require a change in the frequency of monitoring or reporting by the permittee;

3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

4. allow for a change in ownership or operational control of a facility where the Office of Environmental Services determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department (see LAC 33:IX.307.B.8 and 311.D);

5. change the construction schedule for a discharger which is a new source or modification of an existing source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge;

6. delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or

7. make changes in other minor provisions within the permit on a case-by-case basis.

E. Modification cannot extend a permit beyond its original five-year duration.

F. Requests for modification or revocation, and reissuance do not suspend any permit condition during the processing of the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2540 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:2161 (October 2007).

§309. Renewal and Termination

A. At least 180 days prior to the expiration date of a LWDPS permit issued pursuant to state law and this regulation, a permittee who wishes to continue to operate under such permit shall submit an application for renewal to the Office of Environmental Services.

B. After receipt of an application for renewal of a LWDPS permit by a permittee, the department shall review the application and before issuing a draft permit shall be assured that:

1. the permittee is in compliance with or has substantially complied with the terms, conditions, requirements, and schedules for compliance of the existing permit;

2. the department has up-to-date information on the permittee's production levels, waste treatment practices and the nature, contents and frequency of the permittee's discharge; and

3. the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other applicable requirements, including any additions to, or revisions or modifications of the effluent standards and limitations, water quality standards or other applicable requirements.

C. If the applicant submits a timely and complete application pursuant to LAC 33:IX.309.A, and the department, through no fault of the applicant, fails to act on the application on or before the expiration date of the existing permit, the permittee shall continue to operate the facility under the terms and conditions of the expired permit which shall remain in effect until final action on the application is taken by the department. If the application is denied, the expired permit shall remain in effect until the appeal process has been completed and a final decision rendered unless the secretary finds that an emergency exists which requires that immediate action be taken and in such case any appeal or request for review shall not suspend the implementation of the action ordered. Permits continued under this Section remain fully effective and enforceable. If the conditions of any renewed permit are contested by the permittee pursuant to R.S. 30:2024, the effectiveness of permit conditions shall be governed by LAC 33:I.Chapter 4.

D. During all renewal or termination proceedings the entire application and/or permit is open for comment in a public hearing, subject to confidentiality in accordance with LAC 33:I.Chapter 5.

E. Causes for which the administrative authority may initiate enforcement action, terminate a permit during its term, or deny a permit renewal include but are not limited to:

1. noncompliance by the permittee with any condition of the permit;

2. failure to pay applicable fees;

3. failure in the application or during the permit issuance process to fully disclose all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

4. a determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

5. a change in any condition that requires either a temporary (more than 180 days) or a permanent reduction or elimination of any discharge controlled by the permit. This provision does not apply to any facility change which was considered during the permitting process;

6. due consideration of facility's history of violations and compliance; and/or

7. change of ownership or operational control (see LAC 33:IX.311.D).

F. A notice of intent to terminate will be sent to the permittee by certified mail and the permittee will be given an opportunity to show compliance with all lawful requirements for the retention of the permit.

G. Requests for renewal or termination do not suspend any permit condition during the processing of the request.

H. An applicant may request termination of a permit and the administrative authority may grant this request without the requirement for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:2161 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2769 (November 2012).

§311. Standard Permit Conditions

In addition to the following standard conditions required in all permits, the department shall establish additional requirements as deemed necessary on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the act, these regulations, and constitutional and statutory mandates.

A. Violations. The permittee shall comply with all conditions of the permit. No pollutant shall be discharged more frequently or in greater amounts than authorized by the permit. The permit does not in any way authorize the permittee to discharge a pollutant not listed or quantified in the application or limited or monitored for in the permit. The discharge of any pollutant not specifically authorized by a permit, or these regulations, or that was not specifically listed as a component of the discharge in the permit application may be considered a violation of the act. The discharge of any pollutant in quantities exceeding permitted limits or a discharge from a source or at a location not authorized by a permit shall be a violation of the act. Any permit noncompliance constitutes a violation of the act and is grounds for:

1. enforcement action under the act;

2. permit termination, revocation and reissuance, or modification; or

3. denial of a permit renewal.

B. Property Rights. The issuance of a LWDPS permit does not convey any property rights in either movable or immovable property of any sort, or any exclusive privileges, or servitudes, nor does it authorize any injury to private or public property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

C. Dilution. A permittee shall not achieve any effluent concentration by dilution unless specifically authorized in the permit. A permittee shall not increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve permit limitations or water quality standards.

D. Permit Transfers

1. Transfers by Modification. Except as provided in LAC 33:IX.311.D.2 of this Section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under these regulations.

2. Automatic Transfers. As an alternative to transfers under LAC 33:IX.311.D.1 of this Section, any LWDPS permit may be automatically transferred to a new permittee if:

a. the current permittee notifies the administrative authority at least 30 days in advance of the proposed transfer date in LAC 33:IX.311.D.2.b;

b. the notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. the administrative authority does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this Subparagraph may also be a minor modification. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in LAC 33:IX.311.D.2.b.

E. Toxic Pollutants. The permittee shall comply with applicable effluent standards or prohibitions established under the provisions of the act or the rules and regulations established thereunder for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions.

F. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

G. Duty to Mitigate. The permittee shall take all reasonable steps to:

1. minimize or prevent any discharge in violation of the LWDPS permit which has a reasonable likelihood of adversely affecting human health or the environment; and

2. minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

H. Duty to Halt or Reduce Activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

I. Inspection and Entry

1. The permittee shall allow an authorized representative of the department, upon proper presentation of credentials, to:

a. enter upon the permittee's premises where a discharge source is or might be located or in which monitoring equipment or records required by a permit are kept for inspection or sampling purposes. Most inspections will be unannounced and should be allowed to begin immediately, but in no case shall begin more than 30 minutes after the time the inspector presents his/her credentials and announces the purpose(s) of the inspection. Delay in excess of 30 minutes shall constitute a violation of these regulations. However, additional time can be granted if the inspector or the administrative authority determines that the circumstances warrant such action;

b. have access to and copy any records that the department or its authorized representative determines are necessary for the enforcement of these regulations. For

records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day;

c. take photographs;

d. inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit;

e. sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the act, any substances or parameters at any location.

2. Sample Collection

a. When the inspector announces that samples will be collected, the permittee will be given an additional 30 minutes to prepare containers in order to collect duplicates. If the permittee cannot obtain and prepare sample containers within this time, he is considered to have waived his right to collect duplicate samples and the sampling will proceed immediately. Further delay on the part of the permittee in allowing initiation of the sampling will constitute a violation of these regulations.

b. At the discretion of the administrative authority, sample collection shall proceed immediately (without the additional 30 minutes described in LAC 33:IX.311.I.2.a) and the inspector will supply the permittee with a duplicate sample.

3. It shall be the responsibility of the permittee to ensure that a facility representative familiar with provisions of its wastewater discharge permit, including any other conditions or limitations, be available either by phone, or in person at the facility during all hours of operation. The absence of such personnel on site who are familiar with the permit shall not be grounds for delaying the initiation of an inspection except in situations as described in LAC 33:IX.311.I.1.b. The permittee shall be responsible for providing witnesses/escorts during inspections. Inspectors will abide by all company safety rules and shall be equipped with standard safety equipment (hard hat, safety shoes, safety glasses) normally required by industrial facilities.

4. Upon written request copies of field notes, drawings, etc. taken by department personnel during an inspection shall be provided to the permittee after the final inspection report has been completed.

J. Monitoring, Recordkeeping, and Reporting

1. All sampling and analyses shall be performed in accordance with the analytical test procedures approved by the Office of Environmental Services. Where no approved sampling or test procedure is available, the permittee must:

a. provide the department with a detailed description of the procedure and literature references in the application; and

b. indicate a suitable analytical test procedure approved by the department.

2. Quality control procedures, as specified in the following description, shall be employed in all effluent characteristic testing required by a permit. In addition to the routine analysis of standards and blanks, unless otherwise authorized in writing by the administrative authority, duplicate analyses shall be performed for all applicable conventional and nonconventional pollutants test procedures at a minimum frequency of one duplicate for every 10 samples analyzed for each effluent characteristic at each outfall.

a. Duplicate analysis is defined as multiple analyses for the same effluent characteristic, performed simultaneously, for the purpose of evaluating the precision of the analytical method as performed by the analyst. Duplicate analyses are performed on aliquots of the same sample, from the same bottle, except in analyses such as oil and grease where the entire sample is necessarily utilized in the test procedure. Maximum homogeneity shall be maintained in removing aliquots from a sample for duplicate analyses. Duplicate analyses are not considered valid unless the entire sample preparation technique is performed independently on each aliquot, from the point of removal from the sample bottle. Aliquots run independently in which only volumetric differences occur are valid duplicates, providing the results of each fall within the test procedure range.

b. Results of duplicate analyses shall be reported on laboratory report forms as separate numbers. Testing should be repeated if the appropriate sample is available and if a discrepancy between (among) duplicates of greater than 10 percent occurs or greater than the variability established by method validation, whichever is the larger. For the purpose of NPDES/LWDPS permit reporting procedures, the arithmetic mean of the duplicate results shall be used as the value for that sample.

c. Spiked samples shall also be analyzed for applicable effluent characteristics at a minimum 10 percent frequency or at a frequency which is acceptable to the department. "Spikes" are duplicate (or multiple) analyses, as defined previously, in which one of the aliquots is tested with a known amount of standard added. The purpose of spike analyses is to estimate the percent recovery (accuracy) of the test procedure. Recoveries of less than 90 percent or greater than 110 percent (or +10 percent of the recoveries established through method validation) should initiate an investigation as to the specific interferences present. Deionized water spikes are considered standards and not valid spikes. Spikes shall be reported on laboratory reports as such and percent recovery noted. The results from a spiked aliquot shall not be averaged in the sample value and shall not be included in Discharge Monitoring Report (DMR) calculations.

3. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports

required by the permit, for a period of at least three years from the date of the sample measurement or report. This period may be extended by request of the department at any time.

4. Records of monitoring information shall include:

a. the date, exact place, and time of sampling or measuring;

b. the individual(s) who performed the sampling or measurements;

c. the date(s) and time(s) analyses were begun;

d. the individual(s) who performed the analyses;

e. the analytical techniques or methods used;

f. the results of such analyses; and

g. the results of all quality control procedures.

5. The results of quality control procedures shall be tabulated and/or statistically analyzed in order to establish quality assurance documentation for each test procedure, instrument and analyst.

6. Monitoring shall be reported on a DMR form or other approved format and signed in accordance with LAC 33:IX.303.H.

7. Copies of all records for the past 12 months that are required to be maintained by either the permit or these regulations shall be kept on-site at the permitted facility for inspection purposes. Records for earlier periods shall be available upon request. In the case of unmanned facilities, these copies shall be kept at the nearest manned facility or office.

8. Those permittees that choose to employ off-site (contractual or in-house) laboratories to perform required analyses shall not be required to maintain quality assurance or laboratory instrument calibration and maintenance records at their facility but shall provide the names and addresses of all contractual laboratories in their monitoring reports to the state. These records must, however, be maintained by the off-site laboratory and must be available for inspection without advance notice during normal working hours. Upon request, a permittee may be required to supply this information to the department.

9. General laboratory procedures including glassware cleaning, etc. shall follow guidelines established in the "Handbook for Analytical Quality Control in Water and Wastewater Laboratories" U.S. Environmental Protection Agency Publication Number EPA-600/4-79-019.

10. General sampling protocol shall follow guidelines established in the "Handbook for Sampling and Sample Preservation of Water and Wastewater"—U.S. Environmental Protection Agency Publication Number EPA-600/4-82-029.

11. If the permittee monitors any pollutant at a designated outfall more frequently than required by the permit, using test procedures approved by the department or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

12. Data obtained from the monitoring of any waste stream, whether such monitoring was required or not, shall be made available to the administrative authority upon request.

13. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the department in the permit.

14. The permittee shall report any noncompliance as required by R.S. 30:2025(J), R.S. 30:2076(D), or departmental regulations promulgated under these statutes. In addition, all maximum limitation excursions shall be reported in writing to the Office of Environmental Compliance within five days of the time the permittee becomes aware of the excursions.

15. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

K. Bypass. Bypass is defined as any intentional diversion of waste streams from any portion of a treatment facility.

1. Bypass is permitted only under the following conditions, and the department may take enforcement action against a permittee for bypass, unless:

a. bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. one of the following notices was made:

i. if the permittee knows in advance of the need for a bypass, it shall submit to the Office of Environmental Services prior written notice, at least 10 days before the date of the bypass if possible;

ii. if the permittee does not know in advance of the need for a bypass, notice shall be submitted to the Office of Environmental Services within 24 hours after the initiation of the bypass unless an earlier notice is required in R.S. 30:2025(J).

2. The department may approve an anticipated bypass, after considering its adverse effects, if it is determined by the department that it will meet the applicable conditions listed in LAC 33:IX.311.K.1.

3. Any bypass of any part of a treatment system shall require monitoring of all effluent characteristics, as required

at the applicable outfall on a daily basis, for the duration of the bypass unless a different monitoring frequency is approved by the administrative authority. Any bypass which occurs and is discharged at a point other than a permitted outfall shall be monitored for all effluent characteristics which are required at the applicable permitted outfall. Such monitoring shall be conducted on a daily basis for the duration of the discharge unless a different monitoring frequency is approved by the administrative authority.

4. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if the bypass is required for essential maintenance to ensure efficient operation. Any bypass that meets the requirements of this Paragraph and is expected to or does continue for longer than seven days shall be reported in writing to the Office of Environmental Services within 10 working days of initiation of the bypass. These bypasses are not subject to the provisions of Paragraphs K.1 and 2 of this Section.

L. Upset. An upset is defined as an exceptional incident in which there is unintentional and temporary noncompliance with permit conditions because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with permit conditions only if the following requirements are demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence:

a. an upset occurred and the permittee can identify the cause(s) of the upset;

b. the permitted facility was at the time being properly operated;

c. upon becoming aware of the upset the permittee submitted notice of the upset within 24 hours unless an earlier notice was required pursuant to R.S. 30:2025(J) and/or 30:2076(D);

d. the permittee complied with any remedial measures required under LAC 33:IX.311.G of these regulations which states: The permittee shall take all reasonable steps to:

i. minimize or prevent any discharge in violation of a permit which has a reasonable likelihood of adversely affecting human health or the environment; and

ii. minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

2. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset as a defense has the burden of proof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:2162 (October 2007).

§313. Fact Sheets

A. The fact sheet shall briefly set forth the principal facts considered in preparing the draft permit. The department shall send this fact sheet to the applicant and, on request, to any other interested party. A fact sheet shall be prepared for every:

1. draft permit for a major facility or activity;

2. general permit;

3. draft permit which the department determines is the subject of widespread public interest or raises major issues.

B. The fact sheet shall include, when applicable:

1. the name of the applicant and location of the facility or activity;

2. the name of the waterway to which the discharge is made or is proposed to be made;

3. a brief description of the type of facility or activity which is the subject of the draft permit;

4. the type and quantity of pollutants which are proposed to be or are being discharged;

5. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;

6. reasons why any requested alternatives to required standards do, or do not, appear justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2542 (November 2000).

§315. Public Information

A. A public notice shall be issued for every draft permit generated by the department, and it shall contain:

1. the name of the applicant and the location of the facility or activity;

2. a concise description of the applicant's activities and operations which result in the discharge identified in the permit application;

3. the name of the waterway to which the discharge is made, or is proposed to be made;

4. a statement of the tentative determination to issue or deny the permit for the discharge identified in the application;

5. a concise description of the procedures for the formulation of final determinations including information on the comment period prescribed in LAC 33:IX.315.D or other means by which interested persons may comment on the tentative determinations; and

6. the address and telephone number of the office where more information on the application may be obtained or where copies of the draft permit and fact sheet (where applicable) may be inspected or copied subject to the rules in LAC 33:IX.315.F.

B. The department shall send a copy of the public notice to all persons on a mailing list developed by the department and to any person who requests a copy of the public notice for that particular action. Distribution to the mailing list may be accomplished through mailing of a departmental bulletin.

C. The department shall send the public notice to the applicant who shall be responsible for publication of the notice once in the official state journal and once in any other local newspapers specified by the department. Upon publication, the applicant shall send the Office of Environmental Services a copy of the certificate of publication. The costs of publication shall be borne by the applicant.

D. The department shall provide a period of not less than 30 days nor more than 60 days following the date of the public notice during which time interested persons may submit their written views on the tentative determination with respect to the permit application and may request a public hearing. All written comments submitted during the period for comment shall be retained by the department and considered in the formulation of the final determinations for the permit application.

E. All public hearings, adjudicatory or adjudicative hearings, and their appropriate written notices shall be instituted as prescribed by the Rules of Procedure of the Department of Environmental Quality.

1. At the time that any final permit is issued, the department shall also issue a response to comments which shall be delivered to any person who commented and shall be available to the public. This response shall:

a. specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

b. briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

F. All recorded information (completed permit application forms, fact sheets, draft permits or any public document) not classified as confidential information in accordance with LAC 33:I.Chapter 5 will be made available to the public for inspection and copying pursuant to the following conditions:

1. during normal office hours;

2. under the observation and supervision of the staff or a departmental contractor;

3. copies of compiled records and information will be made available within a reasonable amount of time upon written request at a cost in accordance with established department policy; and

4. no recorded information shall be removed from the department, except as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2542 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2506 (October 2005), LR 33:2162 (October 2007).

§317. Special Permits/Programs

A. General Permits

1. The department may issue general permits for certain categories of minor facilities or activities where individual permits are not necessary in order to adequately protect the environment or the public health. Before a general permit is issued the following conditions must be met:

a. there must be several minor sources or activities which involve the same or substantially similar types of operations;

b. these facilities or activities discharge or dispose of the same or similar types of wastes;

c. the same or similar monitoring requirements, effluent limitations and operating conditions apply to these facilities or activities; and

d. these facilities or activities would be more appropriately controlled under a general permit than under individual permits.

2. Although general permits may include activities throughout the state, they may also be restricted to more limited geographical areas.

3. All persons operating a source or conducting an activity described in a general permit become permittees, unless the source or activity is specifically covered by an individual permit.

4. In order for the department to maintain an updated list, a facility or activity that is covered by a general permit may be required to register with the department in accordance with the requirements of the general permit.

5. Any permittee covered by an individual permit may request that the individual permit be canceled or allowed to expire if the permitted source or activity is also covered by a general permit. As long as the source or activity is covered

by an individual permit, as well as a general permit, the conditions and limitations of the individual permit govern, until such time as it is cancelled or expires.

6. Any permittee not wishing to be covered by a general permit may make application for an individual permit in accordance with permit procedures.

7. The department may revoke the authorization to discharge in accordance with a general permit as it applies to any person and require such person to apply for and obtain an individual permit if:

a. the covered source or activity is a significant contributor to pollution or creates other environmental problems;

b. the permittee is not in compliance with the terms and conditions of a general permit; or

c. conditions or standards have changed so that the source or activity no longer qualifies for a general permit.

B. Experimental Permits

1. To promote the development of water pollution control technology for innovative processes or techniques, the department may issue experimental permits that do not contain provisions generally found in permits provided that the applicant submits clear, cogent, and convincing proof that the process or technique has a reasonable and substantial chance for success.

2. All experimental permits shall not exceed one year in duration.

C. Temporary Permits

1. The department may issue a temporary or interim permit to a person to allow discharge of pollutants where:

a. such discharge is unpermitted;

b. the discharge consists of pollutants not covered by an effective permit; or

c. the discharge consists of pollutants that are covered by an effective permit but the permit limits will be exceeded.

2. This temporary permit may be issued provided that:

a. the applicant submits a complete application;

b. the applicant can reasonably ensure that there is no public opposition to this permit.

3. Under circumstances where the administrative authority determines that time is a critical factor, oral requests are acceptable but must be followed within five days with a written request.

4. A temporary permit may be oral or written. Oral permission may only be given by the administrative authority. If oral permission is granted, it shall be followed within five days by a written temporary permit.

5. All temporary permits shall not exceed 90 days in duration.

D. All requests for general permits, experimental permits, or temporary permits shall be in writing with the exceptions already noted. Such permits shall be subject to the provisions found in LAC 33:IX.307, 309, and 311 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

Subchapter B. Appendices

§319. Appendix A—Primary Industry Categories

Adhesives and Sealants

Aluminum Forming

Auto and Other Laundries

Battery Manufacturing

Coal Mining

Coil Coating

Copper Forming

Electrical and Electronic Components

Electroplating

Explosives Manufacturing

Foundries

Gum and Wood Chemicals

Inorganic Chemicals Manufacturing

Iron and Steel Manufacturing

Leather Tanning and Finishing

Mechanical Products Manufacturing

Nonferrous Metals Manufacturing

Paint and Ink Formulation

Pesticides

Petroleum Refining

Pharmaceutical Preparations

Photographic Equipment and Supplies

Plastics Processing

Plastic and Synthetic Materials Manufacturing

Porcelain Enameling

Printing and Publishing

Pulp and Paper Mills

Rubber Processing

Soap and Detergent Manufacturing

Steam Electric Power Plants

Textile Mills

Timber Products Processing

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§321. Appendix B—Criteria for Determining a Concentrated Animal Feeding Operation

A. An animal feeding operation is a concentrated animal feeding operation for purposes of LAC 33:IX.301.J if either of the following criteria are met:

1. more than the numbers of animals specified in any of the following categories are confined:

a. 1,000 slaughter and feeder cattle;

b. 700 mature dairy cattle (whether milked or dry cows);

c. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds);

d. 500 horses;

e. 10,000 sheep or lambs;

f. 55,000 turkeys;

g. 100,000 laying hens or broilers (if the facility has continuous overflow watering);

h. 30,000 laying hens or broilers (if the facility has a liquid manure system);

i. 5,000 ducks; or

j. 1,000 animal units; or

2. more than the following number and types of animals are confined:

a. 300 slaughter or feeder cattle;

b. 200 mature dairy cattle (whether milked or dry cows);

c. 750 swine each weighing over 25 kilograms (approximately 55 pounds);

d. 150 horses;

e. 3,000 sheep or lambs;

f. 16,500 turkeys;

g. 30,000 laying hens or broilers (if the facility has continuous overflow watering);

h. 9,000 laying hens or broilers (if the following has a liquid manure handling system);

i. 1,500 ducks; or

j. 300 animal units; and either one of the following conditions are met:

i. pollutants are discharged into waters through a man-made ditch, flushing system other similar man-made device; or

ii. pollutants are discharged directly into waters of the state which originate to outside of and passover, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

B. Provided, however, that no animal feeding operation is a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25-year, 24-hour storm event.

C. The term *animal unit* means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4 plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4 plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§323. Appendix C—Criteria for Determining a Concentrated Aquatic Animal Production Facility

A. A hatchery, fish farm, or other facility is a concentrated aquatic animal production facility for purposes of LAC 33:IX.301.K if it contains, grows, or holds aquatic animals in either of the following operations:

1. cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year but does not include:

a. facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and

b. facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding;

2. warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:

a. closed ponds which discharge only during periods of excess runoff; or

b. facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

B. "Cold water aquatic animals" include, but are not limited to, the *Salmonidae* family of fish; e.g., trout and salmon.

C. "Warm water aquatic animals" include, but are not limited to: the *Ameiuridae*, *Centrarchidae* and *Cyprinidae* families of fish; e.g., respectively, catfish, sunfish, and minnows; and the *Astacidae*, *Palaemonidae*, and *Penaeidae* families of shellfish; e.g., respectively, crawfish, freshwater shrimp, and saltwater shrimp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§325. Appendix D—Permit Application Testing Requirements

Table I
Testing Requirements for Organic Toxic Pollutants by Industrial Category

	GC/MS Fraction[1]			
Industrial Category	**Volatile**	**Acid**	**Base/Neutral**	**Pesticide**
Adhesives and Sealants	*	*	*	
Aluminum Forming	*	*	*	
Auto and Other Laundries	*	*	*	*
Battery Manufacturing	*		*	
Coal Mining	*	*	*	*
Coil Coating	*	*	*	
Copper Forming	*	*	*	
Electric and Electronic Components	*	*	*	*
Electroplating	*	*	*	
Explosives Manufacturing		*	*	
Foundries	*	*	*	
Gum and Wood Chemicals	*	*	*	*
Inorganic Chemicals Manufacturing	*	*	*	
Iron and Steel Manufacturing	*	*	*	
Leather Tanning and Finishing	*	*	*	*
Mechanical Products Manufacturing	*	*	*	
Nonferrous Metals Manufacturing	*	*	*	*
Ore Mining	*	*	*	*
Organic Chemicals Manufacturing	*	*	*	*
Paint and Ink Formulation	*	*	*	*
Pesticides	*	*	*	*
Petroleum Refining	*	*	*	*
Pharmaceutical Preparations	*	*	*	
Photographic Equipment and Supplies	*	*	*	*

Table I
Testing Requirements for Organic Toxic Pollutants by Industrial Category

	GC/MS Fraction[1]			
Industrial Category	**Volatile**	**Acid**	**Base/Neutral**	**Pesticide**
Plastic and Synthetic Materials Manufacturing	*	*	*	*
Plastic Processing	*			
Porcelain Enameling	*		*	*
Printing and Publishing	*	*	*	*
Pulp and Paper Mills	*	*	*	*
Rubber Processing	*	*	*	
Soap and Detergent Manufacturing	*	*	*	
Steam Electric Power Plants	*	*	*	
Textile Mills	*	*	*	*
Timber Products Processing	*	*	*	*

[1] The toxic pollutants in each fraction are listed in Table II.
* Testing required.

Table II
Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy

Volatiles	
1V	Acrolein
2V	Acrylonitrile
3V	Benzene
5V	Bromoform
6V	Carbon tetrachloride
7V	Chlorobenzene
8V	Chlorodibromomethane
9V	Chloroethane
10V	2-chloroethyl vinyl ether
11V	Chloroform
12V	Dichlorobromomethane
14V	1,1-dichloroethane
15V	1,2-dichloroethane
16V	1,1-dichloroethylene
17V	1,2-dichloropropane
18V	1,2-dichloropropylene
19V	Ethylbenezene
20V	Methyl bromide
21V	Methyl chloride
22V	Methylene chloride
23V	1,1,2,2-tetrachloroethane
24V	Tetrachloroethylene
25V	Toluene
26V	1,2-trans-dichloroethylene
27V	1,1,1-trichloroethane
28V	1,1,2-trichloroethane
29V	Trichloroethylene
31V	Vinyl chloride
Acid Compounds	
1A	2-chlorophenol
2A	2,4-dichlorophenol
3A	2,4-dimethylphenol
4A	4,6-dinitro-o-cresol
5A	2,4-dinitrophenol
6A	2-nitrophenol
7A	4-nitrophenol
8A	p-chloro-m-cresol
9A	Pentachlorophenol
10A	Phenol
11A	2,4,6-trichlorophenol

Table II Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy	
Base/Neutral Compounds	
1B	Acenaphthene
2B	Acenaphthylene
3B	Anthracene
4B	Benzidine
5B	Benzo(a)anthracene
6B	Benzo(a)pyrene
7B	3,4-benzo fluoranthene
8B	Benzo(ghi)perylene
9B	Benzo(k)fluoranthene
10B	Bis(2-chloroethoxy)methane
11B	Bis(2-chloroethyl)ether
12B	Bis(2-chloroisopropyl)ether
13B	Bis(2-ethylhexyl)phthalate
14B	4-bromophenyl phenyl ether
15B	Butylbenzyl phthalate
16B	2-chloronaphthalene
17B	4-chlorophenyl phenyl ether
18B	Chrysene
19B	Dibenzo(a,h)anthracene
20B	1,2-dichlorobenzene
21B	1,3-dichlorobenzene
22B	1,4-dichlorobenzene
23B	3,3'-dichlorobenzidine
24B	Diethyl phthalate
25B	Dimethyl phthalate
26B	Di-n-butyl phthalate
27B	2,4-dinitrotoluene
28B	2,6-dinitrotoluene
29B	Di-n-octyl phthalate
30B	1,2-diphenylhydrazine (as azobenzene)
31B	Fluoranthene
32B	Fluorene
33B	Hexachlorobenzene
34B	Hexachlorobutadiene
35B	Hexachlorocyclopentadiene
36B	Hexachloroethane
37B	Indeno (1,2,3-cd) pyrene
38B	Isophorone
39B	Naphthalene
40B	Nitrobenzene
41B	N-nitrosodimethylamine
42B	N-nitrosodi-n-propylamine
43B	N-nitrosodiphenylamine
44B	Phenanthrene
45B	Pyrene
46B	1,2,4-trichlorobenzene
Pesticides	
1P	Aldrin
2P	Alpha-BHC
3P	Beta-BHC
4P	Gamma-BHC
5P	Delta-BHC
6P	Chlordane
7P	4,4'-DDT
8P	4,4'-DDE
9P	4,4'-DDD
10P	Dieldrin
11P	Alpha-endosulfan
12P	Beta-endosulfan
13P	Endosulfan sulfate
14P	Endrin
15P	Endrin aldehyde
16P	Heptachlor
17P	Heptachlor epoxide
18P	PCB-1242

Table II Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy	
19P	PCB-1254
20P	PCB-1221
21P	PCB-1232
22P	PCB-1248
23P	PCB-1260
24P	PCB-1016
25P	Toxaphene

Table III Other Toxic Pollutants: Metals, Cyanide, and Total Phenols
Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total
Nickel, Total
Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

Table IV Conventional and Nonconventional Pollutants Required to be Tested by Each Applicant If Expected to be Present
Bromide
Chlorine, Total Residual
Color
Fecal Coliform
Fluoride
Nitrate-Nitrite
Nitrogen, Total Organic
Radioactivity
Sulfide
Sulfite
Surfactants
Aluminum, Total
Barium, Total
Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Phosphorous, Total
Tin, Total
Titanium, Total

Table V Toxic Pollutants and Hazardous Substances Required to be Identified by Each Applicant If Expected to be Present
Toxic Pollutants
Asbestos
Hazardous Substances
Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D(2,4-Dichlorophenoxy acetic acid)
Diazinon
Dicamba
Dichlobenil
Dichlone
2,2-Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dinitrobenzene
Diquat
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde
Furfural
Guthion
Isoprene
Isopropanolamine
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
Parathion
Phenolsulfanate
Phosgene
Propargite
Propylene oxide
Pyrethrins

Table V Toxic Pollutants and Hazardous Substances Required to be Identified by Each Applicant If Expected to be Present
Quinoline
Resorcinol
Strontium
Strychnine
Styrene
2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
TDE (Tetrachlorodiphenylethane)
2,4,5-TP[2-(2,4,5-Trichlorophenoxy) propionic acid]
Trichlorofon
Triethanolamine
Triethylamine
Trimethylamine
Uranium
Vanadium
Vinyl Acetate
Xylene
Xylenol
Zirconium

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

Chapter 5. Enforcement

§501. General

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

B. Actual or potential economic losses resulting from the necessity to halt or reduce a permitted activity in order to maintain compliance with the conditions of a permit shall not be a defense for a permittee in any enforcement action.

C. The discharge of any pollutant not specifically authorized by a permit, or these regulations, or that was not specifically listed as a component of the discharge in the permit application may be considered a violation of the act.

D. The discharge of any pollutant in quantities exceeding permitted limits or a discharge from a source or at a location not authorized by a permit shall be a violation of the act.

E. Upon delegation of the NPDES program, the department shall notify the regional administrator of NPDES permit violations and of the means by which the department proposes to correct or require the correction of such violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

§503. Investigations

A. Any person may file an oral or written complaint concerning an alleged violation or environmental problem with the Office of Environmental Compliance in the manner provided in LAC 33:I.3923. The complainant may remain anonymous, if desired, and such a request for anonymity shall not be considered as a prejudicial factor in evaluation of the appropriate response to the complaint.

B. All complaints or other information concerning a violation shall be investigated as expeditiously as possible except in the following cases:

1. when the department has reason to believe, due to prior investigation or personal knowledge by the staff of the situation, that the complaint is spurious;

2. when the department has previously investigated the situation described in the complaint and, in the judgment of the staff, additional investigation is unwarranted; or

3. when a minor violation of a permitted discharge limit is reported by the permittee that does not pose a threat to the environment or public health. However, all reports of such violations shall be placed in the permittee's files and reviewed periodically for possible enforcement action.

C. The administrative authority or his/her authorized representative shall have the authority to investigate a possible violation and to request such information and assistance from other state and federal agencies as may be necessary in the course of the investigation, and may conduct inspections and examinations of facilities and records. The administrative authority or his/her designated presiding officer may hold public hearings and/or issue subpoenas requiring attendance of witnesses and production of documents, or take such other action as may be necessary and authorized by the act in order to complete the investigation.

D. All facts concerning any violation discovered during an investigation shall be fully documented in a written report prepared by the investigator. A copy of any such report shall be maintained in the department’s files under the name of the alleged violator and shall be made available to the permittee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000), LR 30:1676 (August 2004).

§505. Administrative Enforcement

A. Administrative enforcement consists of procedures and actions which are initiated, decided, and enforced by the administrative authority, outside of civil or criminal actions in the courts. Upon receipt of information or a report of investigation that substantiates a violation, the administrative authority may commence enforcement proceedings under the act.

B. Enforcement Actions

1. Upon a determination that a violation of the act or rules has occurred or is about to occur, the administrative authority may initiate one or more of the actions set forth in R.S. 30:2025.

2. Termination, Modification, or Revocation and Reissuance of Permits

a. The administrative authority may for cause terminate, modify, or revoke and reissue any permit issued or continued under the authority of the act or these regulations. Prior to taking such action the administrative authority shall notify the permittee by personal service, or by certified mail, return receipt requested, of the proposed action and the facts or circumstances which warrant it and shall provide an opportunity for the permittee to show cause why the permit should not be terminated, revoked and reissued, or modified.

b. Prior notification of the termination, revocation and reissuance, or modification of a permit shall not be required in the following cases:

i. the administrative authority finds that immediate action is required to protect public health, safety or welfare or to prevent severe environmental damage;

ii. the action taken was initiated at the request of the permittee;

iii. a civil penalty may be assessed according to the provisions of the act for each day of violation of the act or these regulations and for each day of continued violation or noncompliance resulting from failure to take corrective action within the time specified in a Compliance Order or Emergency Cease and Desist Order.

C. General Authority. The administrative authority may also issue such other orders or directives as are necessary to effectuate the purpose of and enforce the act or these regulations.

D. The assessment of penalties will be in accordance with R.S. 30:2025(E) (3) and (4) with consideration for the fair and equitable treatment of the regulated community. Additional factors that may be considered include the gravity of the offense, the economic benefit of noncompliance, the standard of care by the operator, the size and toxicity of the discharge, the degree of damages incurred, the ability to pay and any mitigating efforts by the discharger.

E. Service. All enforcement actions of the administrative authority shall be issued in writing and served in person or by certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

§507. Civil and Criminal Enforcement

A. The administrative authority may file any civil action necessary in an appropriate court to enforce the provisions of the act and these regulations including, but not limited to, assessment or collection of penalties, recovery of damages, and enforcement of an order, permit or license. In such suits the administrative authority shall be represented by the attorney general and the department shall immediately compile and transmit to the attorney general all information and reports in the department records necessary for evaluation and preparation of suit.

B. At any time the administrative authority determines that a criminal violation of the act may have occurred, it shall notify the district attorney for the appropriate jurisdiction. The department shall thereafter provide the district attorney with all factual and technical information necessary for evaluation of the violations. Failure of the district attorney to initiate prosecution after notification by the administrative authority shall not preclude appropriate enforcement action by the administrative authority.

C. Upon institution of any civil suit by the administrative authority through the attorney general or upon institution by any district attorney of any criminal proceeding for a violation under the act or rules, the department shall fully cooperate in, and provide appropriate technical and legal assistance for the prosecution of such actions.

D. The assessment of penalties will be in accordance with R.S. 30:2025(E)(3) and (4) with consideration for the fair and equitable treatment of the regulated community. Additional factors which may be considered include the gravity of the offense, the economic benefit of noncompliance, the standard of care by the operator, the size and toxicity of the discharge, the degree of damages incurred, the ability to pay, and any mitigating efforts by the discharger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000).

Chapter 7. Effluent Standards

§701. Purpose

A. The purpose of this Chapter is to establish a list of categories and classes of discharges for which effluent limitations, standards of performance, pretreatment standards, standards for toxic substances, and other standards have been or are to be established; and to set forth general terms for the application of such limitations and standards to the control of wastewater discharges through the Louisiana Water Discharge Permit System (LWDPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

§703. Scope

A. The following categories and classes of discharges are covered by this Chapter.

Sand and Gravel Extraction	LAC 33:IX.705
Sugar Processing	LAC 33:IX.707
Exploration for and Production of Oil and Natural Gas	LAC 33:IX.708
Miscellaneous Small Dischargers	LAC 33:IX.709
Secondary Treatment for Sanitary Sewage	LAC 33:IX.711
Chlorine-Bleaching Pulp and Paper Mill Dischargers	LAC 33:IX.713

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended LR 17:965 (October 1991).

§705. Sand and Gravel Extraction

A. Applicability. The provisions of this Section apply to the discharge of process and mine dewatering wastewater pollutants or pollutant properties associated with the extraction of sand and gravel, including "pit run" operations, dirt pits, etc., from natural deposits. Without first obtaining a LWDPS permit, following the procedures set forth in LAC 33:IX.Chapter 3, no person shall discharge or allow to be discharged process and mine dewatering wastewater into the waters of the state from any facility or activity.

B. Definitions. The following definitions are applicable to terms used in this Section. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.107.

Bankfull Stage—the gauge height (based on the latest datum), in feet, in the vicinity of the gauge at which one or both banks are overtopped by floods.

Dredging—to mechanically remove or transport earthen material, sand, or gravel by digging, scooping, scraping, or suctioning.

Mine—an area of land, surface or underground, actively mined for the production of sand and gravel, including "pit run" operations, dirt pits, etc., from natural deposits.

Mine Dewatering—any water that is impounded or that collects in the mine and is pumped, drained, or otherwise removed from the mine through the efforts of the mine operator. This term shall also include wet pit overflows caused solely by direct rainfall and groundwater seepage. However, if a mine is also used for treatment of process generated wastewater, discharges of commingled water from the mine shall be deemed discharges of process generated wastewater.

Pit Run Operation—an operation in which sand, gravel and associated earthen materials are removed from deposits, and no washing or classification are involved.

Process Generated Wastewater—any wastewater used in the slurry transport of mined materials, air emissions control, or processing inclusive of mining. The term shall also include any other water which becomes commingled with such wastewater in a pit, pond, lagoon, mine or other facility used for the treatment of such wastewater. The term includes wastewater used for the suction dredging of deposits in a body of water and returned directly to the body of water without being used for other purposes or combined with other wastewater.

C. Prohibition. Unless specifically exempted by the administrative authority, dredging in the river channel is prohibited. Where dredging of the river channel is authorized by the administrative authority, there shall be no increase in the turbidity 100 yards downstream of the operation compared to measurements made directly upstream from the operation.

D. General

1. All impoundments of process or mine dewatering wastewater must be surrounded by a stable, well-maintained levee of sufficient size and construction to prevent a discharge of pollutants into surface waters of the state.

a. Producers must maintain a 2-foot freeboard in the process or mine dewatering wastewater impoundments.

b. Any unpermitted discharge of process or mine dewatering wastewater shall be a violation including a discharge resulting from a levee break when the river is less than bankfull stage, based on the closest gauging station or other mutually agreed upon elevation establishing bankfull stage at the site.

c. If a levee breaks it must be repaired immediately and production must cease until the levee is repaired.

d. All levees must be inspected at least twice daily during normal working hours and as necessary during other hours when adverse weather conditions may threaten the integrity of the levees.

E. Effluent Limitations, Best Practicable Treatment. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Section after application of the best practicable control technology currently available to process and mine dewatering wastewater wastes.

1. For discharges to scenic streams and their tributaries:

	Concentration in mg/L	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
TSS	25	45
Oil and Grease		15
pH	[(1)]	[(1)]
	Nephelometric or formazin turbidity units	
Turbidity	15	25

[(1)] Within the range of 6.0 to 9.0 at all times

2. For discharge to primary contact recreation water bodies:

	Concentration in mg/L	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
TSS [(2)]	25	45
Oil and Grease		15
pH	[(1)]	[(1)]
	Nephelometric or formazin turbidity units	
Turbidity		25

[(1)] Within the range of 6.0 to 9.0 at all times
[(2)] Variances may be granted for certain operations on the Mississippi River

3. For discharges other than those covered in LAC 33:IX.705.E.1 and 2:

	Concentration in mg/L	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
TSS [(2)]	25	45
Oil and Grease		15
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times
[(2)] Variances may be granted for certain operations on the Mississippi River

4. In the case of a discharge into receiving waters for which the pH, if unaltered by man's activities, is or would be less than 6.0 and water quality criteria in water quality standards authorize such lower pH, the pH limitations for such discharge may be adjusted downward to the pH water quality criterion for the receiving waters. In no case shall a pH limitation outside the range of 5.0 to 9.0 be permitted.

F. Effluent Limitations, Best Conventional Technology

1. The following effluent limitations establish the quantity or quality of conventional pollutants or pollutant properties which may be discharged by a facility subject to this Section after application to process wastes of the best conventional pollutant control technology:

a. same as best practicable treatment limitations (LAC 33:IX.705.E).

G. Effluent Limitations, Best Available Technology

1. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Section after application to process wastes of the best available technology economically achievable:

a. same as best practicable treatment limitations (LAC 33:IX.705.E);

b. no priority pollutants or nonconventional pollutants to be controlled.

H. Standards of Performance. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Section which is a new source:

1. same as best practicable treatment limitations (LAC 33:IX.705.E).

I. Pretreatment Standards for Existing Sources—Reserved

J. Pretreatment Standards for New Sources—Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985).

§707. Sugar Processing

A. Applicability. The effluent limitations, standards of performance, pretreatment standards, and other provisions of this Section are applicable to pollutants and pollutant properties in discharges of wastewaters resulting from the production of cane sugars, both raw sugar and refined sugar in its various forms.

B. Definitions. The following definitions are applicable to terms used in this Section. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.107.

Gross Cane—that amount of crop material as harvested, including field trash and other extraneous material.

Melt—that amount of raw material (raw sugar) contained within aqueous solution at the beginning of the process for production of refined cane sugar.

C. Crystalline Cane Sugar Refining

1. Applicability. The provisions of this Subsection apply to discharges resulting from the processing of raw cane sugar into crystalline refined sugar.

2. Effluent Limitations, Best Practicable Treatment. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Subsection after application to process wastes of the best practicable control technology currently available.

	Lbs./Ton of Melt	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	0.86	2.38
TSS	0.18	0.54
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

3. Effluent Limitations, Best Conventional Technology. The following effluent limitations establish the quantity or quality of conventional pollutants or pollutant properties which may be discharged by a facility subject to this Subsection after application to process wastes of the best conventional pollutant control technology.

	Lbs./Ton of Melt	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	0.86	1.72
TSS	0.18	0.36
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

4. Effluent Limitations, Best Available Technology

a. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Subsection after application to process wastes of the best available technology economically achievable:

i. no nonconventional pollutants to be controlled.

5. Standards of Performance. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Subsection which is a new source.

	Lbs./Ton of Melt	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	0.18	0.36
TSS	0.07	0.14
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

6. Pretreatment Standards for Existing Sources—Reserved

7. Pretreatment Standards for New Sources—Reserved

D. Raw Cane Sugar Processing

1. Applicability. The provisions of this Subsection apply to discharges resulting from the processing of sugar cane into a raw sugar product.

2. Effluent Limitations, Best Practicable Treatment. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Subsection after application to process wastes of the best practicable control technology currently available.

a. For raw sugar mills/factories discharging to the Mississippi River:

	Lbs./Ton of Gross Cane	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	1.1	2.0
TSS	1.0	3.0
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

b. For raw sugar mills/factories discharging to water bodies of low assimilative capacity, i.e., streams other than the Mississippi River:

	Lbs./Ton of Gross Cane	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	0.025	0.050
TSS	0.080	0.240
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

c. In lieu of the quantitative limitations in LAC 33:IX.707.D.2.b, the following qualitative limitations may be applied to discharges from raw sugar mills/factories

that impound all wastewaters for discharge after the grinding season and following stabilization.

BOD_5: The daily average concentration shall not exceed 10 mg/L and the daily maximum concentration shall not exceed 15 mg/L. Additionally, the total load in pounds discharged during any calendar year shall not exceed 1.26 multiplied by the gross tons of cane ground during the preceding grinding season.

DO: The average concentration shall not be less than 4.0 mg/L and at no time shall the concentration be less than 3.0 mg/L.

TSS: Not to exceed 50 mg/L.

pH: Within the range of 6.0 to 9.0 at all times.

3. Effluent Limitations, Best Conventional Technology. The following effluent limitations establish the quantity or quality of conventional pollutants or pollutant properties which may be discharged by a facility subject to this Subsection after application to process wastes of the best conventional pollutant control technology.

a. For raw sugar mills/factories discharging to the Mississippi River:

	Lbs./Ton of Gross Cane	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	1.1	2.0
TSS	1.0	3.0
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

b. For raw sugar mills/factories discharging to water bodies of low assimilative capacity, i.e., streams other than the Mississippi River:

	Lbs./Ton of Gross Cane	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	0.025	0.050
TSS	0.080	0.240
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

c. In lieu of the quantitative limitations in LAC 33:IX.707.D.3.b, the following qualitative limitations may be applied to discharges from raw sugar mills/factories that impound all wastewaters for discharge after the grinding season and following stabilization.

BOD_5: The daily average concentration shall not exceed 10 mg/L and the daily maximum concentration shall not exceed 15 mg/L. Additionally, the total load in pounds discharged during any calendar year shall not exceed 1.26 multiplied by the gross tons of cane ground during the preceding grinding season.

DO: The average concentration shall not be less than 4.0 mg/L and at no time shall the concentration be less than 3.0 mg/L.

TSS: Not to exceed 50 mg/L.

pH: Within the range of 6.0 to 9.0 at all times.

4. Effluent Limitations, Best Available Technology. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Subsection after application to process wastes of the best available technology economically achievable:

a. no nonconventional pollutants to be controlled.

5. Standards of Performance. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a facility subject to this Subsection which is a new source.

a. For raw sugar mills/factories discharging to the Mississippi River:

	Lbs./Ton of Gross Cane	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	1.1	2.0
TSS	1.0	3.0
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

b. For raw sugar mills/factories discharging to water bodies of low assimilative capacity, i.e., streams other than the Mississippi River:

	Lbs./Ton of Gross Cane	
Pollutant or Pollutant Property	Daily Average	Daily Maximum
BOD_5	0.025	0.050
TSS	0.080	0.240
pH	[(1)]	[(1)]

[(1)] Within the range of 6.0 to 9.0 at all times.

c. In lieu of the quantitative limitations in LAC 33:IX.707.D.5.b, the following qualitative limitations may be applied to discharges from raw sugar mills/factories that impound all wastewaters for discharge after the grinding season and following stabilization.

BOD_5: The daily average concentration shall not exceed 10 mg/L and the daily maximum concentration shall not exceed 15 mg/L. Additionally, the total load in pounds discharged during any calendar year shall not exceed 1.26 multiplied by the gross tons of cane ground during the preceding grinding season.

DO: The average concentration shall not be less than 4.0 mg/L and at no time shall the concentration be less than 3.0 mg/L.

TSS: Not to exceed 50 mg/L.

pH: Within the range of 6.0 to 9.0 at all times.

6. Pretreatment Standards for Existing Sources—Reserved

7. Pretreatment Standards for New Sources—Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§708. Exploration for and Production of Oil and Natural Gas

A. Applicability. The provisions of this Section are applicable to discharges of wastewater associated with oil and natural gas exploration and production activities.

B. Definitions. The following definitions apply to terms used in this Section. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.107 and 1105.

Average Monthly Discharge Limitation—the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Ballast Water—uncontaminated surface water used to maintain proper draft or to stabilize drilling or workover vessels.

Bilge Water—water that accumulates in the bilge areas of drilling or workover vessels.

Blow-Out Preventer (BOP) Control Fluid—fluid used to actuate the hydraulic equipment on the blow-out preventer.

Boiler Blowdown—discharge from boilers necessary to minimize solids build-up in the boilers, including vents from boilers and other heating systems.

Brackish Marshes—those areas that are inundated or saturated by surface water or groundwater of moderate salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes wiregrass *(Spartina patens)*, three-cornered grass *(Scirpus olneyi)*, coco *(Scirpus robustus)*, and widgeongrass *(Ruppia maritima)*. Interstitial water salinity normally ranges between 7 and 15 parts per thousand.

Cement—portland cement, either dry or in slurry form, including additives. Additives include such materials as accelerators (e.g., calcium chloride), retarders (e.g., lignosulfonates), weighting materials (e.g., barium sulfate), extenders (e.g., bentonite), and lost circulation materials (e.g., walnut shells).

Composite Sample—a sample consisting of a minimum of eight grab samples of effluent collected at regular intervals over a normal operating day and combined in proportion to flow, or a sample continuously collected in proportion to flow over a 24-hour period.

Daily Discharge—the discharge of a pollutant measured during a calendar day or within any specified 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Daily Maximum Concentration—the daily determination of concentration for any calendar day or specified 24-hour period that reasonably represents the calendar day for purposes of sampling.

Deck Drainage—all waste resulting from platform washing, deck washing, equipment washing, rainwater and runoff from curbs, gutters, and drains, including drip pans and wash areas.

Desalinization Unit Discharge—wastewater associated with the process of creating fresh water from salt water.

Domestic Wastes—wastewater generated from galleys, sinks, showers, and laundries.

Drill Cuttings—particles generated by drilling into subsurface geological formations.

Drilling Fluids—any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

Drilling Mud—a heavy suspension used in drilling a well, introduced down the drill pipe and through the drill bit.

Effluent Limitation—any applicable state or federal quality or quantity limitation that imposes any restriction or prohibition on quantities, discharge rates, and concentrations of pollutants discharged into the waters of the state.

Facility—a pollution source or any public or private property or site and all contiguous land and structures, and other appurtenances and improvements, where any activity is conducted that discharges or may result in the discharge of pollutants into waters of the state.

Fire Control System Test Water—surface water and fire fighting agents discharged during periodic testing of fire control systems.

Freshwater Swamps and Marshes—those areas that are inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes maiden cane *(Panicum hemitomon)*, Hydrocotyl sp., water hyacinth *(Eichhornia crassipes)*, pickerelweed *(Pontederia cordata)*, alligatorweed *(Alternanthera philoxeroides)*, and bulltongue *(Sagittaria sp.)*. Interstitial water salinity is normally less than two parts per thousand.

Intermediate Marshes—those areas that are inundated or saturated by surface water or groundwater of low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes wiregrass *(Spartina patens)*, deer pea *(Vigna repens)*, bulltongue *(Sagittaria sp.)*, wild millet *(Echinochloa walteri)*, bullwhip *(Scirpus californicus)*, and sawgrass *(Cladium jamaicense)*.

Interstitial water salinity normally ranges between three and six parts per thousand.

Native Mud Drilling Fluids—those drilling fluids that do not contain heavy-metal-based additives such as chrome lignosulfonate or weighting agents such as barite or hematite.

Noncontact Cooling Water—water that is used to remove heat and which does not come into direct contact with any raw material, intermediate, or finished product.

Pollutant—any substance introduced into the waters of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of the environment.

Pollution Source—the immediate site or location of a discharge or potential discharge, including such surrounding property as is necessary to secure or quarantine the area from access by the general public.

Produced Sand—sand and other solids removed from produced water, oil, or gas.

Produced Water—liquid and suspended particulate waste material generated by the processing of fluids brought to the surface in conjunction with recovery of oil or natural gas from underground geologic formations or with underground storage of hydrocarbons.

Saline Marshes—those wetland areas that are inundated or saturated by surface water or groundwater of salinity characteristic of near Gulf of Mexico ambient water at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes oystergrass *(Spartina alterniflora)*, glasswort *(Salicornia sp.)*, black rush *(Juncus roemerianus)*, Batis maritima, black mangrove *(Avicennia nitida)*, and saltgrass *(Distichlis spicata)*. Interstitial water salinity normally exceeds 16 parts per thousand.

Sanitary Waste—treated or untreated wastewaters that contain human metabolic wastes.

Source Water and Sand—water, including the entrained solids, from non-hydrocarbon-bearing formations used for the purpose of pressure maintenance or secondary recovery.

Stormwater Runoff—aqueous surface runoff including any soluble or suspended material mobilized by naturally occurring precipitation events.

Territorial Seas—the belt of the seas measured from the line of ordinary low water along that portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles (as defined at 33 U.S.C. 1362.8).

Toxicity Unit (TU)—a numerical value defined as the quotient of the discharged effluent concentration divided by the effluent concentration producing lethality (TUa Toxicity Units, acute toxicity) or the effluent concentration producing no observable effect (TUc Toxicity Units, chronic toxicity).

Upland—any land area that is not normally inundated with water and that would not, under normal circumstances, be characterized as swamp or fresh, intermediate, brackish, or saline marsh. The term shall have both a regional and site-specific connotation; for example, naturally occurring and man-made topographic highs that are partially or totally surrounded by swamp, marsh, or open water will be considered upland on a local basis, but will not necessitate characterization of the surrounding area as upland. The land and water bottoms of all parishes north of the nine parishes contiguous with the Gulf of Mexico will be considered in toto as upland regions. The designation of upland in those parishes bordering the Gulf of Mexico shall be determined on a case-by-case basis with reference to the presence of a regional expanse of emergent aquatic vegetation or open water.

Visible Sheen—a silvery or metallic sheen, gloss, or increased reflectivity; visual color; or iridescence on the water surface.

Well Completion Fluid—salt solutions, sometimes containing various additives, which are used to prevent damage to the wellbore during operations which prepare the drilled well for hydrocarbon production. Drilling fluids remaining in the wellbore during logging, casing and cementing operations or during temporary abandonment of the well are not considered completion fluids.

Well Treatment Fluid—fluids used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids include substances such as acids, solvents, and propping agents.

Workover Fluid—salt solutions, sometimes containing specialty additives, which are used in a producing well to allow safe repair and maintenance procedures. High solids drilling fluids used during workover operations are not considered workover fluids by definition and therefore must meet drilling fluid effluent limitations before discharge may occur. Packer fluids, low solid fluids between the packer, production string and well casing, are considered to be workover fluids.

C. Effluent Guidelines. The following effluent guidelines establish general and discharge-specific guidelines for discharges associated with oil and natural gas exploration and production activities.

1. General Guidelines

a. There shall be no unpermitted discharge of waste oil, produced water, drilling fluids, drill cuttings, or other wastes, nor any uncontrolled discharges of wastewater, including stormwater runoff, from exploration and production sites.

b. A Spill Prevention and Control Plan shall be prepared and implemented in accordance with the provisions specified in LAC 33:IX.901-907. This plan shall establish a program for regular inspection of all storage tanks, separators, and related production and transfer equipment. The plan shall also include provisions for, at a minimum,

annual monitoring of flow line integrity through a combination of visual inspection and pressure testing or through the use of an approved alternate methodology. Inspection and test records shall be maintained for a minimum of three years. The plan shall also establish provisions for ready access to, and rapid deployment of, containment booms and ancillary spill containment and cleanup equipment. Discharges shall be controlled through the following measures.

i. All workover and drilling barges, and production facilities shall be equipped with pollution containment devices that under normal operating conditions prevent unauthorized discharges.

ii. All storage tanks, separators, and related production and transfer equipment to be located in open water or wetland areas, where building dikes is impossible or impracticable, shall be installed on impervious decking provided with a system of curbs, gutters, and/or sumps capable of retaining spills of oil, produced water, or any other product or waste material. Storage and processing facilities located in open water or wetland areas that lack appropriate spill prevention and control appurtenances shall be modified to achieve compliance within four years after promulgation of these regulations.

iii. All drains from diked areas shall be equipped with valves that are kept in the closed position except during periods of supervised discharge.

iv. In the event of an unauthorized discharge of oil, produced water, or any other product or waste material, a remedial response must be immediately initiated and the Office of Environmental Compliance shall be notified in accordance with LAC 33:I.3901 et seq. The remedial response shall include immediate removal of discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. If immediate cleanup is not considered to be an appropriate remedial measure, the responsible party shall notify the Office of Environmental Compliance of the alternative remedial plan and shall promptly implement said plan upon approval by the department. Submission of an alternate plan shall in no way relieve the responsible party of its duty to contain and mitigate the effects of the discharge.

v. Use of detergents, emulsifiers, or dispersants to clean up spilled oil is prohibited unless the use has been specifically approved by the department or is necessary to maintain a safe work environment (i.e., minimization of the potential for personnel injury due to slipping hazards). In all such cases, initial cleanup shall be done by physical removal. Detergents, emulsifiers, or dispersants shall not be employed to sink, obscure, or camouflage spilled materials or to in any way hinder observation of a spill event.

vi. At least 2 feet of freeboard shall be maintained in all earthen pits at any time. Any discharge of wastewater from earthen pits directed to waters of the state must be conducted in accordance with the provisions of a valid Louisiana Water Discharge Permit System (LWDPS) permit.

2. Produced Water

a. Freshwater Areas

i. All produced water discharges must be specifically identified in a valid LWDPS permit.

ii. The discharge of produced water directly onto any vegetated area, soil, or intermittently exposed sediment surface is prohibited.

iii. There shall be no discharge of produced water to lakes, rivers, streams, bayous, canals, or other surface waters of the state in areas regionally characterized as upland.

iv. There shall be no discharge of produced water to freshwater swamp or freshwater marsh areas or to natural or manmade water bodies bounded by freshwater swamp or freshwater marsh vegetation unless the discharge has been specifically identified in an approved schedule for discharge termination, and the discharge complies with all applicable portions of LAC 33:IX.708.C.2.e.

v. A schedule for discharge termination shall not be approved for a surface discharge initiated after the promulgation of this regulation. The operator of a facility having a produced water discharge in existence on the date of promulgation of these regulations shall be subject to the prohibition against surface discharge of produced water unless the operator establishes that surface discharge is the only immediately available alternative and that the produced water discharge termination schedule is limited in term to the period necessary to provide an alternate waste-handling method. A compliance schedule that would delay compliance beyond July 1, 1992, will not be approved.

b. Intermediate, Brackish, and Saline Water Areas Inland of the Territorial Seas

i. All produced water discharges must be specifically identified in a valid individual or general permit or order and must comply with all applicable portions of LAC 33:IX.708.C.2.f.

ii. The discharge of produced water directly onto any vegetated area, soil, or intermittently exposed sediment surface is prohibited.

iii. There shall be no discharge of produced water to natural or man-made water bodies located in intermediate, brackish, or saline marsh areas after January 1, 1995, unless the discharge or discharges have been authorized in an approved schedule for elimination or effluent limitation compliance.

iv. Each operator of a facility with a produced water discharge in existence on the date of promulgation of these regulations shall submit a schedule within six months after promulgation detailing a time frame for achieving compliance with the restrictions imposed by Subparagraph b.i-x. The compliance schedule shall be prepared in conformance with the following guidelines.

(a). An operator conducting three or more produced water discharges shall submit for approval a

schedule of compliance that will result in phased elimination or compliance with applicable effluent limitations for all produced water discharges by January 1, 1995. The schedule is expected to call for termination of discharge or compliance with applicable effluent limitations for approximately one-third of the discharges existing on the date of promulgation by January 1, 1993; for two-thirds of the discharges by January 1, 1994; and for full compliance by January 1, 1995.

(b). An operator conducting no more than two produced water discharges shall submit for approval a schedule of compliance that will result in phased elimination or compliance with applicable effluent limitations for all produced water discharges by January 1, 1995. One discharge is expected to be eliminated or conducted in compliance with applicable effluent limitations by January 1, 1994.

(c). An operator conducting a single produced water discharge shall eliminate surface discharge or conduct the discharge in compliance with applicable effluent limitations by January 1, 1994.

(d). Facilities with a total produced water discharge of 250 barrels/day or less and a maximum oil production of 100 barrels/day or the monetary equivalent in natural gas, as of the effective date of this regulation, will be provided an additional year to comply with the requirements of LAC 33:IX.708.C.2.b.i-x.

(e). Operators discharging to the open waters and at least 1 mile from any shoreline in Chandeleur Sound, Breton Sound, Barataria Bay, Caminada Bay, Timbalier Bay, Terrebonne Bay, East Cote Blanche Bay, West Cote Blanche Bay, or Vermilion Bay from production originating in these areas will have two years after the effective date of these regulations or one year after completion of the U.S. Department of Energy's (DOE) study concerning Louisiana coastal bays, whichever comes first, to show on a case-by-case basis that their particular discharge should be exempt from these regulations, if the DOE study, after scientific peer review, shows minimal acceptable environmental impacts.

v. Requests for an extension of the compliance period beyond the January 1, 1995, deadline will be considered if submitted with the original compliance schedule and if the following conditions are met.

(a). The operator establishes that surface discharge is the only immediately available and economically feasible alternative, that continued discharge does not represent gross potential for unacceptable environmental degradation, and that the produced water discharge termination schedule is limited in term to the period necessary to provide an alternate waste-handling method.

(b). The proposed extension would not extend the date of discharge termination or effluent limitation compliance beyond January 1, 1997.

vi. A compliance schedule will not be required for a surface discharge initiated after the promulgation of these regulations; however, produced water discharges authorized after the date of promulgation but before December 31, 1992, must be eliminated or conducted in compliance with applicable effluent limitations by January 1, 1995. Produced water discharges authorized after December 31, 1992, must achieve compliance with applicable effluent limitations on the date of discharge initiation.

vii. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties that may be discharged by a facility subject to this Section:

Pollutant or Pollutant Property	Discharge Limitation
Benzene	0.0125 mg/L daily maximum
Ethylbenzene	4.380 mg/L daily maximum
Toluene	0.475 mg/L daily maximum
Oil and Grease	15 mg/L daily maximum
Total Organic Carbon	50 mg/L daily maximum
pH	6-9 standard units
Temperature	(as per LAC 33:IX.1113.C.4)
Total Suspended Solids	45 mg/L daily maximum
Chlorides	Dilution required at a ratio of 10:1 (ambient water: produced water). All other prescribed parameters must be within acceptable limits prior to dilution.
Dissolved Oxygen	4.0 mg/L daily minimum
Toxicity (Acute and Chronic)	1 Toxicity Unit
Soluble Radium	60 picocuries/L (2.2 becquerels/L)
Visible Sheen	No Presence

[NOTE: The numerical limitations listed above are to be construed as minimum effluent standards and should in no way be considered authorization to induce a violation of ambient water quality standards.]

viii. Surface disposal of de minimis quantities (less than 1 barrel per day) of produced water may be authorized on a case-by-case basis. Effluent limitations for de minimis discharges will be established on a case-by-case basis in accordance with the provisions of the LWDPS permit authorizing the discharge, but will at a minimum require that the effluent be treated to a point at which the discharge does not generate a persistent visible sheen.

ix. There shall be no discharge of produced water within the boundaries of any state or federal wildlife management area, refuge, park, or scenic stream or into any water body determined by the department to be of special ecological significance.

x. Produced water shall not be discharged within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No produced water shall be discharged in a manner that, at any time, facilitates the incorporation of significant quantities of hydrocarbons or radionuclides into sediment or biota.

c. Territorial Seas

i. All produced water discharges must be specifically identified in a valid LWDPS permit.

ii. Surface disposal of produced water into open waters of the Gulf of Mexico within the area defined as the territorial seas may be authorized on a case-by-case basis in

accordance with the provisions of the LWDPS permit authorizing the discharge.

iii. The discharge of produced water directly onto any intermittently exposed sediment surface is prohibited.

iv. Produced water shall not be discharged within the boundaries of any state or federal wildlife management area, refuge, or park or into any water body determined by the department to be of special ecological significance.

v. Produced water shall not be discharged within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No produced water shall be discharged in a manner that, at any time, facilitates the incorporation of significant quantities of hydrocarbons or radionuclides into sediment or biota.

d. Radioactivity and Toxicity Analyses. A radioactivity measurement, acute toxicity test, and chronic toxicity test shall be conducted using test methods approved by the administrative authority on representative samples of all existing produced water discharges that flow to the surface waters of the state. The results of the radioactivity analysis and the average daily discharge rate (barrels per day) shall be submitted to the department by August 20, 1989. The results of the toxicity analyses and the average daily discharge rate (barrels per day) shall be submitted to the department by February 20, 1990.

e. Discharge of Produced Water into Freshwater Areas after January 1, 1997

i. In light of LPDES general permit LAG290000 and the "Final Effluent Limitations Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Point Source Category," published December 16, 1996, and effective January 14, 1997 (the federal guidelines), facilities that discharge produced water as authorized in a valid LWDPS permit as of July 1, 1996, shall cease the discharge of produced water by July 1, 1997, unless the continued discharge is specifically identified in an order.

ii. Each facility desiring to continue to discharge produced water after July 1, 1997, shall submit to the department, no later than May 1, 1997, a schedule to:

(a). accomplish reinjection of the produced water as expeditiously as possible; or

(b). return their produced water which originated seaward of the coastal areas identified in LAC 33:IX.708.C.2.e.iv.(a) to those areas of origin.

iii. In addition to the schedule required in LAC 33:IX.708.C.2.e.ii, the submittal shall include, at a minimum, a certification by the facility operator of all of the following:

(a). surface discharge of produced water is the only immediately available alternative;

(b). the produced water discharge elimination schedule is limited in term to the period necessary to provide an alternate waste-handling method;

(c). the discharge of produced water has not been eliminated pending the installation of injection systems or returning it to its area of origin (seaward of the coastal areas identified in LAC 33:IX.708.C.2.e.iv.(a));

(d). the discharge will not cause a violation of water quality standards in the receiving waters; and

(e). the discharge was previously permitted.

iv. Discharges of produced water pursuant to this rule shall not extend beyond the date upon which the produced water discharge can reasonably be eliminated. In no event shall a discharge of produced water to a major deltaic pass of the Mississippi River or to the Atchafalaya River, including Wax Lake Outlet, below Morgan City, continue:

(a). beyond January 1, 1999, for produced water generated in coastal areas as defined in 40 CFR Part 435.41(e);

(b). beyond January 1, 2000, for produced water generated seaward of coastal areas identified in LAC 33:IX.708.C.2.e.iv.(a); or

(c). beyond January 1, 2000, for facilities that discharge produced water generated in any combination of areas described in LAC 33:IX.708.C.2.e.iv.(a) and (b).

v. There shall be no discharge of produced water to a major deltaic pass of the Mississippi River or to the Atchafalaya River, including Wax Lake Outlet, below Morgan City, after January 1, 2000.

f. Discharge of Produced Water into Intermediate, Brackish, and Saline Water Areas Inland of the Territorial Seas after January 1, 1997

i. Notwithstanding the absolute deadline of LAC 33:IX.708.C.2.b.v.(b) and in light of the federal guidelines, facilities previously authorized by valid LWDPS permits as of July 1, 1996, to discharge produced water under LAC 33:IX.708.C.2.b.iv, pursuant to an approved compliance schedule shall:

(a). cease the discharge of produced water by February 14, 1997; or

(b). submit a revised schedule to accomplish injection of the produced water as expeditiously as possible. This schedule shall be received by the department on or before February 14, 1997. Submission of a schedule is not a defense to an enforcement action for a facility's failure to adhere to the terms and conditions of its permit or prior compliance schedule. In addition to the schedule submission, a certification must be submitted by the facility operator which includes the requirements of LAC 33:IX.708.C.2.e.iii. No compliance schedules in an enforcement order shall extend beyond the minimum time demonstrated necessary for elimination of the discharge and in no case beyond January 1, 1999.

ii. All terms, conditions, limitations, and requirements of the most recent LPDES permit or compliance schedule or order identifying a produced water

discharge shall continue in full force and effect unless the department provides otherwise in writing. A schedule to discharge produced water after July 1, 1997, is solely within the department's enforcement discretion and shall be granted only through a compliance order.

iii. There shall be no discharge of produced water to natural or man-made water bodies located in intermediate, brackish, or saline marsh areas after January 1, 1999.

3. Drill Cuttings and Drilling Fluids

a. The discharge of drill cuttings or drilling fluids, including stormwater runoff contaminated by drill cuttings or drilling fluids, must be conducted in accordance with a valid LWDPS permit.

b. There shall be no discharge of oil-based drilling fluids.

c. There shall be no batch or bulk discharge of drilling fluids into water bodies inland of the territorial seas.

d. Drilling fluids or drill cuttings shall not be discharged within the boundaries of state or federal wildlife management areas, refuges, parks, or scenic streams or into any water body determined by the department to be of special ecological significance.

e. The discharge of drill cuttings or bulk drilling fluids (if allowed) must not occur within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No discharge shall be made in such a manner as to allow deposition of drill cuttings or drilling fluids in or upon any active oyster lease, live natural reef, or seed bed. If the discharge is to take place within 1 mile of an area containing oyster leases, a lease map must be forwarded to the Office of Environmental Services showing the location of the discharge and surrounding leases. If the applicant considers any oyster lease, live natural oyster or other molluscan reef, or designated seed bed within 1,300 feet of a discharge of drilling fluids or drill cuttings to be inactive, written documentation and evidence must be submitted to the Office of Environmental Services for a determination to be made as to the acceptability of such a discharge.

f. In fresh and intermediate marsh areas, only drill cuttings generated on-site and their adhering native mud drilling fluids may be discharged.

g. There shall be no discharge of drill cuttings generated in association with the use of oil-based drilling fluids, invert emulsion drilling fluids, or drilling fluids that contain diesel oil, waste engine oil, cooling oil, gear oil, or other oil-based lubricants.

h. Documentation shall be maintained detailing the nature and volume of all constituents added downhole in conjunction with drilling and workover operations. This documentation shall be available for inspection on site during drilling and workover operations and thereafter in accordance with the provisions of LAC 33:IX.311.J.7.

4. Stormwater Runoff

a. An LWDPS permit may be required for stormwater runoff discharges generated in conjunction with exploration and production activities in upland regions.

b. The discharge of stormwater runoff generated in conjunction with exploration and production activities conducted in any region not designated as upland must be reflected in a valid LWDPS permit unless appropriate prior dispensation has been received from the department.

c. There shall be no discharge of free oil or other oily materials from any facility as evidenced by a visible sheen or residual oil deposits or stains in the drainage area downstream of the discharge point.

d. Stormwater runoff shall not exceed 100 mg/L chemical oxygen demand, 50 mg/L total organic carbon, or 15 mg/L oil and grease.

e. Maximum chloride concentration of the discharge shall not exceed two times the ambient concentration of the receiving water in brackish marsh areas and shall not exceed 500 mg/L in freshwater or intermediate marsh areas and upland areas.

f. The discharge of stormwater runoff from diked areas employed for the purpose of secondary containment shall be permitted provided:

i. the discharge is generated from areas that have not been contaminated by accidental spills or by intentional discharge of waste materials; or

ii. the discharge has been specifically identified in a valid LWDPS permit.

5. Drilling Fluid Reserve Pit and Production Pit Closure. This discharge category includes the discharge of treated wastewater from drilling site reserve pits, ring levee borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits that contain only nonhazardous oil field wastes. The treatment and discharge of water from off-site oil field waste disposal pits or pits containing waste other than nonhazardous oil field wastes are prohibited.

a. Discharge of treated wastewater must be specifically identified in a valid LWDPS permit.

b. Effluent Limitations

Pollutant or Pollutant Property	Discharge Limitation
Volume	Report (mgd)
Oil and Grease	15 mg/L daily maximum
Total Suspended Solids	50 mg/L daily maximum
Chemical Oxygen Demand	125 mg/L daily maximum
Chlorides	500 mg/L daily maximum*
Total Chromium	0.5 mg/L daily maximum
Zinc	5.0 mg/L daily maximum
* See LAC 33:IX.708.C.5.d.	

i. Discharge limitations are instantaneous maxima and apply throughout the duration of the discharge.

ii. Discharge pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

c. Each discharge will require specific prior approval from a representative of the Office of Environmental Compliance. An analysis of the treated water shall be submitted to and approved by a representative of the Office of Environmental Compliance prior to discharge.

i. The initial sample of treated water shall be obtained from the treated water returned to the pit or other containment structure after operation of the treatment equipment.

ii. A copy of the initial and subsequent water analysis shall be available at the site during pit closure or dewatering activities.

iii. The discharge shall be withdrawn at or near the surface of the fluid in the drilling site reserve pit, ring levee borrow ditch, shale barge, or drilling fluid dewatering treatment train compartment.

d. Dilution shall not be used to comply with any of the discharge limitations unless specific written authorization from the Office of Environmental Compliance has been obtained. The only parameter for which dilution will be considered is chloride. Formal written requests for approval to allow dilution of chloride levels should be addressed to the Office of Environmental Compliance. Consideration of written requests to allow dilution of chloride levels in drilling site reserve pits, ring levee borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits will be made on a case-by-case basis and only if the following conditions can be met.

i. Prior treatment shall have brought all other applicable parameters to levels within permit limits before dilution.

ii. The discharge after dilution will be a short-term, one-time batch-type event.

iii. The discharge will not traverse, pool up within, or in any other way contact agricultural lands.

iv. The discharge is made only to a receiving water body exhibiting sufficient volume and assimilative capacity to preclude elevation of ambient chloride levels above that established by the Louisiana Water Quality Criteria for the basin segment or watershed within which the receiving water body is contained.

v. The Office of Environmental Compliance representative concludes that no adverse environmental effects will result from the discharge of pretreated and diluted wastewater.

e. An on-site inspection by department personnel may be required prior to discharge approval.

f. Additional monitoring, including daily and 24-hour composite sampling, may be required for any specific discharge event or site at the discretion of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:261 (April 1989), amended LR 17:263 (March 1991), LR 23:860 (July 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2544 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2506 (October 2005), LR 33:2162 (October 2007).

§709. Miscellaneous Small Dischargers

A. Applicability. The provisions of this Part are applicable to discharge of wastewater pollutants or pollutant properties from the categories of small dischargers or facilities set forth herein and represent all levels of pollution control, including the best practicable control technology currently available, the best conventional pollutant control technology, the best available technology economically achievable, and standards of performance for new sources.

B. Sanitary and Domestic Waste Discharges with an Average Daily Flow of Less than 2,500 Gallons per Day

1. Waste discharges and their associated control facilities shall comply with all requirements of the state and local health authorities.

2. Waste discharges shall not exceed the following daily maximum concentration limitations:

a. five day biochemical oxygen demand—maximum concentration allowed in accordance with Secondary Treatment Effluent Standards (LAC 33:IX.711);

b. total suspended solids—maximum concentration allowed in accordance with Secondary Treatment Effluent Standards (LAC 33:IX.711);

c. oil and grease—20 mg/L.

3. Discharges within 1 mile of waters designated for primary contact recreation use shall not exceed a maximum fecal coliform organisms concentration of 400/100 mL.

4. Discharges within 2 miles of shellfish propagation areas shall not exceed a maximum fecal coliform organisms concentration of 200/100 mL.

5. When a discharge, or group of discharges, results in a violation of water quality standards, the department reserves the right to impose more stringent requirements.

C. Service Stations

1. Used oil shall be retained for reclamation, reuse, or off-site disposal in an approved disposal facility.

2. Drains within internal service areas shall be furnished with adequately designed and maintained traps for removal of oil and grease and suspended solids.

3. Above ground bulk storage tanks with a total capacity of more than 1,320 gallons or any single container in excess of 660 gallons shall be surrounded by an impervious dike with a retention volume equal to or greater than the largest storage tank within the diked area.

4. To the greatest extent possible, spills on external service areas shall be cleaned up using dry methods.

5. Discharges and runoff from internal and external service areas and diked bulk storage areas shall comply with a maximum oil and grease concentration limitation of 20 mg/L.

6. If sanitary wastes are combined with discharges from internal service areas, the combined wastes shall additionally comply with the provisions set forth in LAC 33:IX.709.B.1.

D. Concentrated Animal Feeding Operations—Reserved

E. Facilities For Storage of Pesticides—Reserved

F. Vessels

1. All vessels, both self-propelled and non self-propelled, with toilet facilities shall be equipped with an appropriate U.S. Coast Guard approved sanitation device.

2. Sanitary discharges from vessels equipped with a sanitation device shall comply with a maximum fecal coliform organisms concentration of 200/100 mL.

G. Transmission Company Compressor Stations—Reserved

H. Construction Sites

1. This category includes all construction sites under the control of a single party in which the disturbed area is larger than 5 acres. This category does not include pipeline rights-of-way unless a specific water quality problem is shown to exist at a given pipeline construction site whereupon control measures for that site may be required.

2. All wastewaters, including stormwater runoff, leaving the site boundaries shall be controlled so as to comply with the following limitations:

a. a maximum oil and grease concentration of 15 mg/L;

b. until such time as disturbed areas have been revegetated, a settleable solids concentration of 1.0 mL/L.

3. Waste or used oil shall not be applied as a dust control measure regardless of the size of the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000).

§711. Secondary Treatment for Sanitary Sewage

A. Applicability. This Section provides information on the level of effluent quality attainable through the application of secondary or equivalent treatment.

B. Definitions. The following definitions are applicable to terms used in this Section. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.107.

BOD_5—the five day measure of the pollutant parameter biochemical oxygen demand.

$CBOD_5$—the five day measure of the pollutant parameter carbonaceous biochemical oxygen demand.

C. Secondary Treatment for Sanitary Sewage. The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of BOD_5, TSS, and pH.

1. BOD_5

a. The 30-day average shall not exceed 30 mg/L.

b. The 7-day average shall not exceed 45 mg/L.

c. The 30-day average percent removal shall not be less than 85 percent.

d. At the option of the administrative authority, in lieu of the parameter BOD_5, the parameter $CBOD_5$ may be substituted with the following levels of the $CBOD_5$ effluent quality provided:

i. the 30-day average shall not exceed 25 mg/L;

ii. the 7-day average shall not exceed 40 mg/L;

iii. the 30-day average percent removal shall not be less than 85 percent.

2. TSS

a. The 30-day average shall not exceed 30 mg/L.

b. The 7-day average shall not exceed 45 mg/L.

c. The 30-day average percent removal shall not be less than 85 percent.

D. Treatment Equivalent to Secondary Treatment. The following levels of treatment may be considered equivalent to secondary treatment.

	Concentration in mg/L			
Principle Treatment Process	30-day average		7-day average	
	BOD	TSS	BOD	TSS
1. Trickling Filter				
a. New	30	30	45	45
b. Existing minor	45	45	65	65
c. Existing major	30-45*	30-45*	45-65	45-65
2. Oxidation Pond				
a. New	30	90	45	135
b. Existing minor	45	90	65	135
c. Existing major	30-45*	90	45-65	135

*Actual number would be established after case-by-case review of individual facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended LR 21:945 (September 1995).

§713. Chlorine-Bleaching Pulp and Paper Mill Dischargers

A. Applicability. The effluent limitations and other provisions of this Section are applicable to discharges of wastewater associated with the production activities of bleached kraft pulp and paper mills.

B. Definitions

Chlorine-Bleaching Pulp and Paper Mill Dischargers—pulp and paper mills utilizing caustic sulfide reagents to process wood chips under high heat and pressure, producing brown paper and subsequently adding chlorine or chlorine compounds to produce bleached white paper.

C. Effluent Guidelines. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties that may be discharged by a facility subject to this Section after applying to process wastes with the treatment technology currently available. The relaxation of effluent limits based upon state water quality standards or best professional judgement shall be prohibited.

Pollutant or Pollutant Property	Concentration in pg/L (ppq) Daily Average	Daily Maximum
2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)	NA	20

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:965 (October 1991), repromulgated LR 17:1082 (November 1991).

Chapter 9. Spill Prevention and Control

§901. Purpose and Scope

A. This Chapter establishes requirements for contingency planning and implementation of operating procedures and best management practices to prevent and control the discharge of pollutants resulting from spill events. For the purpose of this Chapter, *spill event* means the accidental or unauthorized leaking or releasing of a substance from its intended container or conveyance structure that has the potential to be discharged or results in a discharge to the waters of the state. Discharges resulting from circumstances identified, reviewed, and made part of the public record with respect to a valid LPDES permit are not considered spill events.

B. The preparation and implementation of a Spill Prevention and Control Plan (hereinafter referred to as "plan") is required for any facility or person meeting the applicability criteria.

C. This Chapter establishes minimal procedures, methods, equipment, control structures and response actions necessary for compliance.

D. Definitions. The following definitions apply to terms used in this Chapter. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.107.

Oil—any kind or form of oil, including but not limited to: fats, oils, or greases from animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and other oils and greases including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, and oil mixed with waste other than dredged spoil.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1779 (August 2010).

§903. Applicability

A. The provisions of this Chapter apply to:

1. all substances listed in LAC 33:I.3931 of the Notification Regulations and Procedures For Unauthorized Discharges, other than *oil* as defined in LAC 33:IX.901.D, that are in liquid form at temperatures ranging between 0° and 35°C and pressures at or near 760 mm Hg;

2. *oil* as defined in LAC 33:IX.901.D; and

3. any other substance that the administrative authority declares, in light of the circumstances presented, offers sufficient danger of pollution of the waters of the state to justify application of the provisions of this Chapter.

B. The minimum aboveground storage capacity at which Paragraph A.1 of this Section applies is 1,320 U.S. gallons for two or more individual containers in aggregate within a common storage area, or 660 U.S. gallons for an individual container.

C. The minimum aggregate aboveground storage capacity at which Paragraph A.2 of this Section applies is 1,320 U.S. gallons. For the purposes of this aggregate quantity determination, only containers with a capacity of 55 U.S. gallons or greater are counted.

D. The provisions of this Chapter apply also to any equipment or structures utilized for the conveyance or transfer (loading/unloading) of applicable substances to/from transportation vehicles or vessels to/from facility storage, processing, or disposal areas. For the purposes of this Chapter, the term *facility* includes those of fixed location when in operation, and that are land based or situated upon or within wetlands and/or surface waters of the state. The requirements of this Chapter shall not apply to off-site transmission pipelines.

E. The storage and conveyance applicability of this Chapter includes, but is not limited to, all substances meeting the applicability criteria outlined in Subsection A of this Section, whether handled as raw materials, products, process intermediaries, byproducts, wastes, process catalysts, lubricants, or fuels.

F. The provisions of this Chapter shall not apply in those cases where applicable substances are stored within process equipment or conveyance structures located in process areas, provided that the drainage from these areas is routed via an LPDES treatment train to a permitted LPDES outfall.

G. The provisions of this Chapter do not require the preparation of a plan for storage or conveyance of substances in solid form except in instances or at facilities where there exists the potential for solid substances to be spilled, released or discharged either directly to waters of the state or to a flowing drainage conveyance that would

immediately transport spilled solid substances to waters of the state. In such cases the requirements for preparation of a plan may apply to solid substances for which there is reasonable evidence or cause to believe that an appreciable degradation of water quality would result from a spill or release due to the nature and/or quantity of the solid substances handled. Even if it has been determined that the preparation of a plan is not required for the storage or conveyance of solid substances at a given facility, it is incumbent upon the operator of that facility to avoid potential contamination to the waters of the state.

H. Upon notification to the owner/operator of a facility and demonstration of reasonable cause, the administrative authority may require the preparation of a plan for substances not expressly covered by the applicability requirements of this Chapter.

I. The requirements of this Chapter are intended to complement existing laws, rules, regulations and standards pertaining to the prevention of water pollution. Compliance with this Chapter does not relieve the operator of a facility from compliance with other federal, state or local laws and regulations. Spill Prevention Control and Countermeasure (SPCC) Plans prepared pursuant to 40 CFR Part 112, or manuals prepared relative to any other state or federal requirement, will be acceptable for inclusion in the plan required by this Chapter. A complete plan, however, shall address all applicable substances.

J. Underground Storage Containers—Reserved

K. Drum and Barrel Storage—Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1779 (August 2010).

§905. Requirements for Preparation and Implementation of Plans

A. Operators of facilities in operation or under construction on or before the effective date of these regulations that meet the criteria outlined in LAC 33:IX.903 shall prepare a plan within 180 days of the effective date of these regulations. The plan shall be fully implemented as soon as possible after preparation, but not later than one year after it was prepared. The Office of Environmental Services may, upon written request, grant additional implementation time to existing facilities in those cases where substantial upgrading or modification may be required in order to comply with this Chapter.

B. Operators of facilities meeting the criteria outlined in LAC 33:IX.903 that become operational 180 days after the effective date of these regulations shall prepare a plan within 180 days after the facility begins operation and shall be fully implemented as soon as possible, but not later than one year after such facility begins operation.

C. Operators of facilities for which a plan is required shall keep a complete copy of the plan at the facility if the facility is normally attended at least eight hours per day, or at the nearest office within the state if the facility is not so attended. The plan shall be made available to authorized representatives of the department for on-site review during normal working hours. Plans need not be submitted to the department unless a request to do so has been made by an authorized representative of the department.

D. Amendment of Plans by the Department. After review of the plan by the department and/or upon receiving notice of a spill pursuant to the notification requirements of R.S. 30:2025(J), the department may require the operator of the facility to amend the plan if it finds that the plan does not meet the requirements of this Chapter.

E. Amendments of Plans by Owners/Operators. Owners or operators of facilities shall amend the plan for such facility whenever there is a modification in facility design, construction, storage capacity, operation or maintenance which renders the existing plan inadequate. The amendment shall be implemented prior to or concurrent with the facility modification.

F. Periodic Review of Plans. Operators of facilities shall review the plan every five years and shall amend the plan within 90 days of the review to include more effective prevention and control technology if such technology will significantly reduce the likelihood of a spill event and if such technology has been field proven at the time of the review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 36:1779 (August 2010).

§907. Guidelines for the Preparation and Implementation of a Plan

A. The plan shall be prepared in accordance with sound engineering practices. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed, and the details of installation and operational start-up shall be explained individually. The department recognizes that the designs of major facilities differ and that in certain cases the appropriate methods for spill prevention and control must be site-specific. While the guidelines presented herein suggest the use of specific methodologies for this purpose, alternate methods may be employed if it can be demonstrated to the satisfaction of the department that the alternate methods will adequately prevent and control spills, and that they are reasonably equivalent to the suggested methods. A complete plan shall follow the sequence outlined in LAC 33:IX.903.B-F.

B. A complete plan shall include the following:

1. name of facility;

2. name of the operator of the facility;

3. mailing address of the facility;

4. location of the facility;

5. date and year of initial facility operation;

6. a brief but adequate description of the facility, including an indication of the nearest potential receiving waters;

7. the identity, amount, and location of substances stored at the facility meeting the applicability criteria outlined in LAC 33:IX.903; and

8. facility capability and procedures for taking corrective actions and/or countermeasures when a spill event occurs.

C. The plan shall include a prediction of the direction, rate of flow and total quantity of applicable substances which could be spilled at the facility where experience indicates a reasonable potential for equipment failure and/or human error.

D. Appropriate containment and/or diversionary structures or equipment to prevent an applicable spilled substance from reaching waters of the state should be provided. One of the following should be used as a minimum:

1. dikes, berms or retaining walls sufficiently impervious to contain spills;

2. curbing, drip pans;

3. culverts, gutters or other drainage systems;

4. weirs, booms or other barriers;

5. spill diversion ponds;

6. retention ponds;

7. sorbent substances; and

8. sumps and collection systems.

E. When it is determined that the installation of structures or equipment listed in LAC 33:IX.907.D of this Chapter is not practical, the owner/operator of an applicable facility shall clearly demonstrate such impracticality and provide a strong spill contingency plan, including a written commitment of the manpower, equipment, and materials required to ensure timely and effective action to minimize damage resulting from a spill event.

F. In addition to the minimal prevention standards listed under LAC 33:IX.907.D of this Chapter, sections of the plan should include a complete discussion of conformance with the following applicable guidelines or other effective spill prevention and containment procedures.

1. All storage tank installations should be constructed so that a secondary means of containment is provided for the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation. Diked areas should be sufficiently impervious to contain spills.

2. Drainage from diked storage areas should be restrained by valves or other positive means to prevent a spill event, except where facility treatment systems are designed to handle such spills. Flapper-type drain valves should not be used as a restraint device. Valves used for the drainage of diked areas should, as far as practical, be of manual, open-and-closed design. In all cases, drainage from diked areas shall be in accordance with all applicable rules, regulations and laws.

3. New and old tank installations should, as far as practical, be fail-safe engineered or updated into a fail-safe engineered installation to avoid spills. Liquid level sensing devices should be regularly tested to insure proper operation. Consideration should be given to providing one or more of the following devices (optional for tanks served by adequate secondary containment systems):

a. high liquid level alarms with an audible or visual signal at a constantly manned operation or surveillance station; in smaller plants an audible air vent may suffice;

b. high liquid level pump cutoff devices set to stop flow at predetermined tank content level;

c. direct audible or code signal communication between the tank gauger and the pumping station;

d. a fast response system for determining the liquid level of each bulk storage tank such as digital computers, telepulse, or direct vision gauges or their equivalent; and

e. additional tank(s) connected to automatically receive overflow.

4. All above-ground tanks should be visually inspected by a competent person for condition and need for maintenance on a scheduled periodic basis. Such examination should include the foundation and supports of tanks that are above the surface of the ground. Visible leaks from a tank and its appurtenances shall be promptly corrected.

5. Buried metallic piping installations should have a protective wrapping and coating or the equivalent, and should be cathodically protected if soil conditions warrant. If a section of buried line is exposed for any reason, it shall be carefully examined for deterioration. If corrosion damage is found, additional examination and corrective action shall be taken as indicated by the magnitude of the damage.

6. When a pipeline is not in service or in standby service for an extended time, the terminal connection at the transfer point should be isolated, capped, or blank-flanged as well as marked, or the on/off switch tagged as to origin.

7. Pipe supports shall be properly designed to minimize abrasion and corrosion; to allow for expansion and contraction, and to adequately support thrust loadings at bends.

8. All above-ground valves and pipelines should be subjected to regular examinations by operating personnel at which time the general conditions of items such as flange joints, pipeline supports, locking of valves, and metal

surfaces should be assessed. In addition, periodic pressure testing may be warranted for piping in areas where facility drainage is such that a failure might lead to a spill event if there is reason to suspect the integrity of the piping. Records of such inspections and tests shall be kept for three years and include all items addressed.

9. All tank car and tank truck loading/unloading area drainage shall flow into a catchment basin, treatment system or other containment system designed to hold at least the maximum capacity of any single compartment of a tank car or truck loaded or unloaded at the facility.

10. An interlocked warning light, physical barrier system, or warning signs shall be provided in loading/unloading areas to prevent vehicular departure before complete disconnect of flexible or fixed transfer lines.

11. Prior to filling and departure of any tank car or truck, the lowermost drain and all outlets of such vehicles shall be closely examined for leakage, and if necessary, tightened, adjusted, or replaced to prevent leakage.

G. The plan, as applicable, should include a complete discussion of conformance with the following guidelines for facility drainage.

1. Facility drainage from undiked areas subject to spill events should if possible, flow into ponds, lagoons or catchment basins designed to retain spills or return them to the facility. Catchment basins should not be located in areas subject to flooding.

2. Facility drainage systems should be adequately engineered to prevent spills from reaching the waters of the state in the event of equipment failure or human error at the facility.

H. The plan, as applicable, should include a complete discussion of conformance with the following guidelines for facility security.

1. Means for restricting unauthorized entry or other security procedures should be provided when the facility is not attended.

2. Master flow and drain valves and any other valves that permit direct outward flow of spilled substances to the waters of the state should be securely locked, tagged, or sealed in the closed position when unattended. Sample cocks, gauge valves, and other small valves are not subject to this requirement.

3. The starter control on all pumps with discharge piping open to the waters of the state should be locked in the "off" position, or accessible only to authorized personnel when in nonoperating or nonstandby status.

4. The loading/unloading connections of pipelines should be securely capped or blank-flanged when not in service or standby service. This security practice should also apply to pipelines that are emptied either by draining or by inert gas pressure.

5. Facility lighting should be commensurate with the type and location of the facility and should provide for the following: (These provisions may not apply to oil and gas production sites.)

a. discovery of spills occurring during hours of darkness, both by operating personnel and by nonoperating personnel (the general public, local police, etc.); and

b. prevention of spills that may result through acts of vandalism.

I. Personnel training and spill prevention procedures should be employed, and brief discussions of the following should be included in the plan.

1. Operators are responsible for properly instructing the appropriate personnel in the operation and maintenance of equipment to prevent or contain spills of substances that are subject to this Chapter's provisions, and all applicable spill control rules and regulations associated with substances present on the facility site that are subject to this Chapter's provisions.

2. Each facility should have a designated person who is accountable for spill prevention who reports to line management.

3. Operators should schedule and conduct spill prevention briefings for their operating personnel and appropriate contractors at intervals frequent enough to assure adequate understanding of the plan for that facility. Such briefings should highlight and describe known spill events or failures, malfunctioning components, and recently developed precautionary measures.

J. Inspections and Records. The plan shall provide for inspections required by this Chapter. Inspections shall be in accordance with written procedures developed for the facility by the operator. These written procedures shall be part of the plan. Inspection records shall be signed or initialed by the inspector, appropriate supervisor or the facility designee (LAC 33:IX.303.H), and shall be retained for a minimum of three years.

K. Verification by the Department. Facilities at which this Chapter applies may be inspected by an authorized representative of the department to assure implementation and adequacy of the plan. Such inspections shall be covered by the conditions provided for in LAC 33:IX.311.I of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1780 (August 2010).

Chapter 11. Surface Water Quality Standards

§1101. Introduction

A. The purpose of this Chapter is to establish surface water quality standards which will:

1. provide for the protection and preservation of the abundant natural resources of Louisiana's many and varied aquatic ecosystems;

2. protect the public health and welfare that might otherwise be threatened by degradation of water quality;

3. protect or enhance the quality of public waters for designated uses; and

4. serve the objectives of the Louisiana Water Control Law and Federal Clean Water Act (hereafter referred to as the Clean Water Act).

B. The water quality standards provided in this Chapter are provisions of Louisiana state regulations and consist of:

1. policy statements pertinent to water quality that are necessary to achieve the objectives of the standards;

2. designated uses for which waters of the state are to be protected; and

3. criteria which specify general and numerical limitations for various water quality parameters that are required for designated water uses.

C. The water quality standards described in this Chapter are applicable to surface waters of the state and are utilized through the wasteload allocation and permit processes, to develop effluent limitations for point source discharges to surface waters of the state. They can also form the basis for implementing the best management practices for control of nonpoint sources of water pollution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 33:826 (May 2007).

§1103. Authorization

A. Pursuant to the specific authorization provided for in Section 2074.B(1) of the Louisiana Water Control Law (R.S. 30:2071-2078) and in conformity with Section 303(c) of the Clean Water Act (P.L. 92-500 as amended) and 48 FR 51405, November 8, 1983, the state of Louisiana has established these surface water quality standards to prohibit, control, or abate water pollution in state waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989).

§1105. Definitions

Acute Toxicity—any lethal or deleterious effect on representative sensitive organisms that results from a single dose or exposure of a chemical or mixture of chemicals within a short period of time, usually less than 96 hours.

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

Ambient Toxicity—the effect measured by a toxicity test on a sample collected from a water body.

Artificial Heat—heat derived from unnatural sources, such as power plants and other industrial cooling processes.

Background Condition—a concentration of a substance in a particular environment that is indicative of minimal influence by human (anthropogenic) sources.

Biological and Aquatic Community Integrity—the condition of the aquatic community inhabiting a specified habitat as measured by community structure and function.

Bottomland Hardwood Swamps—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal conditions do support, bottomland hardwood vegetation. These ecosystems are commonly found wherever streams or rivers occasionally cause flooding beyond their channel confines. They are deciduous forested wetlands, made up of different species of gum (*Nyssa* spp.), oak (*Quercus* spp.), dwarf palmetto (*Sabal minor*), and bald cypress (*Taxodium distichum*), and other species. These swamps cannot tolerate continuous flooding; typically areas are flooded two to six months per year.

Brackish Marshes—those areas inundated or saturated by surface water or groundwater of moderate salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, brackish emergent vegetation. Typical vegetation includes bulltongue (*Sagittaria* spp.), wild millet (*Echinochloa walteri*), bullwhip (*Scirpus califomicus*), sawgrass (*Cladium jamaicense*), wiregrass *(Spartina patens)*, three-cornered grass *(Scirpus olneyi)*, and widgeongrass *(Ruppia maritima)*. *Brackish marshes* are also characterized by interstitial water salinity that normally ranges between 3 and 15 parts per thousand (ppt) or practical salinity units (psu).

Brackish Water—surface water (creeks, bayous, rivers, lakes, estuaries) having an average salinity of 2 parts per thousand or greater and less than 10 parts per thousand; does not apply to wetland interstitial salinity regime.

Chronic Toxicity—toxicity that, after long-term exposure, exerts sublethal negative effects on, or is lethal to, representative, sensitive organisms.

Clean Techniques—an integrated system of sample collection and laboratory analytical procedures designed to detect concentrations of trace metals below criteria levels and eliminate or minimize inadvertent sample contamination that can occur during traditional sampling practices.

Cypress-Tupelo Swamps—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, cypress-tupelo vegetation. Typical vegetation includes water tupelo (*Nyssa Sylvatica* var. *aquatica*), bald cypress (*Taxodium distichum*), red maple (*Acer rubrum*), buttonbush (*Cephalanthus occidentalis*), and common wax myrtle

(*Myrica cerifera*). *Cypress-tupelo swamps* can tolerate continuously flooded conditions and are divided into two subtypes: continuously flooded and seasonally flooded. Continuously flooded swamps are those areas that have standing water present all year round. They range from forests with a closed canopy to open canopy conditions with understory freshwater emergent wetland vegetation. Seasonally flooded swamps are those areas that are typically flooded for more than six months per year. They typically have a closed canopy that limits understory vegetation.

Designated Use—a use of the waters of the state as established by the water quality standards provided in LAC 33:IX.1111. These uses include, but are not limited to, primary and secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters.

Diffuser—a device or defined technology that provides for the rapid and efficient mixing of wastewater effluents with the receiving water so that toxic conditions and other impacts in the vicinity of the discharge are minimized.

Dissolved Oxygen—the amount of oxygen dissolved in water, commonly expressed as a concentration in terms of milligrams per liter (mg/L).

Drinking Water Supply—a surface or underground raw water source which, after conventional treatment, will provide safe, clear, potable, and aesthetically pleasing water for uses which include, but are not limited to, human consumption, food processing and cooking, and inclusion as a liquid ingredient in foods and beverages.

Ecoregion—a relatively homogeneous area of similar ecological characteristics such as climate, land surface form, soils, potential natural vegetation, land use, hydrology, and other ecologically relevant variables.

Effluent—wastewater discharged to the waters of the state.

Effluent Limitation—any applicable state or federal quality or quantity limitation that imposes any restriction or prohibition on quantities, discharge rates, and concentrations of pollutants discharged into the waters of the state.

Estuary—an area where freshwater systems and saltwater systems interact. Such areas can extend from coastal areas into inland rivers and streams as far as the limit of tidal influence or as far as the saltwater wedge reaches. Estuarine salinities are variable and influenced by physical (i.e., tide, sedimentation, precipitation), chemical (i.e., variable salinities), and biological (i.e., vegetation, faunal populations) factors.

Excepted Use—a water body classification reflecting natural conditions and/or physical limitations that preclude the water body from meeting its designated use(s). Such classifications include, but are not limited to, man-made waters, naturally dystrophic waters, and intermittent streams.

Existing Use—those uses actually attained in the water body on or after November 28, 1975. They may or may not be designated uses.

Fecal Coliform—a gram negative, non-spore-forming, rod-shaped bacteria found in the intestinal tract of warm-blooded animals.

Forested Wetlands—a category of wetlands that includes *bottomland hardwood swamps*, *cypress-tupelo swamps*, and *oligotrophic seasonally flooded pine forests* as defined in this Section.

Fresh Warmwater Biota—aquatic life species whose populations typically inhabit waters with warm temperatures (seasonal averages above 20°C, 68°F) and low salinities (less than 2 parts per thousand), including, but not limited to, black basses and freshwater sunfish and catfish and characteristic freshwater aquatic invertebrates and wildlife.

Fresh Water—surface water (creeks, bayous, rivers, lakes) having an average salinity of less than 2 parts per thousand; does not apply to wetland interstitial salinity regime.

Freshwater Emergent Wetlands (including *freshwater marshes*)—those areas inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, freshwater emergent vegetation. Typical vegetation includes cattail (*Typha angustifolia*), bulltongue (*Sagittaria* spp.), maiden cane (*Panicum hemitomon*), water hyacinth (*Eichomia crassipes*), pickerelweed (*Ponterderia cordata*), alligatorweed (*Altemanthera philoxeroides*), and *Hydrocotyl* spp. *Freshwater emergent wetlands* also are characterized by interstitial water salinity that is normally less than 2 ppt or psu. There are two subtypes of *freshwater emergent wetlands*: floating and attached. Floating wetlands are those areas where the wetland surface substrate is detached and is floating above the underlying deltaic plain (also called "buoyant" and "flotant"). Attached wetlands are those areas where the vegetation is attached to the wetland surface and is contiguous with the underlying wetland substrate and can be submerged or emergent.

g/L—grams per liter.

Harmonic Mean Flow—a statistical value used to calculate permit limits where 7Q10 flow is not appropriate. This calculation is intended for positive numbers and non-zero values, thereby, precluding the use of negative flow values. The formula is as follows:

$$\frac{1}{H} = \frac{1}{n} \cdot \sum_{n} \frac{1}{x_i}$$

where:

H = harmonic mean
n = number of samples
x = actual samples

Intermittent Streams—streams that provide water flow continuously during some seasons of the year but little or no flow during the drier times of the year.

LC50—the numerical limit or concentration of a test material that is lethal to 50 percent of the exposed aquatic organisms within a specified period of time.

Man-Made Water Body—a body of water that has been anthropogenically created or altered and is used primarily for drainage, conveyance, or retention of water for purposes of irrigation, transportation, sanitation, flood relief, water diversion, or natural resource extraction. The physical and hydrological characteristics of man-made water bodies are not conducive to the establishment of a balanced population of aquatic biota or to the full support of recreational activities.

Marine Water—of, relating to, or found in surface waters with average salinities greater than or equal to 10 parts per thousand; does not apply to wetland interstitial salinity regime.

µg/L—micrograms per liter.

mg/L—milligrams per liter.

Naturally Dystrophic Waters—waters which are stained with organic material and which are low in dissolved oxygen because of natural conditions.

ng/L—nanograms per liter.

Non-Forested Wetlands—a category of wetlands that includes *freshwater emergent wetlands*, *brackish marshes*, and *salt (saline) marshes* as defined in this Section.

Nonpoint Source—a diffuse source of water pollution that does not discharge through a point source, but instead, flows freely across exposed natural or man-made surfaces such as agricultural or urban runoff and runoff from construction, mining, or silviculture activities that are not regulated as point sources.

Oligotrophic Seasonally Flooded Pine Forests—palustrine, seasonally saturated pine communities on hydric soils that may become quite dry for part of the year and generally occur in flat or nearly flat areas not associated with a river or stream system. They are usually dominated by loblolly pine (*Pinus taeda*). These pine forests are seasonally flooded and receive very low nutrient inputs. Because of their oligotrophic nature, these forests are characterized by unique understory vegetation communities that may include insectivorous plants.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state, commissions, and interstate bodies.

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

Primary Contact Recreation—any recreational or other water contact use involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

Process Heat—heat derived from unnatural sources such as power plants and other industrial cooling processes.

Receiving Waters—the waters of the state into which an effluent is, or may be, discharged.

Salt (*Saline*) *Marshes*—those areas that are inundated or saturated by surface water or groundwater of salinity characteristic of nearshore Gulf of Mexico ambient water at a frequency and duration sufficient to support, and that under normal circumstances do support, saline emergent vegetation. Typical vegetation includes oystergrass (*Spartina alterniflora*), glasswort (*Salicomia* spp.), black rush (*Juncus roemerianus*), saltwort (*Batis maritima*), black mangrove (*Avicennia germinans*), and salt grass (*Distichlis spicata*). *Salt marshes* are also characterized by interstitial water salinity that normally exceeds 16 ppt or psu.

Secondary Contact Recreation—any recreational or other water contact use in which body contact with the water is either incidental or accidental and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

7Q10 Flow—the minimum average stream flow for seven consecutive days with a recurrence interval of once every 10 years.

Surface Water—all lakes, bays, rivers, streams, springs, ponds, impounding reservoirs, wetlands, swamps, marshes, water sources, drainage systems, and other surface waters, natural or artificial, public or private, within the state or under its jurisdiction that are not a part of a treatment system allowed by state law, regulation, or permit.

Total Dissolved Solids (TDS)—the amount of solid material dissolved in water, commonly expressed as a concentration in terms of mg/L.

Total Suspended Solids (TSS)—the amount of solid material suspended in water, commonly expressed as a concentration in terms of mg/L.

Toxic Substances—elements, compounds, or mixtures that at sufficient exposure levels induce deleterious acute or chronic physiological effects on an organism.

Use Attainability Analysis (UAA)—a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated water uses in a water body. Recommendations for the revision of the water quality standards may be based upon a *use attainability analysis.*

Wastewater—liquid waste resulting from commercial, municipal, private, or industrial processes. Wastewater includes, but is not limited to, cooling and condensing waters, sanitary sewage, industrial waste, and contaminated rainwater runoff.

Water Body Exception Classification—a water body classification indicating natural conditions and/or physical limitations that preclude the water body from meeting water quality criteria. Classifications include, but are not limited to, man-made water bodies, naturally dystrophic waters, and intermittent streams.

Water Pollution—the introduction into the waters of the state by any means, including dredge-and-fill operations, of any substance in a concentration that tends to degrade the chemical, physical, biological, or radiological integrity of such waters, including, but not limited to, the discharge of brine from salt domes that are located on the coastline of Louisiana and the Gulf of Mexico into any waters off said coastline and extending there from 3 miles into the Gulf of Mexico.

Water Quality Standard—a definite numerical criterion value or general criterion statement or policy statement promulgated by the administrative authority to enhance or maintain water quality and to provide for, and fully protect, the designated uses of the waters of the state.

Waters of the State (or State Waters)—all surface and underground waters and watercourses within the state of Louisiana, whether natural or man-made, including but not limited to, all rivers, streams, lakes, wetlands, and groundwaters, within the confines of the state, and all bordering waters of the Gulf of Mexico.

Wetlands—those areas that have one or more of the following attributes: support hydrophytic (water tolerant) vegetation during most of the year; contain predominately undrained hydric (water saturated) soils; and/or are periodically inundated or saturated by surface water or groundwater.

Whole Effluent Toxicity—the total toxic effect of an effluent measured directly with a toxicity test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007), LR 33:827 (May 2007), LR 35:445 (March 2009).

§1107. Enforcement

A. The standards provided in this Chapter are official regulations of the state, and any person who discharges pollutants into the waters of the state in such quantities as to cause these standards to be violated shall be subject to the enforcement procedures of the state as specified in R.S. 30:2025.

B. Since aquatic systems receive organic and inorganic materials from natural and man-made sources and receive physical inputs from natural and man-made sources, due allowances will be made for situations where low dissolved oxygen concentrations or other water quality conditions attributable to natural sources are at variance with the standards. To allow for such situations, the numerical criteria will not be applied below the 7Q10 or other appropriate critical flow as defined in LAC 33:IX.1115.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994).

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

A. Antidegradation Policy

1. State policy is that all waters of the state, including interstate, intrastate, and coastal waters, and any portions thereof, whose existing quality exceeds the specifications of the approved water quality standards or otherwise supports an unusual abundance and diversity of fish and wildlife resources, such as waters of national and state parks and refuges, will be maintained at their existing high quality. The state may choose to allow lower water quality in waters that exceed the standards to accommodate justifiable economic and/or social development in the areas in which the waters are located, but not to the extent of violating the established water quality standards. Appropriate use attainability analyses will be required before any lowering of water quality will be allowed. No such changes, however, will be allowed if they interfere with or become injurious to the existing water uses. No lowering of water quality will be allowed in waters where standards for the designated water uses are not currently being attained.

2. The administrative authority will not approve any wastewater discharge or certify any activity for federal permit that would impair water quality or use of state waters. Waste discharges must comply with applicable state and federal laws for the attainment of water quality goals. Any new, existing, or expanded point source or nonpoint source discharging into state waters, including any land clearing which is the subject of a federal permit application, will be required to provide the necessary level of waste treatment to protect state waters as determined by the administrative authority. Further, the highest statutory and regulatory requirements shall be achieved for all existing point sources and best management practices (BMPs) for nonpoint sources. Additionally, no degradation shall be allowed in high-quality waters that constitute outstanding natural resources, such as waters in the Louisiana Natural and

Scenic Rivers System or waters of ecological significance as designated by the department. Those water bodies presently designated as outstanding natural resources are listed in LAC 33:IX.1123.

3. An implementation plan for this antidegradation policy is provided in LAC 33:IX.1119.

B. Water Use

1. It is the policy of the state of Louisiana that all state waters should be protected for recreational uses and for the preservation and propagation of desirable species of aquatic biota and indigenous species of wildlife. Use and value of water for public water supplies, agriculture, industry, and other purposes, as well as navigation, shall also be considered in setting standards. The most stringent criteria specified for each parameter shall be applicable where waters are classified for multiple uses.

2. In applying this policy, the terms *recreational uses* and *desirable species of aquatic biota* will be given common sense applications. Recreational uses will be classified as either *primary contact* or *secondary contact*. *Desirable species of aquatic biota* refers to a diverse and naturally occurring range of aquatic biota and not to species that exist in the area in question in disproportionate numbers as a result of wastewater discharges. Desirable species of fish, shellfish and other invertebrates, wildlife, and other aquatic biota will be specified as *fresh warmwater* or *marine water* species. All future designations of water uses and their associated criteria must, at a minimum, adhere to these classifications, except as provided in LAC 33:IX.1109.B.3 and C.

3. Designated uses which are not existing uses may be removed from water bodies if it is demonstrated through a use attainability analysis and the administrative authority determines that the designated use is not feasible because of one or more of the following reasons:

a. naturally occurring pollutant concentrations prevent the attainment of the use;

b. natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating water conservation requirements to enable uses to be met;

c. human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;

d. dams, diversions, or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use;

e. physical conditions related to the natural features of the water body, unrelated to water quality, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, preclude attainment of aquatic life protection uses; or

f. controls more stringent than those required by Sections 301(b) and 306 of the Clean Water Act would result in substantial and widespread economic and social impact.

C. Water Body Exception Classification. Some water bodies may qualify for a water body exception classification. This classification will be made on a case-by-case basis. Whenever data indicate that a water body exception classification is warranted, the department will recommend the exception to the administrative authority for approval. In all cases where exceptions are proposed, the concurrence of the Water Quality Protection Division Director of the EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. The general criteria of these standards shall apply to all water bodies classified as a water body exception except where a particular water body is specifically exempted. A use attainability analysis may be conducted to gather data necessary to justify a water body exception classification. If such a classification is justified, applicable water uses and water quality criteria will be established. Exceptions are allowed for the following three categories of water bodies.

1. Intermittent Streams

a. Only those streams which have seasonal no-flow conditions or water levels that preclude primary contact recreation and the propagation of desirable species of fish and wildlife will be considered for classification as intermittent. The general criteria of these standards shall apply to all water bodies classified as intermittent streams except where a particular stream is specifically exempted.

b. An intermittent stream is defined as a water body in which natural conditions of flow, width, and depth preclude primary contact recreational water uses and the propagation of a balanced population of aquatic biota. Because of one or more of these conditions, such streams provide only an ephemeral, aquatic habitat which is not conducive to the establishment of a balanced population of aquatic biota or to recreational activities. This definition does not include those water bodies that contain enduring pools which support recreational uses and desirable species of aquatic biota, or water bodies which are subject to tidal effects and may contain standing water with no flow during periods of slack tide.

c. For a stream to be considered for classification as intermittent, the stream must lack sufficient drainage area to maintain a perennial flow. The no-flow condition must be natural and not a result of human activities. The no-flow condition of intermittent streams is generally characterized by dry stream reaches and shallow isolated pools during summer dry weather conditions; however, the water body may exhibit flow or contain deeper pools for short periods after rainfall.

d. No stream may be classified as intermittent without the approval of both the administrative authority and the EPA. A use attainability analysis may be conducted to

gather additional water body characterization data necessary to justify an intermittent stream classification. If such a classification is justified, seasonal uses and criteria may be established.

e. A wastewater discharge may be proposed into an approved, designated intermittent stream only if the discharge will not by itself or in conjunction with other discharges cause impairment of the applicable designated uses nor cause exceedance of any applicable general and site-specific criteria in the receiving water body, as determined in the exception approval process, nor cause exceedance of any applicable general and site-specific criteria in LAC 33:IX.1113 and 1123 in any water body which receives water from the intermittent stream.

2. Man-Made Water Bodies

a. A man-made water body is defined as a ditch, canal or channelized stream created specifically and used primarily for drainage or conveyance of water. Some natural streams have been channelized to such an extent that conveyance of water is the principal use, usually precluding reasonable primary contact recreation and balanced fish and wildlife propagation. Such natural, channelized streams may be considered for classification as man-made water bodies. The general criteria provided in LAC 33:IX.1113.B shall apply to all water bodies classified as man-made water bodies except where a particular water body is specifically exempted.

b. For a water body to be considered for this excepted water use classification, its principal use must be drainage or conveyance of water. In addition, the water body must not be used as a source of public water supply. Some man-made water bodies that produce new aquatic habitat and subsequently are populated by desirable aquatic species and/or that have some water contact recreational use may, on a case-by-case basis, be considered under this policy. However, the physical characteristics of man-made water bodies that may fall under this exception are not conducive to the establishment of a balanced population of aquatic biota or to the full support of recreational activities.

c. No stream may be classified as man-made without the approval of both the administrative authority and the EPA. A use attainability analysis may be conducted to gather data to justify a man-made water body classification. If the man-made classification is justified, revised water quality criteria and uses, if applicable, will be established.

d. A wastewater discharge may be proposed into an approved, designated man-made water body only if the discharge will not by itself or in conjunction with other discharges cause impairment of the applicable designated uses nor cause exceedance of any applicable general and site-specific criteria in the receiving water body, as determined in the exception approval process, nor cause exceedance of any applicable general and site-specific criteria in LAC 33:IX.1113 and 1123 in any water body which receives water from the man-made water body.

3. Naturally Dystrophic Waters. *Naturally dystrophic waters* are defined in LAC 33:IX.1105. Water bodies shall be designated as *naturally dystrophic waters* and assigned appropriate water quality criteria according to the procedure in the department's current Water Quality Management Plan/Continuing Planning Process.

D. Compliance Schedules and Variances

1. Upon permit issuance, modification, or renewal, compliance schedules may be incorporated into a permit to allow a permittee adequate time to make treatment facility modifications necessary to comply with water quality-based permit limitations determined to be necessary to implement new or revised water quality standards. Compliance shall be achieved at the earliest practicable time. The department will establish interim conditions which may consist of, but are not limited to, compliance schedules, monitoring requirements, temporary limits, and milestone dates so as to measure progress toward final project completion (e.g., design completion, construction start, construction completion, date of compliance).

2. A variance from statewide criteria may be allowed in certain cases where the appropriateness of the criteria is questionable. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance shall be valid for no more than three years. Any person may request that the department grant a variance. A variance may be granted only after appropriate public participation and EPA review and approval. Variances from criteria will be allowed for anticipated nonattainment of water quality standards due to one or more of the reasons listed in LAC 33:IX.1109.B.3. Other reasons for approval of a variance may be considered on a case-by-case basis.

E. Short-Term Activity Authorization. The administrative authority may exempt from water quality standards certain short-term activities that the state determines are necessary to accommodate activities, emergencies, or to protect the public health and welfare. Such activities shall not cause long-term or permanent impact on designated water uses. These activities may include, but are not limited to, mosquito abatement projects, algae and weed control projects, and fish eradication projects. No short-term activity authorization shall supersede any applicable state or federal law or regulation including permitting process or the terms or conditions of any permit.

F. Errors. Errors resulting from inadequate or erroneous data and human or clerical errors will be subject to correction by the state, and the discovery of such errors does not render the remaining or unaffected standards invalid.

G. Severability. If any provisions of these standards or the application of any provision of these standards to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of the standards shall not be affected thereby.

H. Water Quality Standards Revision Process

1. It is the position of the state of Louisiana that the standards contained herein are those that are reasonable on the basis of the actual or potential quality of the state's waters, present and future water uses, and the best practicable wastewater treatment under any conditions. However, standards are not fixed for all time, but are subject to future revision. The nature of future revisions of these standards will be strongly influenced by many factors. Among these are the following.

a. As a downstream or bordering state in all cases involving interstate streams, Louisiana's standards will be affected by the quality of water received from its upstream and neighboring states.

b. Because it is the state farthest downstream, Louisiana's water quality will be affected by mean low flows when interstate rivers and tributaries become subject to flow regulation and diversion projects.

c. Changes in technology or natural conditions, or the availability of new data, may require a revision of numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

d. Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

2. The state shall hold public hearings at least once every three years to review applicable water quality standards and, as appropriate, modify and adopt standards. The revised standards will be reviewed in accordance with the state Administrative Procedure Act (R.S. 49:950 et seq.) and appropriate EPA procedures.

I. Sample Collection and Analytical Procedures. Procedures for collecting and analyzing samples to be used to determine whether the standards have been attained shall be subject to the following requirements as well as those specified in the department's Quality Assurance (QA) Plan for water monitoring and analysis.

1. Samples will be obtained at a depth or depths representative of the average water quality at the sampling station in question.

2. Samples will be collected from sampling locations as necessary to assess attainment of standards.

3. Collection and preservation of samples will be in accordance with accepted practices as specified in the department's QA Plan.

4. Numerical values of the various parameters will typically be determined by analytical procedures as specified in the QA Plan.

J. Wetlands

1. *Wetlands*, as defined in LAC 33:IX.1105, are a valuable resource to the state of Louisiana. Because of the state's natural low elevations, extensive riverine and riparian environments, and the presence of the Mississippi River delta, Louisiana has a large and diverse amount of wetland habitat. Specific values of Louisiana wetlands include commercial, recreational, and cultural uses. In addition, Louisiana wetlands provide important biological and physiochemical functions that include, but are not limited to, buffering against hurricanes and storms, holding excess floodwaters during high rainfall or high tides, recharging groundwater aquifers used for drinking water and irrigation, and improving water quality by filtering pollutants and taking up nutrients.

2. There are two basic types of Louisiana wetlands: forested wetlands and non-forested, or marsh, wetlands. Forested wetlands include bottomland hardwood swamps, continuously flooded cypress-tupelo swamps, seasonally flooded cypress-tupelo swamps, and oligotrophic seasonally flooded pine forests. Non-forested or marsh wetlands include floating freshwater emergent wetlands, attached freshwater emergent wetlands, brackish marshes, and salt (saline) marshes. Each of these wetland types are defined in LAC 33:IX.1105.

3. Wetlands approved by the administrative authority for wastewater assimilation projects pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards, are assigned the following designated uses: secondary contact recreation and fish and wildlife propagation.

4. Applicable Criteria. Wetlands provide several values and functions that necessitate water quality criteria protective primarily of vegetative productivity. Additionally, wetlands can periodically become anoxic or anaerobic, or lack water altogether. Therefore, the following criteria are applicable to wetlands approved by the administrative authority for wastewater assimilation projects pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

a. A numerical dissolved oxygen criterion is not necessary to protect the beneficial use of fish and wildlife propagation.

b. The general criteria found in LAC 33:IX.1113.B, except for LAC 33:IX.1113.B.3 and 9, apply.

c. Numerical criteria found in LAC 33:IX.1113.C.4, 5.b, and 6 apply.

d. The biological criteria found in LAC 33:IX.1113.B.12.b apply.

e. Additional or site-specific criteria may be necessary to protect other existing or beneficial uses identified by the administrative authority.

5. A wastewater discharge may be proposed for a wetland of any defined type only if the discharge will not cause impairment of the wetland or exceedance of applicable general or site-specific criteria.

6. Discharges to wetlands approved by the administrative authority for wastewater assimilation projects will only be permitted following procedures pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

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§1111. Water Use Designations

A. There are seven water uses designated for surface waters in Louisiana: agriculture, drinking water supply, fish and wildlife propagation, outstanding natural resource waters, oyster propagation, primary contact recreation, and secondary contact recreation. Designated uses assigned to a subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, outstanding natural resource waters, and/or oyster propagation apply only to the water bodies specifically so designated in LAC 33:IX.1123, Table 3, and not to any tributaries or distributaries to such water bodies. The water use designations are defined as follows.

Agriculture—the use of water for crop spraying, irrigation, livestock watering, poultry operations, and other farm purposes not related to human consumption.

Drinking Water Supply—the use of water for human consumption and general household use. Surface waters designated as drinking water supplies are specifically so designated in LAC 33:IX.1123, Table 3; this designation does not apply to their tributaries or distributaries unless so specified.

Fish and Wildlife Propagation—the use of water for aquatic habitat, food, resting, reproduction, cover, and/or travel corridors for any indigenous wildlife and aquatic life species associated with the aquatic environment. This use also includes the maintenance of water quality at a level that prevents damage to indigenous wildlife and aquatic life species associated with the aquatic environment and contamination of aquatic biota consumed by humans. The use subcategory of *limited aquatic life and wildlife* recognizes the natural variability of aquatic habitats, community requirements, and local environmental conditions. *Limited aquatic life and wildlife* use may be designated for water bodies having habitat that is uniform in structure and morphology, with most of the regionally expected aquatic species absent, low species diversity and richness, and/or a severely imbalanced trophic structure. Aquatic life able to survive and/or propagate in such water bodies includes species tolerant of severe or variable environmental conditions. Water bodies that might qualify for the *limited aquatic life and wildlife* use subcategory include intermittent streams, and naturally dystrophic and man-made water bodies with characteristics including, but not limited to, irreversible hydrologic modification, anthropogenically and irreversibly degraded water quality, uniform channel morphology, lack of channel structure, uniform substrate, lack of riparian structure, and similar characteristics making the available habitat for aquatic life and wildlife suboptimal.

Outstanding Natural Resource Waters—water bodies designated for preservation, protection, reclamation, or enhancement of wilderness, aesthetic qualities, and ecological regimes, such as those designated under the Louisiana Natural and Scenic Rivers System or those designated by the department as waters of ecological significance. Characteristics of *outstanding natural resource waters* include, but are not limited to, highly diverse or unique instream and/or riparian habitat, high species diversity, balanced trophic structure, unique species, or similar qualities. This use designation shall apply only to those water bodies specifically so designated in LAC 33:IX.1123, Table 3 and not to their tributaries or distributaries unless so specified.

Oyster Propagation—the use of water to maintain biological systems that support economically important species of oysters, clams, mussels, or other mollusks so that their productivity is preserved and the health of human consumers of these species is protected. This use designation shall apply only to those water bodies specifically so designated in LAC 33:IX.1123, Table 3 and not to their tributaries or distributaries unless so specified.

Primary Contact Recreation—any recreational or other water contact activity involving prolonged or regular full-body contact with the water and in which the probability of ingesting appreciable amounts of water is considerable. Examples of this type of water use include swimming, skiing, and diving.

Secondary Contact Recreation—any recreational or other water contact activity in which prolonged or regular full-body contact with the water is either incidental or accidental, and the probability of ingesting appreciable amounts of water is minimal. Examples of this type of water use include fishing, wading, and boating.

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:2546 (November 2000), LR 30:1473

(July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:828 (May 2007).

§1113. Criteria

A. Introduction

1. Criteria are elements of the water quality which set general and numerical limitations on the permissible amounts of a substance or other characteristics of state waters. General and numerical criteria are established to promote restoration, maintenance, and protection of state waters. Water quality criteria describe stream uses. A criterion for a substance represents the permissible levels for that substance at which water quality will remain sufficient to support a designated use.

2. Quality criteria for the waters of Louisiana are based on their present and potential uses and the existing water quality indicated by data accumulated through monitoring programs of the department and other state and federal agencies as well as universities and private sources. In some cases, available water quality and flow data are not adequate to establish criteria. Criteria in these cases are established on the basis of the best information available from water bodies which are similar in hydrology, water quality, and physical configuration.

3. General and numerical water quality criteria may be modified to take into account site-specific, local conditions. Whenever data acquired from the sources named in LAC 33:IX.1113.A.2 or other sources indicate that criteria should be modified, the department will develop and recommend revised site-specific criteria. The revised criteria will be submitted to the EPA for approval and promulgated in accordance with established procedures including, but not limited to, those in the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

B. General Criteria. Except where specifically exempted elsewhere in these standards, the general criteria shall apply at all times to the surface waters of the state, including wetlands, whether they are identified in the standards or not. General criteria specifically apply to human activities; they do not apply to naturally occurring conditions.

1. Aesthetics. The waters of the state shall be maintained in an aesthetically attractive condition and shall meet the generally accepted aesthetic qualifications. All waters shall be free from such concentrations of substances attributable to wastewater or other discharges sufficient to:

a. settle to form objectionable deposits;

b. float as debris, scum, oil, or other matter to form nuisances or to negatively impact the aesthetics;

c. result in objectionable color, odor, taste, or turbidity;

d. injure, be toxic, or produce demonstrated adverse physiological or behavioral responses in humans, animals, fish, shellfish, wildlife, or plants; or

e. produce undesirable or nuisance aquatic life.

2. Color. Water color shall not be increased to the extent that it will interfere with present usage or projected future use of the state's water bodies.

a. Waters shall be free from significant increases over natural background color levels.

b. A source of drinking water supply shall not exceed 75 color units on the platinum-cobalt scale.

c. No increases in true or apparent color shall reduce the level of light penetration below that required by desirable indigenous species of aquatic life.

3. Floating, Suspended, and Settleable Solids. There shall be no substances present in concentrations sufficient to produce distinctly visible solids or scum, nor shall there be any formation of long-term bottom deposits of slimes or sludge banks attributable to waste discharges from municipal, industrial, or other sources including agricultural practices, mining, dredging, and the exploration for and production of oil and natural gas. The administrative authority may exempt certain short-term activities permitted under Sections 402 or 404 and certified under Section 401 of the Clean Water Act, such as maintenance dredging of navigable waterways or other short-term activities determined by the state as necessary to accommodate legitimate uses or emergencies or to protect the public health and welfare.

4. Taste and Odor. Taste- and odor- producing substances in the waters of the state shall be limited to concentrations that will not interfere with the production of potable water by conventional water treatment methods or impart unpalatable flavor to food fish, shellfish, and wildlife, or result in offensive odors arising from the waters, or otherwise interfere with the designated water uses.

5. Toxic Substances. No substances shall be present in the waters of the state or the sediments underlying said waters in quantities that alone or in combination will be toxic to human, plant, or animal life or significantly increase health risks due to exposure to the substances or consumption of contaminated fish or other aquatic life. The numerical criteria (LAC 33:IX.1113.C.6) specify allowable concentrations in water for several individual toxic substances to provide protection from the toxic effects of these substances. Requirements for the protection from the toxic effects of other toxic substances not included in the numerical criteria and required under the general criteria are described in LAC 33:IX.1121.

6. Oil and Grease. Free or floating oil or grease shall not be present in quantities large enough to interfere with the designated water uses, nor shall emulsified oils be present in quantities large enough to interfere with the designated uses.

7. Foaming or Frothing Materials. Foaming or frothing materials of a persistent nature are not permitted.

8. Nutrients. The naturally occurring range of nitrogen-phosphorous ratios shall be maintained. This range shall not apply to designated intermittent streams. To establish the appropriate range of ratios and compensate for

natural seasonal fluctuations, the administrative authority will use site-specific studies to establish limits for nutrients. Nutrient concentrations that produce aquatic growth to the extent that it creates a public nuisance or interferes with designated water uses shall not be added to any surface waters.

9. Turbidity

a. Turbidity other than that of natural origin shall not cause substantial visual contrast with the natural appearance of the waters of the state or impair any designated water use. Turbidity shall not significantly exceed background; background is defined as the natural condition of the water. Determination of background will be on a case-by-case basis.

b. As a guideline, maximum turbidity levels, expressed as nephelometric turbidity units (NTU), are established and shall apply for the following named water bodies and major aquatic habitat types of the state:

i. Red, Mermentau, Atchafalaya, Mississippi, and Vermilion Rivers and Bayou Teche—150 NTU;

ii. estuarine lakes, bays, bayous, and canals—50 NTU;

iii. Amite, Pearl, Ouachita, Sabine, Calcasieu, Tangipahoa, Tickfaw, and Tchefuncte rivers—50 NTU;

iv. freshwater lakes, reservoirs, and oxbows—25 NTU;

v. designated scenic streams and outstanding natural resource waters not specifically listed in Clauses B.9.b.i-iv of this Section—25 NTU; and

vi. for other state waters not included in Clauses B.9.b.i-v of this Section, and in water body segments where natural background turbidity exceeds the values specified in these clauses, turbidity in NTU caused by any discharges shall be restricted to the appropriate background value plus 10 percent. This shall not apply to designated intermittent streams.

c. The administrative authority may exempt for short periods certain activities permitted under Sections 402 or 404 and certified under Section 401 of the Clean Water Act, such as maintenance dredging of navigable waterways or other short-term activities that the state determines are necessary to accommodate legitimate uses or emergencies or to protect the public health and welfare.

10. Flow. The natural flow of state waters shall not be altered to such an extent that the basic character and water quality of the ecosystem are adversely affected except in situations where alterations are necessary to protect human life or property. If alterations to the natural flow are deemed necessary, all reasonable steps shall be taken to minimize the adverse impacts of such alterations. Additionally, all reasonable steps shall be taken to mitigate the adverse impacts of unavoidable alterations.

11. Radioactive Materials. Radioactive materials in the surface waters of the state designated for drinking water supply use shall not exceed levels established pursuant to the Federal Safe Drinking Water Act (P.L. 93-523 et seq.).

12. Biological and Aquatic Community Integrity

a. The biological and community structure and function in state waters shall be maintained, protected, and restored except where not attainable and feasible as defined in LAC 33:IX.1109. This is the ideal condition of the aquatic community inhabiting the unimpaired water bodies of a specified habitat and region as measured by community structure and function. The biological integrity will be guided by the fish and wildlife propagation use designated for that particular water body. Fish and wildlife propagation uses are defined in LAC 33:IX.1111.C. The condition of these aquatic communities shall be determined from the measures of physical, chemical, and biological characteristics of each surface water body type, according to its designated use (LAC 33:IX.1123). Reference site conditions will represent naturally attainable conditions. These sites should be the least impacted and most representative of water body types. Such reference sites or segments of water bodies shall be those observed to support the greatest variety and abundance of aquatic life in the region as is expected to be or has been recorded during past surveys in natural settings essentially undisturbed by human impacts, development, or discharges. This condition shall be determined by consistent sampling and reliable measures of selected, indicative communities of animals (i.e., fish, invertebrates, etc.) and/or plants as established by the department and may be used in conjunction with acceptable chemical, physical, and microbial water quality measurements and records as deemed appropriate for this purpose.

b. Assessment of Biological Integrity for Wetlands Approved for Wastewater Assimilation Projects Pursuant to the Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards. Wetland biological integrity will be guided by above-ground wetland vegetative productivity with consideration given to floral diversity. Due to effluent addition, the discharge area of a wetland shall have no more than a 20 percent reduction in the rate of total above-ground wetland productivity over a five-year period as compared to a reference area. The *discharge area* is the area of a wetland directly affected by effluent addition. For each location, the discharge area will be defined by the volume of discharge. The *reference area* is the wetland area that is nearby and similar to the discharge area but that is not affected by effluent addition. Above-ground productivity is a key measurement of overall ecosystem health in the wetlands of south Louisiana. Primary productivity is dependent on a number of factors, and the methods for measurement of above-ground productivity and floral diversity are found in the current Water Quality Management Plan, Volume 3, Section 10, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards.

13. Other Substances and Characteristics. General criteria on other substances and characteristics not specified in this Subsection will be developed as needed.

C. Numerical Criteria. Numerical criteria identified in LAC 33:IX.1123, Table 3, apply to the specified water bodies, and to their tributaries, distributaries, and interconnected streams and water bodies contained in the water management subsegment if they are not specifically named therein, unless unique chemical, physical, and/or biological conditions preclude the attainment of the criteria. In those cases, natural background levels of these conditions may be used to establish site-specific water quality criteria. Those water bodies officially approved and designated by the state and EPA as intermittent streams, man-made water bodies, or naturally dystrophic waters may be excluded from some or all numerical criteria as stated in LAC 33:IX.1109. Although naturally occurring variations in water quality may exceed criteria, water quality conditions attributed to human activities must not exceed criteria when flows are greater than or at critical conditions (as defined in LAC 33:IX.1115.C).

1. pH. The pH shall fall within the range of 6.0 to 9.0 unless natural conditions exceed this range or where otherwise specified in the table (LAC 33:IX.1123). No discharge of wastes shall cause the pH of a water body to vary by more than one pH unit within the specified pH range for the subsegment where the discharge occurs.

2. Chlorides, Sulfates, and Total Dissolved Solids. Numerical criteria for these parameters generally represent the arithmetic mean of existing data from the nearest sampling location plus three standard deviations. For estuarine and coastal marine waters subsegments in Table 3 that have no listed criteria (i.e., designated N/A), criteria will be established on a case-by-case basis using field determination of ambient conditions and the designated uses. For water bodies not specifically listed in the Numerical Criteria and Designated Table, increases over background levels of chlorides, sulfates, and total dissolved solids may be permitted. Such increases will be permitted at the discretion of the department on a case-by-case basis and shall not cause in-stream concentrations to exceed 250, 250, and 500 mg/L for chlorides, sulfates, and total dissolved solids, respectively, except where a use attainability analysis indicates that higher levels will not affect the designated uses. In permitting such increases, the department shall consider their potential effects on resident biota and downstream water bodies in addition to the background conditions. Under no circumstances shall an allowed increase over background conditions cause any numerical criteria to be exceeded in any listed water body or any other general or numerical criteria to be exceeded in either listed or unlisted water bodies.

3. Dissolved Oxygen. The statewide dissolved oxygen (DO) values represent minimum criteria for the types of water specified. (That is, a level below the criterion, as opposed to above the criterion, may indicate potential impairment.) These DO criteria are designed to protect indigenous wildlife and aquatic life species associated with the aquatic environment and shall apply except in those water bodies that have ecoregional-specific or site-specific criteria, or where exempted or excluded elsewhere in these standards. DO criteria for specific state water bodies are contained in LAC 33:IX.1123. Naturally occurring variations below the criterion specified may occur for short periods (for a few hours each day). These variations reflect such natural phenomena as the reduction in photosynthetic activity and oxygen production by plants during hours of darkness. However, no waste discharge or human activity shall lower the DO concentration below the specified minimum.

a. Fresh Water. For fresh water, the DO criterion is 5 mg/L. *Fresh warmwater biota* is defined in LAC 33:IX.1105.

b. Estuarine Waters. For estuarine waters, the DO criterion is 4 mg/L.

c. Coastal Marine Waters (Including Nearshore Gulf of Mexico). For coastal marine waters, the DO criterion is 5 mg/L.

4. Temperature

a. The temperature criteria enumerated in the tables in most cases represent maximum values obtained from existing data. In a few cases, however, a limited number of unusually high temperatures in the range of 35° to 36°C (95-97°F) have been deleted because these values are believed to have been recorded during conditions of unseasonably high temperatures and/or unusually low flows or water levels and therefore do not represent normal maximum temperatures.

b. The criterion consists of two parts, a temperature differential and a maximum temperature. The temperature differential represents the maximum permissible increase above ambient conditions after mixing. No additional process heat shall be added once the ambient temperature reaches the maximum temperature specified in the standards, except under natural conditions such as unusually hot, dry weather, as provided for in LAC 33:IX.1113.C.4.b.i-ii.

i. Fresh Water. The following temperature standards apply to fresh water:

(a). maximum of 2.8°C (5°F) rise above ambient for streams and rivers;

(b). maximum of 1.7°C (3°F) rise above ambient for lakes and reservoirs; and

(c). maximum temperature of 32.2°C (90°F), except where otherwise listed in the tables. Maximum temperature may be varied on a case-by-case basis to allow for the effects of natural conditions such as unusually hot and/or dry weather.

ii. Estuarine and Coastal Waters. The following temperature standards apply to estuarine and coastal waters:

(a). maximum of 2.2°C (4°F) rise above ambient from October through May;

(b). maximum of 1.1°C (2°F) rise above ambient from June through September; and

(c). maximum temperature of 35°C (95°F), except when natural conditions elevate temperature above this level.

c. These temperature criteria shall not apply to privately owned reservoirs or to reservoirs constructed solely for industrial cooling purposes.

5. Bacteria. The applicability of bacterial criteria to a particular stream subsegment depends upon the use designation of that individual stream subsegment. Criteria are established to protect water quality commensurate with the most stringent designated use assigned to the subsegment. Applicable bacterial criteria for the most stringent designated use of each individual Louisiana stream subsegment are listed in the "BAC" column of Table 3, LAC 33:IX.1123. For water quality monitoring and assessment purposes the following criteria shall be used to determine support for the designated uses.

a. Primary Contact Recreation. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 400/100 mL. This primary contact recreation criterion shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

b. Secondary Contact Recreation. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 2,000/100 mL. This secondary contact recreation criterion shall apply year round.

c. Drinking Water Supply. No more than 30 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 2,000/100 mL.

d. Oyster Propagation. The fecal coliform median most probable number (MPN) shall not exceed 14 fecal coliforms per 100 mL, and not more than 10 percent of the samples shall exceed an MPN of 43 per 100 mL for a five-tube decimal dilution test in those portions of the area most probably exposed to fecal contamination during the most unfavorable hydrographic and pollution conditions.

6. Toxic Substances. Numerical criteria for specific toxic substances are listed in Table 1.

a. Numerical criteria for specific toxic substances are mostly derived from the following publications of the Environmental Protection Agency: Water Quality Criteria, 1972 (commonly referred to as the "Blue Book"; Quality Criteria for Water, 1976 (commonly referred to as the "Red Book"; Ambient Water Quality Criteria, 1980 (EPA 440/5-80); Ambient Water Quality Criteria, 1984 (EPA 440/5-84-85); and Quality Criteria for Water, 1986—with updates (commonly referred to as the "Gold Book"). Natural background conditions, however, are also considered. These toxic substances are selected for criteria development because of their known or suspected occurrence in Louisiana waters and potential threat to attainment of designated water uses.

b. The criteria for protection of aquatic life are based on acute and chronic concentrations in fresh and marine waters (see LAC 33:IX.1105) as specified in the EPA criteria documents and are developed primarily for attainment of the fish and wildlife propagation use. Where a specific numerical criterion is not derived in EPA criteria documents, a criterion is developed by applying an appropriate application factor for acute and chronic effects to the lowest LC50 value for a representative Louisiana species. The application of either freshwater toxics criteria or marine toxics criteria in brackish waters will be determined by the average salinity of the water body (see LAC 33:IX.1105). In cases where the average salinity is 2 parts per thousand or greater and less than 10 parts per thousand, the more stringent criteria will be used unless an alternative site-specific criterion is developed (as described in EPA-822-R-02-047, November 2002).

c. Criteria for human health are derived using EPA guidelines, procedures, and equations for water bodies used as drinking water supplies and those not used as drinking water supplies. Criteria applied to water bodies designated as drinking water supplies are developed to protect that water supply for human consumption, including protection against taste and odor effects, to protect it for primary and secondary contact recreation, and to prevent contamination of fish and aquatic life consumed by humans. Criteria for water bodies not designated as drinking water supplies are developed to protect them for primary and secondary contact recreation and to prevent contamination of fish and aquatic life consumed by humans. In some cases, the maximum contaminant levels (MCLs) from the National Drinking Water Regulations, when more restrictive, are used as the criteria. For those toxic substances that are suspected or proven carcinogens, an incremental cancer risk level of 10^{-6} (1 in 1,000,000) is used in deriving criteria, with the exception of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) and hexachlorocyclohexane (lindane, gamma BHC), in which case 10^{-5} (1 in 100,000) is used to derive the criteria.

d. Metals criteria are based on dissolved metals concentrations in ambient waters. Hardness values are averaged from two-year data compilations contained in the latest Louisiana Water Quality Data Summary or other comparable data compilations or reports. Metals criteria have been developed for both fresh and marine waters, but not brackish waters. The application of either freshwater metals criteria or marine metals criteria in brackish waters will be determined by the average salinity of the water body (see LAC 33:IX.1105). In cases where the average salinity is 2 parts per thousand or greater and less than 10 parts per thousand, the more stringent criteria will be used unless an alternative site-specific criterion is developed (as described in EPA-822-R-02-047, November 2002).

e. For purposes of criteria assessment, the most stringent criteria for each toxic substance will apply. For

determination of criteria attainment in ambient water where the criteria are below the detection limit, then no detectable concentrations will be allowed. However, for dilution calculations or water quality modeling used to develop total maximum daily load and wasteload allocations, the assigned criteria, even if below the detection limit, will be used.

f. The use of clean techniques may be required to definitively assess ambient levels of some pollutants (e.g., EPA Method 1669 for metals) or to assess such pollutants when numeric or narrative water quality standards are not being attained. *Clean techniques* are defined in LAC 33:IX.1105.

Table 1
Numerical Criteria for Specific Toxic Substances
[In micrograms per liter (µg/L)]

Toxic Substance	Aquatic Life Protection						Human Health Protection	
	Freshwater		Marine Water		Brackish Water		Drinking Water Supply[1]	Non-Drinking Water Supply[2]
	Acute	Chronic	Acute	Chronic	Acute	Chronic		
Aldrin	3.00	--	1.300	--	1.300	--	$4x10^{-5}$	$4x10^{-5}$
Benzene	2,249	1,125	2,700	1,350	2,249	1,125	0.58	6.59
Benzidine	250	125	--	--	250	125	$8x10^{-5}$	$1.7x10^{-4}$
Bromodichloromethane	--	--	--	--	--	--	0.52	6.884
Bromoform (Tribromomethane)	2,930	1,465	1,790	895	1790	895	3.9	34.7
Carbon Tetrachloride (Tetrachloromethane)	2,730	1,365	15,000	7,500	2,730	1,365	0.22	1.2
Chlordane	2.40	0.0043	0.090	0.0040	.090	0.0040	$1.9x10^{-4}$	$1.9x10^{-4}$
Chloroform (Trichloromethane)	2,890	1,445	8,150	4,075	2,890	1,445	5.3	70
2-Chlorophenol	258	129	--	--	258	129	0.10	126.4
3-Chlorophenol	--	--	--	--	--	--	0.10	--
4-Chlorophenol	383	192	535	268	383	192	0.10	--
Cyanide	45.9	5.4	1.0	--	1.0	--	663.8	12,844
DDE	52.5	10.5000	0.700	0.1400	0.700	0.1400	$1.9x10^{-4}$	$1.9x10^{-4}$
DDT	1.10	0.0010	0.130	0.0010	0.130	0.0010	$1.9x10^{-4}$	$1.9x10^{-4}$
Dibromochloromethane	--	--	--	--	--	--	0.39	5.08
1,2-Dichloroethane (EDC)	11,800	5,900	11,300	5,650	11,300	5,650	0.36	6.8
1,1-Dichloroethylene	1,160	580	22,400	11,200	1,160	580	0.05	0.58
2,4-Dichlorophenoxyacetic acid (2,4-D)	--	--	--	--	--	--	100.00	--
2,3-Dichlorophenol	--	--	--	--	--	--	0.04	--
2,4-Dichlorophenol	202	101	--	--	202	101	0.30	232.6
2,5-Dichlorophenol	--	--	--	--	--	--	0.50	--
2,6-Dichlorophenol	--	--	--	--	--	--	0.20	--
3,4-Dichlorophenol	--	--	--	--	--	--	0.30	--
1,-3-Dichloropropene	606	303	79	39.5	79	39.5	0.33	5.51
Dieldrin	0.2374	0.0557	0.710	0.0019	0.2374	0.0019	$5x10^{-5}$	$5x10^{-5}$
Endosulfan	0.22	0.0560	0.034	0.0087	0.034	0.0087	0.47	0.64
Endrin	0.0864	0.0375	0.037	0.0023	0.037	0.0023	0.26	0.26
Ethylbenzene	3,200	1,600	8,760	4,380	3,200	1,600	247	834
Heptachlor	0.52	0.0038	0.053	0.0036	0.053	0.0036	$7x10^{-5}$	$7x10^{-5}$
Hexachlorobenzene	--	--	--	--	--	--	$2.5x10^{-4}$	$2.5x10^{-4}$
Hexachlorobutadiene[3]	5.1	1.02	1.6	0.32	1.6	0.32	0.09	0.11
Hexachlorocyclohexane (gamma BHC; Lindane)	5.30	0.21	0.160	--	0.160	--	0.11	0.20
Methyl chloride (Chloromethane)	55,000	27,500	27,000	13,500	27,000	13,500	--	--
Methylene chloride (Dichloromethane)	19,300	9,650	25,600	12,800	19,300	9,650	4.4	87
Phenol (Total)[4]	700	350	580	290	580	290	5.00	50.0
Polychlorinated Biphenyls, Total (PCBs)	2.00	0.0140	10.000	0.0300	2.00	0.0140	$5.59x10^{-5}$	$5.61x10^{-5}$
TDE (DDD)	0.03	0.0060	1.250	0.2500	0.03	0.0060	$2.7x10^{-4}$	$2.7x10^{-4}$
2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)[5]	--	--	--	--	--	--	$0.71x10^{-6}$	$0.72x10^{-6}$
1,1,2,2-Tetrachloroethane	932	466	902	451	902	451	0.16	1.8
Tetrachloroethylene	1,290	645	1,020	510	1020	510	0.65	2.5
Toluene	1,270	635	950	475	950	475	6,100	46,200
Toxaphene	0.73	0.0002	0.210	0.0002	0.210	0.0002	$2.4x10^{-4}$	$2.4x10^{-4}$
1,1,1-Trichloroethane	5,280	2,640	3,120	1,560	3,120	1,560	200.0	--
1,1,2-Trichloroethane	1,800	900	--	--	1,800	900	0.56	6.9
Trichloroethylene	3,900	1,950	200	100	200	100	2.8	21
2-(2,4,5-Trichlorophenoxy) propionic acid (2,4,5-TP; Silvex)	--	--	--	--	--	--	10.00	--
Vinyl Chloride (Chloroethylene)	--	--	--	--	--	--	$2.37x10^{-2}$	0.45

[1] Applies to surface water bodies designated as a Drinking Water Supply and also protects for primary and secondary contact recreation and fish consumption.

[2] Applies to surface water bodies not designated as a Drinking Water Supply and protects for primary and secondary contact recreation and fish consumption.

[3] Includes Hexachloro-1,3-butadiene.

[4] Total phenol as measured by the 4-aminoantipyrine (4AAP) method.

[5] Advances in scientific knowledge concerning the toxicity, cancer potency, metabolism, or exposure pathways of toxic pollutants that affect the assumptions on which existing criteria are based may necessitate a revision of dioxin numerical criteria at any time. Such revisions, however, will be accomplished only after proper consideration of designated water uses. Any proposed revision will be consistent with state and federal regulations.

Table 1A
Numerical Criteria for Metals and Inorganics
[In micrograms per liter (µg/L) or parts per billion (ppb)]

Toxic Substance	Aquatic Life Protection						Human Health Protection
	Freshwater		Marine Water		Brackish Water[f]		Drinking Water Supply[a]
	Acute	Chronic	Acute	Chronic	Acute	Chronic	
Arsenic[c]	339.8	150	69.00	36.00	69	36	10.0
Chromium III (Tri)[b,c]	**Acute:** $e^{(0.8190[\ln(hardness)] + 3.6880)} \times 0.316$ **Chronic:** $e^{(0.8190[\ln(hardness)] + 1.5610)} \times 0.86$		515.00	103.00	*	*	50.0
Chromium VI (Hex)[c]	16	11	1,100	50.00	16	11	50.0
Zinc[b,c]	**Acute:** $e^{(0.8473[\ln(hardness)] + 0.8604)} \times 0.978$ **Chronic:** $e^{(0.8473[\ln(hardness)] + 0.7614)} \times 0.986$		90	81	*	*	5,000
Cadmium[b,c]	**Acute:** $e^{(1.1280[\ln(hardness)] - 1.6774)} \times (1.136672-[\ln(hardness)(0.041838)])$ **Chronic:** $e^{(0.7852[\ln(hardness)] - 3.4900)} \times (1.101672-[\ln(hardness)(0.041838)])$		45.35	10.00	*	*	10.0
Copper[b,c]	**Acute:** $e^{(0.9422[\ln(hardness)] - 1.3844)} \times 0.960$ **Chronic:** $e^{(0.8545[\ln(hardness)] - 1.3860)} \times 0.960$		3.63	3.63	*	*	1000
Lead[b,c]	**Acute:** $e^{(1.2730[\ln(hardness)] - 1.4600)} \times (1.46203-[\ln(hardness)(0.145712)])$ **Chronic:** $e^{(1.2730[\ln(hardness)] - 4.7050)} \times (1.46203-[\ln(hardness)(0.145712)])$		209	8.08	*	*	50.0
Mercury[c]	2.04[d]	0.012[e]	2[d]	0.025[e]	2[d]	0.012[e]	2.0
Nickel[b,c]	**Acute:** $e^{(0.8460[\ln(hardness)] + 3.3612)} \times 0.998$ **Chronic:** $e^{(0.8460[\ln(hardness)] + 1.1645)} \times 0.997$		74	8.2	*	*	--

* For hardness-dependent criteria, values are calculated using average hardness (mg/L $CaCO_3$) from two-year data compilations contained in the latest Louisiana Water Quality Data Summary or other comparable data compilations or reports, as described in LAC 33:IX.1113.C.6.

[a] Applies to surface water bodies designated as Drinking Water Supply and also protects for primary and secondary contact recreation and fish consumption.

[b] Hardness-dependent criteria for freshwater are based on the natural logarithm formulas multiplied by conversion factors (CF) for acute and chronic protection. The minimum and maximum hardness values used for criteria calculation are 25 mg/L and 400 mg/L $CaCO_3$, as specified in 40 CFR 131.36.

[c] Freshwater and saltwater metals criteria are expressed in terms of the dissolved metal in the water column. The standard was calculated by multiplying the previous water quality criteria by a conversion factor (CF). The CF represents the EPA-recommended conversion factors found in EPA-822-R-02-047, November 2002.

[d] Conversion factor is from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

[e] It is not appropriate to apply CF to chronic value for mercury because it is based on mercury residues in aquatic organisms rather than toxicity.

[f] According to LAC 33:IX.1113.C.6.d, the most stringent criteria (freshwater or marine) will be used.

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§1115. Application of Standards

A. Background

1. Water quality standards set forth in this Chapter specify concentration limits and other water quality characteristics which, if not exceeded, are expected to result in an aquatic ecosystem suitable for the highest designated uses given. These concentration limits and characteristics (criteria) are derived for individual water segments on the

basis of the designated use or uses of the segment and the natural qualities of the waters.

2. An established water quality value (criterion) represents the general or numerical concentration limit or characteristic of a constituent in a water body segment that is allowed by the state. For some toxic substances, however, criteria provide both acute and chronic limits for the protection of aquatic life in fresh and marine waters, and separate limits for the protection of human health. Criteria apply at all times, except where natural conditions cause them to be exceeded or where specific exemptions in the standards apply. Water uses, pollution sources, natural conditions, and the water quality criteria are all considered in the department's determination of appropriate permit limits for each wastewater discharge to a water body.

3. The difference between an ambient concentration and a water quality criterion value should not be construed as the amount of a constituent that can be discharged. The antidegradation statement requires that all waters which exceed the water quality standards be maintained at their existing high quality, which can be lowered only after appropriate economic and or social justification has been shown. More stringent requirements apply to those waters designated as outstanding natural resource waters.

B. Flow Conditions. Except where indicated elsewhere in this Chapter, the water quality standards specified herein shall apply during all flow conditions greater than the critical flows defined in LAC 33:IX.1115.C. (See LAC 33:IX.1107 and intermittent streams exception category, LAC 33:IX.1109.C.1.)

C. Mixing, Mixing Zone, and Flow Application

1. Mixing zones are those portions of water bodies where effluent waters are dispersed into receiving waters. These are areas where effluents and receiving waters mix and not areas where effluents are treated. Mixing zones are not considered a part of the wastewater treatment process. Mixing must be accomplished as quickly as possible to ensure that the waste is mixed in the smallest practicable area. Outfall structures should be designed to minimize mixing zone size. Mixing zones and fractions of flow apply only to aquatic life criteria. Human health criteria are to be met below the point of discharge after complete mixing.

2. Mixing zones are exempted from general and numerical criteria as specified in LAC 33:IX.1113, except as required in Paragraph C.5 of this Section. The waters outside of mixing zones must meet all the standards for that particular body of water. For toxic substances, this requires meeting chronic aquatic life criteria beginning at the edge of the mixing zone.

3. For aquatic life criteria, small zones of initial dilution will be allowed at each discharge site within a mixing zone. Numeric mixing zones and other receiving water criteria, including both aquatic life acute and chronic water quality criteria, will not apply in these zones of initial dilution. Zones of initial dilution are, however, restricted to the immediate point of discharge and are substantially smaller than the designated mixing zone. They shall not exceed 10 percent of the size of the mixing zone unless conditions specified in Paragraph C.13 of this Section are met. Numeric acute aquatic life criteria apply beginning at the edge of the zone of initial dilution.

4. A mixing zone shall not be allowed to adversely impact a nursery area for aquatic life species, habitat for waterfowl or indigenous wildlife associated with the aquatic environment except as provided in Paragraphs C.2 and 3 of this Section, or any area approved by the state for oyster propagation. Mixing and mixing zones shall not include an existing drinking water supply intake if they would significantly impair the drinking water intake.

5. Mixing zones must be free of the following:

a. floating debris, oil, scum, and other material in concentrations that constitute a nuisance or negatively impact the aesthetics;

b. substances in concentrations which produce undesirable or nuisance aquatic life; and

c. materials in concentrations that will cause acute toxicity to aquatic life. Acute toxicity refers to aquatic life lethality or other deleterious effects caused by the passage through a mixing zone of migrating fish moving up or downstream, or by the passage through a mixing zone of less mobile forms such as zooplankton that drift through the mixing zone. Numerical acute criteria or other acute quantitative limits for toxic substances will be applied in the mixing zone to protect aquatic life from acute toxicity.

6. Applicable limits of mixing zones shall include, but may not be limited to, the linear distances from point source discharges, surface area involvement, and volume of receiving water, and shall take into account other nearby mixing zones. A mixing zone shall not overlap another mixing zone in such a manner, or be so large, as to impair any designated water use in the receiving water body when the water body is considered as a whole.

7. For the application of aquatic life criteria, state water bodies are separated into seven categories as described in Table 2a, and for the application of human health criteria, state water bodies are separated into six categories as described in Table 2b. Mixing zones apply to the implementation of chronic aquatic life criteria, and zones of initial dilution apply to the implementation of acute aquatic life criteria.

a. Chronic aquatic life criteria apply outside the mixing zone, beginning at the edge. The 7Q10 is specified in Table 2a with the intention of limiting 7-day average concentration exceedances to no more than once every 10 years.

b. In perennial, flowing streams (Table 2b, Categories 1 and 2), harmonic mean flow is specified for human health protection against carcinogens, and the 7Q10 is specified for human health protection against non-carcinogens.

c. These specified flows will not be appropriate under some circumstances, and alternative formulations will be required to determine appropriate effluent limitations for equivalent protection of human health and aquatic life uses of the stream. These exceptions may include, but are not limited to, seasonally variable effluent discharge rates, hold and release treatment systems, and effluent dominated sites. The department may approve an alternative which is protective of designated uses, to be determined on a case-by-case basis.

8. For chloride, sulfate, and total dissolved solids, criteria are to be met below the point of discharge after complete mixing. Because criteria are developed over a long-term period, harmonic mean flow will be applied for mixing.

9. Dilution at the edge of the mixing zone and at the edge of the zone of initial dilution for water body categories 5, 6, and 7 (Table 2a) will be determined on a case-by-case basis.

10. Mixing zones shall not preclude the occurrence of continuous water routes of the volume, area, and quality necessary to allow passage of free-swimming and drifting fish and aquatic life with no significant effects on their populations.

11. In those cases, such as wetlands, where unique site-specific conditions or other considerations preclude the application of specific mixing zone requirements, the department may specify definable, geometric limits for mixing zones.

12. In those cases where unique site-specific conditions preclude the application of the flow requirements for Category 2 water bodies as stated in Tables 2a and 2b, the department may on a case-by-case basis approve an alternative flow when determining 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) permitted effluent concentrations. Any flow specifications shall be protective of designated uses.

13. In cases for which a diffuser has been approved or required for use with a wastewater discharge, the department may increase the dilution allowed for the application of acute aquatic life criteria at the edge of the zone of initial dilution. The dilution allowed will be determined by the department after consideration of receiving water body characteristics and diffuser capabilities. No increase in dilution will be allowed at the edge of the mixing zone for the application of chronic aquatic life criteria. Physical constraints of a particular water body may preclude the approval and use of a diffuser. The following conditions must be met with the use of a diffuser:

a. the diffused discharge velocity must be sufficient to provide adequate mixing such that acutely toxic conditions are minimized;

b. the diffused discharge must not adversely impact nursery areas for aquatic life species or indigenous wildlife associated with the aquatic environment except as provided in Paragraphs C.2 and 3 of this Section, propagation areas, zones of passage for aquatic life (see Paragraph C.10 of this Section), wildlife uses, recreational uses, or drinking water supply intakes;

c. the diffused discharge must not cause erosion or scour of the water body banks or bottom;

d. the diffused discharge must be submerged and located in areas with sufficient depth available so that surface water uses of the receiving water are not impaired and the design mixing capabilities of the diffuser are achieved;

e. diffused discharges must not be located in areas where the diffuser may be damaged or impaired by scouring, deposition, or periodic dredging; and

f. diffused discharges must not be located in areas where eddies or whirlpools can cause buildup of effluent concentrations by obstructing or trapping the discharge jet flow.

Table 2a. Water Body Categorization for the Determination of Appropriate Dilution and Mixing Zone Application for Aquatic Life

CATG	Description	Aquatic Life		
		Flow	Fraction of Flow or Radial Distance (feet)	
			ZID[a]	MZ[b]
1	Streams with 7Q10 flow greater than 100 cfs[c]	7Q10	10 cfs or 1/30 of the flow, whichever is greater	100 cfs or 1/3 of the flow, whichever is greater
2	Streams with 7Q10 flow less than or equal to 100 cfs	7Q10	1/10	1
3	Tidal channels with flows greater than 100 cfs	1/3 of the average or typical flow averaged over one tidal cycle irrespective of flow direction	10 cfs or 1/30 of the flow, whichever is greater	100 cfs or 1/3 of the flow, whichever is greater
4	Tidal channels with flows less than or equal to 100 cfs	1/3 of the average or typical flow averaged over one tidal cycle irrespective of flow direction	1/10	1
5	Freshwater lakes and ponds	Not Applicable	25 feet	100 feet
6	Coastal bays and lakes	Not Applicable	50 feet	200 feet

Table 2a. Water Body Categorization for the Determination of Appropriate Dilution and Mixing Zone Application for Aquatic Life				
CATG	Description	Aquatic Life		
		Flow	Fraction of Flow or Radial Distance (feet)	
			ZID[a]	MZ[b]
7	Gulf of Mexico	Not Applicable	100 feet	400 feet

[a]ZID = zone of initial dilution
[b]MZ = mixing zone
[c]cfs = cubic feet per second

Table 2b. Water Body Categorization for the Determination of Flow for Human Health			
CATG	Description	Human Health	
		Flow	
		Noncarcinogens	Carcinogens
1	Streams with 7Q10 flow greater than 100 cfs	7Q10	Harmonic Mean
2	Streams with 7Q10 flow less than or equal to 100 cfs	7Q10	Harmonic Mean
3	Tidal channel	The average or typical flow averaged over one tidal cycle irrespective of flow direction	
4	Freshwater lakes and ponds	Not Applicable	Not Applicable
5	Coastal bays and lakes	Not Applicable	Not Applicable
6	Gulf of Mexico	Not Applicable	Not Applicable

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§1117. References

A. The following references were used in developing LAC 33:IX.1101-1115 or are referred to in those Sections:

1. Chabreck, R.H., and R.G. Linscombe. 1978. Vegetative Type Map of the Louisiana Coastal Marshes. New Orleans: Louisiana Department of Wildlife and Fisheries.

2. Louisiana Department of Environmental Quality. (continuous). Fixed Station Long-Term Ambient Surface Water Quality Network. Baton Rouge: Office of Environmental Compliance.

3. National Academy of Sciences, National Academy of Engineering. 1974. Water Quality Criteria, 1972. Environmental Protection Agency, Ecological Research Series, EPA R3.73:033. Washington, D.C.: U.S. Government Printing Office.

4. U.S. Environmental Protection Agency. 1976. Quality Criteria for Water. Washington, D.C.: EPA.

5. U.S. Environmental Protection Agency. 1983. Water Quality Standards Handbook. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

6. U.S. Environmental Protection Agency. 1983. Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analyses. WH-585. Washington, D.C.: Office of Water Regulations and Standards, EPA.

7. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA Series No. 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

8. U.S. Environmental Protection Agency. 1989. Establishment of Ambient Criteria to Limit Human Exposure to Contaminants in Fish and Shellfish. Guidance Document. Washington, D.C.: Office of Water Regulations and Standards, EPA.

9. U.S. Environmental Protection Agency. (continuous). Ambient Water Quality Criteria. EPA Series No. 440/5-80-84-85, 86. Washington, D.C.: EPA.

10. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

11. U.S. Environmental Protection Agency. December 22, 1992. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance. Federal Register: Vol. 57, No. 246. WH-FRL-4543-9. Washington, D.C.: Office of Science and Technology, EPA.

12. U.S. Environmental Protection Agency. April, 1995. Method 1669: Sampling Ambient Water for Trace Metals At EPA Water Quality Criteria Levels. EPA 821-R-95-034.

13. Webster's II New Riverside University Dictionary, Anne H. Soukhanov, editor. 1988. Houghton Mifflin Company, Boston, MA.

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§1119. Implementation Plan for Antidegradation Policy

A. Summary and Purpose

1. As stated in LAC 33:IX.1109.A of these regulations, the Antidegredation Policy provides a legal framework for the basic maintenance and protection of all designated water uses. It also outlines methods that the state uses to protect state waters from water quality degradation and some of the state and federal rules and regulations that authorize them.

2. This Section explains the specific procedures used by the department as the state's designated water quality management agency to implement the Antidegradation Policy.

B. Implementation of Louisiana's Water Quality Management Process

1. Procedures and methods by which the Antidegradation Policy is implemented are described in several documents produced under the Water Quality Management (WQM) Process ("The Water Quality Standards (WQS)," "The Water Quality Integrated Report," and "The Continuing Planning Process"). These documents are available from the department.

2. WQM is a step-by-step process which involves several interrelated programs that establish controls on the discharge of pollutants and maintain existing water quality, thereby protecting state waters from degradation. That process is summarized below.

a. The state establishes the water quality standards specified in this Chapter to reflect the goals for individual water bodies and provide the legal basis for antidegradation and for water pollution control. This Chapter also defines and designates water uses and criteria to protect them.

b. A series of water quality monitoring activities is conducted annually to provide the physical, chemical and biological data needed to determine the quality of state waters, identify pollution sources and help develop and enforce the water quality standards defined in this Chapter. Monitoring activities include maintaining monthly water quality stations, conducting intensive surveys and special studies, investigating pollution complaints, and assuring compliance of dischargers.

c. Water quality monitoring data and water body conditions are continually assessed to identify problem areas and assist in the development of water quality management plans and standards. The biennial Louisiana Water Quality Integrated Report is the state's principal tool in water quality assessment and identifies areas of water quality degradation.

d. The state's Water Quality Management Plan (WQMP) utilizes discharger data, various land use inventories, and the results of the monitoring and assessment programs to identify priority water quality problems. The WQMP contains the analyses used and management decisions made to control specific pollution sources and recommends control measures to attain the water quality standards. The plan includes provisions for identifying priority WQM basins and segments, allocating point source wasteloads, controlling nonpoint sources, general planning needs, and public participation.

e. A wastewater discharge permit is required for any discharge into state waters with the exception of those noted in LAC 33:IX.301.D and F. Permits based on water quality are developed to specify the wasteload content of the discharge that must not be exceeded to attain water quality standards and protect state waters from degradation. Other control activities include the development of best management practices for nonpoint source controls and water quality certification of federal permits.

f. Enforcement activities of the department help eliminate or ameliorate water quality degradation caused by both permitted and unpermitted discharges. Enforcement actions are directed at dischargers found to be in violation of the Water Control Law or effluent limits detailed in a wastewater permit.

g. The state's Continuing Planning Process (CPP) document describes those administrative, technical, and programmatic processes used by the state to implement its water pollution control program. The document contains detailed descriptions of each phase of implementation, from the planning of monitoring efforts, to the assessment and reporting of resulting data, to the decision-making process for carrying out policy promulgated by the department. To maintain an annual schedule of water quality needs and activities, the department also developed the Water Pollution Control Program Plan consistent with Section 106 of the Clean Water Act.

C. Specific Implementation Procedures for the Antidegradation Policy. The antidegradation policy is implemented by ensuring that for all activities which may impact water quality and are permitted by the state, or for which there must be a permit on which the state comments, consideration is given to requirements of the policy. The basic principle of the policy is that water quality criteria specified in the standards shall not be exceeded and that designated uses will not be adversely impacted.

1. If either the criteria or uses cannot be attained, then a use attainability analysis will be conducted.

2. If such activity will impact water quality by either a point or nonpoint source discharge of pollutants, the state shall ensure that the activity will not interfere with or become injurious to the existing uses. If water quality will be degraded, the state shall ensure that the intergovernmental coordination and public participation provisions of the state's Continuing Planning Process are met.

3. If the public has not been informed of the possible lowering of water quality and has had no opportunity to

comment on it, then the state shall ensure that the public is provided that opportunity. In the case of state or federal wastewater discharge permits, this may be accomplished by including notice of the possible lowering of water quality in the public notice of the permit. If the location and load proposed in the discharge permit has been previously reviewed by the public as part of the water quality management plan, additional public notice is not required. When public notice of the permit is required, the following language will be included.

> "During the preparation of this permit, it has been determined that this discharge will have no adverse impact on the existing uses of the receiving water body. As with any discharge, however, some change in existing water quality may occur."

4. If a wastewater discharge or activity is proposed for an outstanding natural resource water body, as defined by this Chapter, the administrative authority shall not approve that activity if it will cause degradation of these waters. For these purposes, *degradation* is defined as a statistically significant difference at the 90 percent confidence interval from existing physical, chemical, and biological conditions. Existing discharges of treated sanitary wastewater may be allowed if no reasonable alternative discharge location is available or if the discharge existed before the designation as an outstanding natural resource water body.

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§1121. Regulation of Toxic Substances Based on the General Criteria

A. Introduction

1. The water quality standards in this Chapter provide for the protection of human, plant, and animal life from the deleterious effects of toxic substances. The general criteria (LAC 33:IX.1113.B.5), in particular, require that state waters be free from the effects of toxic substances. This requirement is especially applicable to those toxic substances for which no numerical criteria are established.

2. The following methods are developed to protect state waters from the effects of toxic substances as required under the general criteria and where no numerical criteria exist. The methods follow the permitting policies of the Louisiana Water Discharge Permit System (LWDPS). The resulting permit (effluent) limitations imposed on discharges prevent toxic in-stream conditions as required under the general criteria.

B. Effluent Characterization/Toxicity Testing and/or Instream Assessment

1. When determining the need for limits based on water quality, the Office of Environmental Services may identify data needs and request that the permittee submit additional data along with the application. Permits may be placed into three categories:

a. discharges for which adequate data exist;

b. discharges for which some data exist; and

c. discharges for which no water-quality-related data are available.

2. In areas of known ambient toxicity, both specific chemical data and available whole effluent toxicity data representative of the facility's discharge into the receiving water will be reviewed.

3. In general, whole effluent toxicity testing will be required in the permit for discharges where data are insufficient to demonstrate that any discharge does not or will not contribute to ambient toxicity.

a. Tests will be routinely run for the life of the permit on an established schedule dependent upon on the variability of the discharge and on whether effluent toxicity is suspected or unknown.

b. Both acute toxicity and chronic toxicity tests may be required. Test methods found in the following sources or their updated versions should be followed: "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," 4th Edition, EPA/600/4-90/027F, EPA, 1993; "Short-Term Methods for Estimating the Chronic Toxicity of Effluents And Receiving Waters To Freshwater Organisms," 3rd Edition, EPA/600/4-91/002, EPA, 1994; and "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," 2nd Edition, EPA/600/4-91/003, EPA.

i. Acute toxicity tests will be considered for "end-of-pipe" effluent. Dilution water will be receiving water collected at a point upstream of or adequately removed from the discharge point(s).

ii. For chronic toxicity tests of effluent, dilution water will also be receiving stream water collected at a point upstream of or adequately removed from the discharge point(s). In flowing water bodies, one dilution in the series required to calculate the no-observed-effect level (NOEL) will reflect the 7Q10 flow dilution. In some water bodies the 7Q10 flow may not be considered adequate, and a more appropriate low flow will be used for dilution calculations.

iii. Multiple toxicity tests using more than one species of test organisms will normally be required. The following tests and species are considered applicable to and representative of Louisiana waters. Other applicable tests and test species may also be used after approval by the department. In general, some combination of the following tests and species will be required:

(a). for receiving water bodies with salinities less than 2 ‰(2 ppt or 2,000 ppm):

(i). 48-hour *Ceriodaphnia* or *Daphnia pulex* acute survival;

(ii). 48- and 96-hour fathead minnow *(Pimephales promelas)* static renewal acute survival;

(iii). 7-day *Ceriodaphnia* chronic reproduction and survival;

(iv). 7-day fathead minnow chronic survival and teratogenicity;

(v). 7-day fathead minnow chronic growth and survival; and

(vi). 4-day *Selenastrum* chronic growth test;

(b). for receiving water bodies with salinities equal to or greater than 2 ‰ (2 ppt or 2,000 ppm):

(i). 48-hour mysid shrimp acute survival;

(ii). 48- and 96-hour sheepshead minnow *(Cyprinodon variegatus)* static renewal acute survival;

(iii). 48-hour inland silverside *(Menidia beryllina)* static renewal acute survival;

(iv). 7-day mysid shrimp survival, growth, and fecundity;

(v). 7-day sheepshead minnow larval survival and growth; and

(vi). 7-day inland silverside larval survival and growth; and

(c). If a control test reveals upstream ambient water to be toxic, the discharger will redo the toxicity tests using EPA- and department-approved reconstituted water with hardness, alkalinity, pH, and conductivity comparable to the ambient stream for dilution. The department will evaluate the toxicity data if upstream toxicity is indicated.

4. For water bodies whose designated use is as a drinking water supply, the department will calculate the in-stream concentration for all discharged pollutants for which EPA has promulgated a maximum contaminant level (MCL). The permittee will be required to submit to the Office of Environmental Services sufficient effluent characterization data to make these calculations. Where dilution calculations indicate that in-stream concentrations may exceed the MCL requirements at appropriate flow conditions, the permittee may be required to conduct in-stream chemical monitoring or monitoring at the water supply.

5. To protect human health by eliminating chronic exposure to potentially toxic amounts of pollutants from aquatic species consumed by humans, the department will calculate the in-stream concentrations of all applicable pollutants for which EPA has published human health criteria in the Quality Criteria for Water, 1986, EPA 440/5-86-001, or subsequent revisions. The permittee will be required to submit to the Office of Environmental Services sufficient effluent characterization data to make these calculations. For operational considerations, if dilution calculations show that after mixing, a suspected carcinogen would be present in the receiving water body at a concentration associated with a 10^{-6} risk level, in-stream chemical monitoring may be required of the appropriate dischargers. The department will list the water body as a priority water body and develop a wasteload allocation or make other consideration for it.

C. Options for Implementing Whole Effluent Toxicity Permit Requirements. The option or combination of options to be selected by the department from the following will depend on data availability at the time of permit application and on whether toxicity is known or suspected.

1. Option 1. Final whole effluent toxicity limits are included in the permit with an interim schedule for conducting toxicity reduction that begins upon issuance of the permit.

2. Option 2. The permittee will conduct whole effluent toxicity testing with pass/fail criteria that will trigger toxicity reduction efforts. A clause requiring this will be placed in the permit to take effect if the pass/fail criteria are exceeded when any toxic impact exhibited shows a statistically significant difference between the effluent sample and the control. If any toxicity test is failed, an opportunity for retesting will be given. When no toxicity is demonstrated or no toxicity criteria are exceeded, testing may be reduced for the remainder of the term of the permit. If any subsequent testing indicates toxicity, the permittee must revert to the more frequent monitoring schedule.

3. Option 3. No whole effluent toxicity limits are included in the permit. Limits based on MCLs and/or on protecting human health are included, or a schedule for their inclusion is incorporated into the permit.

4. Option 4. No whole effluent toxicity limits are included in the permit.

5. Option 5. A combination of the above four options may be applied.

D. References. The following references were used in developing or were cited in this Section:

1. U.S. Environmental Protection Agency. 1986. Quality Criteria for Water: 1986. EPA 440/5-86-001. Washington, D.C.: U.S. Government Printing Office.

2. U.S. Environmental Protection Agency. 1991. Methods for Aquatic Toxicity Identification Evaluations: Phase I, Toxicity Characterization Procedures. EPA/600/6-91/003. Washington, D.C.: EPA.

3. U.S. Environmental Protection Agency. 1991. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. 2nd Edition. EPA/600/4-91/003.

4. U.S. Environmental Protection Agency. 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA/505/2-90-001.

5. U.S. Environmental Protection Agency. 1993. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. 4th Edition. EPA/600/4-90/027F.

6. U.S. Environmental Protection Agency. 1994. Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. 3rd Edition. EPA/600/4-91/002.

E. Additional Toxicity Testing Guidance. The following references are cited as guidance documents that are used for biomonitoring:

1. U.S. Environmental Protection Agency. 1994. Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates. EPA/600/R-94/024.

2. U.S. Environmental Protection Agency. 1994. Methods for Assessing the Toxicity of Sediment Associated Contaminants with Estuarine and Marine Amphipods. EPA/600/R-94/025.

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§1123. Numerical Criteria and Designated Uses

A. Designated Water Quality Management Basins

Basin Name	Basin Number
Atchafalaya River Basin	01
Barataria Basin	02
Calcasieu River Basin	03
Lake Pontchartrain Basin	04
Mermentau River Basin	05
Vermilion-Teche River Basin	06
Mississippi River Basin	07
Ouachita River Basin	08
Pearl River Basin	09
Red River Basin	10
Sabine River Basin	11
Terrebonne Basin	12

B. Explanation of Water Body Code Number. The water body subsegment number and unique water body identification code are designated as follows:

AABBCC-XXX

where:

AA = Water Quality Management Basin Number
BB = Segment Number
CC = Subsegment Number
XXX = A minimum of three digits Unique Water Body Identification Code (If a Unique Water Body Identification Code is not identified for a particular Subsegment, then all water bodies within that Subsegment have the same designated uses and numerical criteria.)

Example:

090207-5112 = Water Body Subsegment and Identification Code for Morgan Bayou

where:

09 = Pearl River Management Basin
0902 = Segment 0902 of the Pearl River Management Basin
090207 = Subsegment 090207 of Pearl River Management Basin Segment 02
5112 = Four-digit Unique Water Body Identification Code for Morgan Bayou

C. Numerical Criteria Unit Definitions

1. Parameter Abbreviations. The following abbreviations of water quality parameters are used in Table 3 under the subheading "Numerical Criteria."

Abbreviation	Parameter
CL	Chlorides in mg/L
SO_4	Sulfates in mg/L
DO	Dissolved Oxygen in mg/L
pH	Range of pH Units
BAC	Bacterial Criteria (See Below)
°C	Temperature in Degrees Centigrade (°C)
TDS	Total Dissolved Solids in mg/L
N/A	Not Available at Present

2. Bacterial Criteria (BAC)

a. The code numbers associated with the following designated uses are used in Table 3 under the Numerical Criteria subheading "BAC."

Code	Designated Use
1	Primary Contact Recreation
2	Secondary Contact Recreation
3	Drinking Water Supply
4	Oyster Propagation

b. The code number identified under the Numerical Criteria subheading "BAC" in Table 3 represents the most stringent bacterial criteria that apply to each individual subsegment. Where applicable, additional less stringent bacterial criteria also apply, depending on the designated uses of the subsegment. The specified numeric bacterial criteria for each designated use listed in this Paragraph can be found in LAC 33:IX.1113.C.

D. Designated Uses. The following notations for water use designations are used in Table 3 under the subheading "Designated Uses."

Notation	Designated Use
A	Primary Contact Recreation
B	Secondary Contact Recreation
C	Fish and Wildlife Propagation
L	Limited Aquatic Life and Wildlife Use
D	Drinking Water Supply
E	Oyster Propagation
F	Agriculture
G	Outstanding Natural Resource Waters

E. Endnotes. Numbers in brackets, e.g. [1], in Table 3 refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
			Numerical Criteria						
Code	**Stream Description**	**Designated Uses**	**CL**	**SO_4**	**DO**	**pH**	**BAC**	**°C**	**TDS**
Atchafalaya River Basin (01)									
010101	Atchafalaya River Headwaters and Floodplain–From Old River Control Structure to Simmesport; includes Old River Diversion Channel, Lower Red River, Lower Old River	A B C	65	70	5.0	6.5-8.5	1	33	440
010201	Atchafalaya River Mainstem–From Simmesport to Whiskey Bay Pilot Channel at mile 54	A B C	65	70	5.0	6.5-8.5	1	33	440
010301	West Atchafalaya Basin Floodway–From Simmesport to Butte LaRose Bay and Henderson Lake	A B C	65	70	5.0	6.5-8.5	1	33	440
010401	East Atchafalaya Basin and Morganza Floodway South to I-10 Canal	A B C	65	70	5.0	6.5-8.5	1	33	440
010501	Lower Atchafalaya Basin Floodway–From Whiskey Bay Pilot Channel at mile 54 to US-90 bridge in Morgan City; includes Grand Lake and Six-Mile Lake	A B C D	65	70	5.0	6.5-8.5	1	33	440
010502	Intracoastal Waterway (ICWW)–Morgan City-Port Allen Route from Bayou Sorrel Lock to Morgan City	A B C D	65	70	5.0	6.5-8.5	1	33	440
010601	Crow Bayou, Bayou Blue, and Tributaries	A B C	80	50	5.0	6.0-8.5	1	32	350
010701	Bayou Teche–From Berwick to Wax Lake Outlet	A B C D	80	50	5.0	6.0-8.5	1	32	350
010801	Atchafalaya River–From ICWW south of Morgan City to Atchafalaya Bay; includes Sweetwater Lake and Bayou Shaffer	A B C	500	150	5.0	6.5-9.0	1	35	1,000
010802	Wax Lake Outlet–From US-90 bridge to Atchafalaya Bay; includes Wax Lake	A B C	500	150	5.0	6.5-9.0	1	35	1,000
010803	Intracoastal Waterway–From Bayou Boeuf Lock to Bayou Sale; includes Wax Lake Outlet to US-90	A B C	65	70	5.0	6.0-8.5	1	32	440
010901	Atchafalaya Bay and Delta and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Barataria Basin (02)									
020101	Bayou Verret, Bayou Chevreuil, Bayou Citamon, and Grand Bayou	A B C F	65	50	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	430
020102	Bayou Boeuf, Halpin Canal, and Theriot Canal	A B C F	500	150	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,000
020103	Lake Boeuf	A B C	500	150	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,000
020201	Bayou Des Allemands–From Lac Des Allemands to old US-90 (Scenic)	A B C G	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020202	Lac Des Allemands	A B C	600	100	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,320
020301	Bayou Des Allemands–From US-90 to Lake Salvador (Scenic)	A B C G	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
020302	Bayou Gauche	A B C	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020303	Lake Cataouatche and Tributaries	A B C	500	150	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,000
020303-001	Luling Wetland–Forested wetland located 1.8 miles south of US-90 at Luling, east of the Luling wastewater treatment pond, bordered by Cousin Canal to the west and Louisiana Cypress Lumber Canal to the south	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
020304	Lake Salvador	A B C	600	100	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	1,320
020401	Bayou Lafourche–From Donaldsonville to ICWW at Larose	A B C D	70	55	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
020402	Bayou Lafourche–From ICWW at Larose to Yankee Canal (Estuarine)	A B C	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	N/A
020403	Bayou Lafourche–From Yankee Canal and saltwater barrier to Gulf of Mexico (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	32	N/A
020501	Sauls, Avondale, and Main Canals	A B C	65	50	5.0	6.0-8.5	1	32	430
020601	Intracoastal Waterway–From Bayou Villars to Mississippi River (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
020701	Bayou Segnette–From headwaters to Bayou Villars	A B C	600	100	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,320
020801	Intracoastal Waterway–From Larose to Bayou Villars and Bayou Barataria (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	35	N/A
020802	Bayou Barataria and Barataria Waterway–From ICWW to Bayou Rigolettes (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	35	N/A
020901	Bayou Rigolettes and Bayou Perot to Little Lake (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
020902	Little Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020903	Barataria Waterway (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	35	N/A
020904	Wilkinson Canal and Wilkinson Bayou (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
020905	Bayou Moreau (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A

Table 3. Numerical Criteria and Designated Uses

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
020906	Bay Rambo (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
020907	Bay Sansbois, Lake Judge Perez, and Bay De La Cheniere (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
021001	Lake Washington, Bastian Bay, Adams Bay, Scofield Bay, Coquette Bay, Tambour Bay, Spanish Pass, and Bay Jacques (Estuarine)	A B C E	N/A	N/A	4.0	6.5-8.5	4	35	N/A
021101	Barataria Bay; includes Caminada Bay, Hackberry Bay, Bay Batiste, and Bay Long (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
021102	Barataria Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
	Calcasieu River Basin (03)								
030101	Calcasieu River–From headwaters to LA-8	A B C F	65	35	5.0	6.0-8.5	1	32	225
030102	Calcasieu River–From LA-8 to the Rapides-Allen Parish line (Scenic)	A B C F G	65	35	5.0	6.0-8.5	1	32	225
030103	Calcasieu River–From Rapides-Allen Parish line to Marsh Bayou (Scenic) [10]	A B C F G-[10]	65	35	5.0	6.0-8.5	1	32	225
030103-04075	Kinder Ditch–From headwaters of unnamed tributary to confluence with Calcasieu River	B C	65	35	3.0	6.0-8.5	1	32	225
030104	Mill Creek–From headwaters to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030201	Calcasieu River–From Marsh Bayou to saltwater barrier (Scenic) [11]	A B C F G-[11]	350	40	[1]	6.0-8.5	1	32	500
030301	Calcasieu River and Ship Channel–From saltwater barrier to Moss Lake; includes Ship Channel, Coon Island Loop, and Clooney Island Loop (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030302	Lake Charles	A B C	N/A	N/A	5.0	6.0-8.5	1	35	N/A
030303	Prien Lake	A B C	N/A	N/A	5.0	6.0-8.5	1	35	N/A
030304	Moss Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030305	Contraband Bayou (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030306	Bayou Verdine–south of the Houston River Canal to the Calcasieu River (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030401	Calcasieu River–From below Moss Lake to the Gulf of Mexico; includes Ship Channel and Monkey Island Loop (Estuarine)	A B C E	N/A	N/A	4.0	6.0-8.5	4	35	N/A
030402	Calcasieu Lake	A B C E	N/A	N/A	5.0	6.0-8.5	4	32	N/A
030403	Black Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
030501	Whiskey Chitto Creek–From headwaters to southern boundary of Fort Polk Military Reservation	A B C	20	20	5.0	6.0-8.5	1	30	150
030502	Whiskey Chitto Creek–From the southern boundary of Fort Polk Military Reservation to the Calcasieu River (Scenic)	A B C G	20	20	5.0	6.0-8.5	1	30	150
030503	Six Mile Creek–East and West Forks from headwaters to the southern boundary of Fort Polk Military Reservation	A B C	20	20	5.0	6.0-8.5	1	30	150
030504	Six Mile Creek–East and West Forks from the southern boundary of Fort Polk Military Reservation to Whiskey Chitto Creek (Scenic)	A B C G	20	20	5.0	6.0-8.5	1	30	150
030505	Ten Mile Creek–From headwaters to Whiskey Chitto Creek (Scenic)	A B C G	20	20	5.0	6.0-8.5	1	30	150
030506	Bundicks Creek–From headwaters to Bundicks Lake	A B C	20	20	5.0	6.0-8.5	1	30	150
030507	Bundicks Lake	A B C	20	20	5.0	6.0-8.5	1	30	150

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
030508	Bundicks Creek–From Bundicks Lake to Whiskey Chitto Creek	A B C	20	20	5.0	6.0-8.5	1	30	150
030601	Barnes Creek–From headwaters to Little Barnes Creek	B C	60	60	[2]	6.0-8.5	2	30	150
030602	Barnes Creek–From Little Barnes Creek to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030603	Marsh Bayou–From headwaters to Calcasieu River	A B C	60	60	5.0	6.0-8.5	1	32	250
030701	Bayou Serpent	A B C F	250	75	5.0	6.0-8.5	1	32	300
030702	English Bayou–From headwaters to Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	32	300
030801	West Fork Calcasieu River–From confluence with Beckwith Creek and Hickory Branch to mainstem of Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	34	500
030802	Hickory Branch–From headwaters to West Fork Calcasieu River	A B C F	250	75	5.0	6.0-8.5	1	32	500
030803	Beckwith Creek–From headwaters to West Fork Calcasieu River	A B C F	25	25	5.0	6.0-8.5	1	32	100
030804	Little River–From headwaters to West Fork Calcasieu River	A B C	250	75	[3]	6.0-8.5	1	34	500
030805	Indian Bayou–From headwaters to West Fork Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	34	500
030806	Houston River-From Bear Head Creek at LA-12 to West Fork Calcasieu River	A B C F	250	75	[3]	6.0-8.5	1	32	500
030806-554700	Houston River Canal–From 1 mile west of LA-388 to its terminuses at Mossville and the Houston River	A B C D F	250	75	[3]	6.0-8.5	1	32	500
030807	Bear Head Creek–From headwaters to Houston River at LA-12	A B C	250	75	5.0	6.0-8.5	1	32	500
030901	Bayou D'Inde–From headwaters to Calcasieu River (Estuarine)	A B C	N/A	N/A	4.0	6.5-8.5	1	35	N/A
031001	Bayou Choupique–From headwaters to ICWW (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
031002	Intracoastal Waterway–From West Calcasieu River Basin boundary to Calcasieu Lock (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
031101	Intracoastal Waterway–From Calcasieu Lock to East Calcasieu River Basin boundary	A B C	250	75	5.0	6.5-9.0	1	32	500
031201	Calcasieu River Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.0-9.0	4	32	N/A
Lake Pontchartrain Basin (04)									
040101	Comite River–From Little Comite Creek and Comite Creek at Mississippi state line to Wilson-Clinton Hwy.	A B C	25	10	5.0	6.0-8.5	1	32	150
040102	Comite River–From Wilson-Clinton Hwy. to White Bayou (Scenic)	A B C G	25	10	5.0	6.0-8.5	1	32	150
040103	Comite River–From White Bayou to Amite River	A B C	25	10	5.0	6.0-8.5	1	32	150
040201	Bayou Manchac–From headwaters to Amite River	A B C	25	10	5.0	6.0-8.5	1	32	150
040301	Amite River–From Mississippi state line to LA-37 (Scenic)	A B C G	25	10	5.0	6.0-8.5	1	32	150
040302	Amite River–From LA-37 to Amite River Diversion Canal	A B C	25	10	5.0	6.0-8.5	1	32	150
040303	Amite River–From Amite River Diversion Canal to Lake Maurepas	A B C	25	10	5.0	6.0-8.5	1	32	150
040304	Grays Creek–From headwaters to Amite River	A B C	25	10	5.0	6.0-8.5	1	32	150
040305	Colyell Creek; includes tributaries and Colyell Bay	A B C	25	10	5.0	6.0-8.5	1	32	150
040401	Blind River–From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic)	A B C G	250	75	4.0 [9]	6.0-8.5	1	30	500

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
040402	Amite River Diversion Canal–From Amite River to Blind River	A B C	25	10	5.0	6.0-8.5	1	32	150
040403	Blind River–From headwaters to Amite River Diversion Canal (Scenic)	A B C G	250	75	3.0 [9]	6.0-8.5	1	30	500
040404	New River–From headwaters to New River Canal	A B C	250	75	5.0	6.0-8.5	1	30	500
040501	Tickfaw River–From Mississippi state line to LA-42 (Scenic)	A B C G	10	5	5.0	6.0-8.5	1	30	55
040502	Tickfaw River–From LA-42 to Lake Maurepas	A B C	10	5	5.0	6.0-8.5	1	30	55
040503	Natalbany River–From headwaters to Tickfaw River	A B C	30	20	5.0	6.0-8.5	1	30	150
040504	Yellow Water River–From headwaters to Ponchatoula Creek	A B C	30	20	5.0	6.0-8.5	1	30	150
040505	Ponchatoula Creek and Ponchatoula River	A B C	30	20	5.0	6.0-8.5	1	30	150
040601	Pass Manchac–From Lake Maurepas to Lake Pontchartrain	A B C	1,600	200	5.0	6.5-9.0	1	32	3,000
040602	Lake Maurepas	A B C	1,600	200	5.0	6.0-8.5	1	32	3,000
040603	Selsers Creek–From headwaters to South Slough	A B C	30	20	5.0	6.0-8.5	1	30	150
040604	South Slough; includes Anderson Canal to I-55 borrow pit	A B C	30	20	5.0	6.0-8.5	1	30	150
040604-001	South Slough Wetland–Forested freshwater and brackish marsh located 1.4 miles south of Ponchatoula, directly east of I-55, extending to North Pass to the south and Tangipahoa River to the east	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040701	Tangipahoa River–From Mississippi state line to I-12 (Scenic)	A B C G	30	10	5.0	6.0-8.5	1	30	140
040702	Tangipahoa River–From I-12 to Lake Pontchartrain	A B C	30	10	5.0	6.0-8.5	1	30	140
040703	Big Creek–From headwaters to Tangipahoa River	A B C	20	20	5.0	6.0-8.5	1	30	140
040704	Chappepeela Creek–From LA-1062 to Tangipahoa River	A B C G	20	20	5.0	6.0-8.5	1	30	140
040801	Tchefuncte River–From headwaters to Bogue Falaya River; includes tributaries (Scenic)	A B C G	20	10	5.0	6.0-8.5	1	30	110
040802	Tchefuncte River–From Bogue Falaya River to LA-22 (Scenic)	A B C G	850	135	5.0	6.0-8.5	1	30	1,850
040803	Tchefuncte River–From LA-22 to Lake Pontchartrain (Estuarine)	A B C	850	135	4.0	6.0-8.5	1	30	1,850
040804	Bogue Falaya River–From headwaters to Tchefuncte River (Scenic) [12]	A B C G-[12]	20	10	5.0	6.0-8.5	1	30	110
040805	Chinchuba Swamp Wetland–Forested wetland located 0.87 miles southwest of Mandeville, southeast of Sanctuary Ridge, and north of Lake Pontchartrain	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040806	East Tchefuncte Marsh Wetland–Freshwater and brackish marsh located just west of Mandeville, bounded on the south by Lake Pontchartrain, the west by Tchefuncte River, the north by LA-22, and the east by Sanctuary Ridge	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040901	Bayou LaCombe–From headwaters to US-190 (Scenic)	A B C G	30	30	5.0	6.0-8.5	1	30	150
040902	Bayou LaCombe–From US-190 to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	835	135	4.0	6.0-8.5	1	32	1,850
040903	Bayou Cane–From headwaters to US-190 (Scenic)	A B C G	30	30	5.0	6.0-8.5	1	30	150
040904	Bayou Cane–From US-190 to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040905	Bayou Liberty–From headwaters to LA-433	A B C	250	100	5.0	6.0-8.5	1	32	500

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
040906	Bayou Liberty–From LA-433 to Bayou Bonfouca (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040907	Bayou Bonfouca–From headwaters to LA-433	A B C	250	100	5.0	6.0-8.5	1	32	500
040908	Bayou Bonfouca–From LA-433 to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040909	W-14 Main Diversion Canal–From headwaters to Salt Bayou	A B C-[4]	N/A	N/A	[4]	6.0-8.5	1	32	N/A
040910	Salt Bayou–From headwaters to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
040911	Grand Lagoon; includes associated canals (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041001	Lake Pontchartrain–West of US-11 bridge (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
041002	Lake Pontchartrain–East of US-11 bridge (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	32	N/A
041101	Bonnet Carre Spillway	A B C	250	75	5.0	6.0-8.5	1	30	500
041201	Bayou Labranche–From headwaters to Lake Pontchartrain (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041202	Bayou Trepagnier–From Norco to Bayou Labranche (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041203	Duncan Canal–From headwaters to Lake Pontchartrain; also called Parish Line Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-8.5	1	32	N/A
041301	Bayou St. John (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041302	Lake Pontchartrain Drainage Canals in Jefferson and Orleans Parishes (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041401	New Orleans East Leveed Water Bodies (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
041501	Inner Harbor Navigation Canal–From Mississippi River Lock to Lake Pontchartrain (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041601	Intracoastal Waterway–From Inner Harbor Navigation Canal to Chef Menteur Pass (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
041701	The Rigolets (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
041702	Bayou Sauvage–From New Orleans hurricane protection levee to Chef Menteur Pass; includes Chef Menteur Pass (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	32	N/A
041703	Intracoastal Waterway–From Chef Menteur Pass to Lake Borgne (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	32	N/A
041704	Lake St. Catherine	A B C	N/A	N/A	5.0	6.5-9.0	1	32	N/A
041801	Bayou Bienvenue–From headwaters to hurricane gate at MRGO (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041802	Bayou Chaperon (Scenic)(Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041803	Bashman Bayou–From headwaters to Bayou Dupre (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041804	Bayou Dupre–From Lake Borgne Canal to Terre Beau Bayou (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041805	Lake Borgne Canal–From Mississippi River siphon at Violet to Bayou Dupre; also called Violet Canal (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041806	Pirogue Bayou–From Bayou Dupre to New Canal (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041807	Terre Beau Bayou–From Bayou Dupre to New Canal (Scenic) (Estuarine)	A B C G	N/A	N/A	4.0	6.5-9.0	1	35	N/A
041808	New Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
041809	Poydras-Verret Marsh Wetland–Forested and marsh wetland located 1.5 miles north of St. Bernard, south of Violet Canal, and northeast of Forty Arpent Canal	B C	[17]	[17]	[17]	[17]	2	[17]	[17]
041901	Mississippi River Gulf Outlet (MRGO)–From ICWW to Breton Sound at MRGO mile 30	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042001	Lake Borgne	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042002	Bayou Bienvenue–From Bayou Villere to Lake Borgne (Scenic) (Estuarine)	A B C E G	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042003	Bayou La Loutre–From MRGO to Eloi Bay (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042004	Bayou Bienvenue–From MRGO to Bayou Villere (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042101	Bayou Terre Aux Boeufs (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042102	River Aux Chenes; also called Oak River (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042103	Bayou Gentilly–From Bayou Terre Aux Boeufs to Petit Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
042104	Petit Lake	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042105	Lake Lery	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042201	Chandeleur Sound	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042202	California Bay and Breton Sound	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042203	Bay Boudreau	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042204	Drum Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042205	Morgan Harbor	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042206	Eloi Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042207	Lake Fortuna	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042208	Bay Gardene, Black Bay, Lost Bayou, American Bay, and Bay Crabe	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
042209	Lake Pontchartrain Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Mermentau River Basin (05)									
050101	Bayou Des Cannes–From headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
050103	Bayou Mallet–From headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050201	Bayou Plaquemine Brule–From headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050301	Bayou Nezpique–From headwaters to Mermentau River; includes intermittent portion of Beaver Creek [2]	A B C F	90	30	[16]	6.0-8.5	1	32	260
050303	Castor Creek–From headwaters to Bayou Nezpique	A B C	90	30	[16]	6.0-8.5	1	32	260
050304	Bayou Blue–From headwaters to Bayou Nezpique	A B C	90	30	[16]	6.0-8.5	1	32	260
050401	Mermentau River–From headwaters to Lake Arthur	A B C F	90	30	[16]	6.0-8.5	1	32	260
050402	Lake Arthur and Lower Mermentau River to Grand Lake	A B C	90	30	5.0	6.0-8.5	1	32	260
050501	Bayou Queue de Tortue–From headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
050601	Lacassine Bayou–From headwaters to Grand Lake	A B C F	90	10	[16]	6.0-8.5	1	32	400
050602	Intracoastal Waterway–From Calcasieu River Basin Boundary to Mermentau River	A B C F	250	75	5.0	6.5-9.0	1	32	500
050603	Bayou Chene–From headwaters to Lacassine Bayou; includes Bayou Grand Marais	A B C F	90	10	5.0	6.5-9.0	1	32	400
050701	Grand Lake	A B C F	250	75	5.0	6.5-9.0	1	32	500
050702	Intracoastal Waterway–From Mermentau River to Vermilion Locks	A B C F	250	75	5.0	6.0-9.0	1	32	500
050703	White Lake	A B C F	250	75	5.0	6.5-9.0	1	32	500
050801	Mermentau River–From Catfish Point Control Structure to Gulf of Mexico (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
050802	Big Constance Lake; includes associated water bodies (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
050901	Mermentau River Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Vermilion-Teche River Basin (06)									
060101	Spring Creek–From headwaters to Cocodrie Lake (Scenic)	A B C G	10	5	5.0	6.0-8.5	1	30	100
060102	Cocodrie Lake	A B C	10	5	[19]	6.0-8.5	1	32	100
060201	Bayou Cocodrie–From US-167 to Bayou Boeuf-Cocodrie Diversion Canal (Scenic)	A B C G	45	35	[19]	6.0-8.5	1	32	100
060202	Bayou Cocodrie–From Cocodrie Diversion Canal to Bayou Boeuf	A B C	45	35	5.0	6.0-8.5	1	32	100
060203	Chicot Lake	A B C	90	30	5.0	6.0-8.5	1	32	260
060204	Bayou Courtableau–From headwaters to West Atchafalaya Borrow Pit Canal	A B C	65	70	[22]	6.0-8.5	1	32	440
060206	Indian Creek and Indian Creek Reservoir	A B C	10	5	5.0	6.0-8.5	1	32	100
060207	Bayou des Glaises Diversion Channel/West Atchafalaya Borrow Pit Canal–From Bayou des Glaises to Bayou Courtableau	A B C	100	75	5.0	6.0-8.5	1	32	500
060208	Bayou Boeuf–From headwaters to Bayou Courtableau	A B C	45	35	5.0	6.0-8.5	1	32	100
060209	Irish Ditch and Big Bayou–From unnamed ditch to Irish Ditch No. 1 to Big Bayou to Irish Ditch No. 2 to Bayou Rapides	B C	45	35	[2]	6.0-8.5	2	32	100
060210	Bayou Carron	A B C	40	30	5.0	6.0-8.5	1	32	220
060211	West Atchafalaya Borrow Pit Canal–From Bayou Courtableau to Henderson; includes Bayou Portage	A B C	65	70	5.0	6.0-8.5	1	32	440
060212	Chatlin Lake Canal and Bayou DuLac–From Alexandria to Bayou des Glaises Diversion Canal; includes a portion of Bayou DeGlaises	A B C	45	35	5.0	6.0-8.5	1	32	100
060301	Bayou Teche–From headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	65	70	5.0	6.0-8.5	1	32	440
060401	Bayou Teche–From Keystone Locks and Dam to Charenton Canal	A B C	80	50	5.0	6.0-8.5	1	32	350
060501	Bayou Teche–From Charenton Canal to Wax Lake Outlet	A B C D	80	50	5.0	6.0-8.5	1	32	350
060601	Charenton Canal–From Charenton Floodgate to ICWW; includes Bayou Teche from Charenton to Baldwin	A B C D	250	75	5.0	6.0-8.5	1	32	500
060701	Tete Bayou	A B C	80	50	5.0	6.0-8.5	1	32	350
060702	Lake Fausse Point and Dauterive Lake	A B C	80	50	5.0	6.0-8.5	1	32	350
060703	Bayou Du Portage	A B C	80	50	5.0	6.0-8.5	1	32	350

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
060801	Vermilion River–From headwaters to LA-3073 bridge	A B C F	230	70	5.0	6.0-8.5	1	32	440
060801-001	Cote Gelee Wetland–Forested wetland located in Lafayette Parish, 2 miles east of Broussard, 2 miles northeast of US-90, and west of Bayou Tortue	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
060802	Vermilion River–From LA-3073 bridge to ICWW	A B C F	230	70	[6]	6.0-8.5	1	32	440
060803	Vermilion River Cutoff–From ICWW to Vermilion Bay (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060804	Intracoastal Waterway–From Vermilion Lock to 1/2 mile west of Gum Island Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060805	Breaux Bridge Swamp–Forested wetland in St. Martin Parish, 1/2 mile southwest of Breaux Bridge, southeast of LA-94, west of Bayou Teche, east of Vermilion River, and north of Evangeline and Ruth Canals; also called Cyprière Perdue Swamp	B C	[5]	[5]	[5]	[5]	2	[5]	[5]
060806	Cypress Island Coulee Wetland–Forested wetland located in St. Martin Parish, 2 miles west of St. Martinville, 1/2 mile north of LA-96, west of Bayou Teche, and east of Vermilion River	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
060901	Bayou Petite Anse–From headwaters to Bayou Carlin (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060902	Bayou Carlin–From Lake Peigneur to Bayou Petite Anse; also called Delcambre Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060903	Bayou Tigre–From headwaters to Bayou Petite Anse (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060904	New Iberia Southern Drainage Canal–From headwaters to ICWW (Estuarine)	A B L-[24]	N/A	N/A	[24]	6.5-9.0	[24]	35	N/A
060906	Intracoastal Waterway–From New Iberia Southern Drainage Canal to Bayou Sale (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060907	Franklin Canal	A B C	250	75	5.0	6.0-8.5	1	35	500
060908	Spanish Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
060909	Lake Peigneur	A B C	N/A	N/A	5.0	6.5-9.0	1	35	N/A
060910	Boston Canal; includes associated canals (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
060911	Dugas Canal–By Tiger Lagoon Oil and Gas Field (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061001	West Cote Blanche Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
061002	East Cote Blanche Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
061101	Bayou Petite Anse–From Bayou Carlin at its confluence with Bayou Tigre to ICWW (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061102	Intracoastal Waterway–From 1/2 mile west of Gum Island Canal to New Iberia Southern Drainage Canal (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061103	Freshwater Bayou Canal–From 1/2 mile below ICWW to control structure (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	1	35	N/A
061104	Vermilion Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
061105	Marsh Island (Estuarine)	A B C	N/A	N/A	4.0	6.5-9.0	4	35	N/A
061201	Vermilion-Teche River Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.0-9.0	4	32	N/A

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
Mississippi River Basin (07)									
070101	Mississippi River–From Arkansas state line to Old River Control Structure	A B C	75	120	5.0	6.0-9.0	1	32	400
070102	Gassoway Lake	A B C	75	120	5.0	6.0-8.5	1	32	400
070103	Marengo Bend–Portion within the Louisiana state line	A B C D	250	75	5.0	6.0-8.5	1	32	500
070201	Mississippi River–From Old River Control Structure to Monte Sano Bayou	A B C D	75	120	5.0	6.0-9.0	1	32	400
070202	Raccourci Old River	A B C	100	75	5.0	6.0-8.5	1	32	500
070203	Devil's Swamp Lake and Bayou Baton Rouge	A B C	75	120	5.0	6.0-8.5	1	32	400
070301	Mississippi River–From Monte Sano Bayou to Head of Passes	A B C D	75	120	5.0	6.0-9.0	1	32	400
070401	Mississippi River Passes–Head of Passes to Mouth of Passes; includes all passes in the birdfoot delta (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
070501	Bayou Sara–From Mississippi state line to Mississippi River	A B C	100	75	5.0	6.0-8.5	1	32	500
070502	Thompson Creek–From Mississippi state line to Mississippi River	A B C	100	75	5.0	6.0-8.5	1	32	500
070503	Capitol Lake	A B C	75	120	5.0	6.0-8.5	1	32	400
070504	Monte Sano Bayou–From US-61 to Mississippi River [7], [8]	B L	[7]	[7]	3.0	6.0-9.0	1	35 [8]	[7]
070505	Tunica Bayou–From headwaters to Mississippi River	A B C	100	75	5.0	6.0-8.5	1	32	500
070601	Mississippi River Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Ouachita River Basin (08)									
080101	Ouachita River–From Arkansas state line to Columbia Lock and Dam	A B C D	160	35	[15]	6.0-8.5	1	33	350
080102	Bayou Chauvin–From headwaters to Ouachita River	A B C	160	35	5.0	6.0-8.5	1	33	350
080201	Ouachita River–From Columbia Lock and Dam to Jonesville	A B C	160	50	5.0	6.0-8.5	1	33	400
080202	Bayou Louis–From headwaters to Ouachita River	A B C	250	75	5.0	6.0-8.5	1	32	500
080203	Lake Louis	A B C	250	75	5.0	6.0-8.5	1	32	500
080301	Black River–From Jonesville to Corps of Engineers (USACE) Control Structure at Mile 25	A B C	95	20	5.0	6.0-8.5	1	32	265
080302	Black River–From USACE Control Structure to Red River	A B C	95	20	5.0	6.0-8.5	1	32	265
080401	Bayou Bartholomew–From Arkansas state line to Ouachita River (Scenic to Dead Bayou)	A B C G	55	35	5.0	6.0-8.5	1	32	420
080501	Bayou de L'Outre–From Arkansas state line to Ouachita River (Scenic)	A B C G	250	45	5.0	6.0-8.5	1	33	500
080601	Bayou D'Arbonne–From headwaters to Lake Claiborne	A B C	50	15	5.0	6.0-8.5	1	32	200
080602	Lake Claiborne	A B C D	50	15	5.0	6.0-8.5	1	32	200
080603	Bayou D'Arbonne–From Lake Claiborne to Bayou D'Arbonne Lake	A B C	50	15	5.0	6.0-8.5	1	32	200
080604	Bayou D'Arbonne Lake	A B C	50	15	5.0	6.0-8.5	1	32	200
080605	Bayou D'Arbonne–From Bayou D'Arbonne Lake to Ouachita River (Scenic)	A B C G	50	15	5.0	6.0-8.5	1	32	200
080606	Cypress Creek–From headwaters to Bayou D'Arbonne; includes Colvin Creek	A B C	65	10	5.0	6.0-8.5	1	32	160

Table 3. Numerical Criteria and Designated Uses

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
080607	Corney Bayou–From Arkansas state line to Corney Lake (Scenic)	A B C G	160	25	5.0	6.0-8.5	1	32	300
080608	Corney Lake	A B C	160	25	5.0	6.0-8.5	1	32	300
080609	Corney Bayou–From Corney Lake to Bayou D'Arbonne Lake (Scenic)	A B C G	160	25	5.0	6.0-8.5	1	32	300
080610	Middle Fork Bayou D'Arbonne–From headwaters to Bayou D'Arbonne Lake (Scenic)	A B C G	50	15	[20]	6.0-8.5	1	32	200
080701	Bayou Desiard and Lake Bartholomew; also called Dead Bayou	A B C D	25	25	5.0	6.0-8.5	1	32	100
080801	Cheniere Creek–From headwaters to Cheniere Brake Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
080802	Cheniere Brake Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
080901	Boeuf River–From Arkansas state line to Ouachita River	A B C	105	45	5.0	6.0-8.5	1	32	430
080902	Bayou Bonne Idee–From headwaters to Boeuf River	A B C	20	10	5.0	6.0-8.5	1	32	180
080903	Big Creek–From headwaters to Boeuf River; includes Big Colewa Bayou	A B C	230	75	5.0	6.0-8.5	1	32	635
080904	Bayou Lafourche–From near Oakridge to Boeuf River near Columbia	A B C	500	200	5.0	6.0-8.5	1	32	1,500
080905	Turkey Creek–From headwaters to Turkey Creek Cutoff; includes Turkey Creek Cutoff, Big Creek, and Glade Slough	B C	250	75	[2]	6.0-8.5	2	32	500
080906	Turkey Creek–From Turkey Creek Cutoff to Turkey Creek Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080907	Turkey Creek Lake; includes outfall to Boeuf River	A B C	250	75	5.0	6.0-8.5	1	32	500
080908	Lake LaFourche	A B C	250	75	5.0	6.0-8.5	1	32	500
080909	Crew Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080910	Clear Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080911	Woolen Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
080912	Tisdale Brake and Staulkinghead Creek–From headwaters to Little Bayou Boeuf	B L	500	200	[13]	6.0-8.5	2	32	1,500
081001	Bayou Macon–From Arkansas state line to Tensas River	A B C	50	55	5.0	6.0-8.5	1	32	380
081002	Joe's Bayou–From headwaters to Bayou Macon	A B C	250	75	5.0	6.0-8.5	1	32	500
081003	Deer Creek–From headwaters to Boeuf River	B L	105	45	[13]	6.0-8.5	2	32	430
081101	Lake Providence	A B C	25	25	5.0	6.0-8.5	1	32	150
081201	Tensas River–From headwaters to Jonesville; includes Tensas Bayou	A B C	45	30	5.0	6.0-8.5	1	32	500
081202	Lake St. Joseph	A B C	25	25	5.0	6.0-8.5	1	32	150
081203	Lake Bruin	A B C D	25	25	5.0	6.0-8.5	1	32	150
081301	Little River–From Archie Dam to Ouachita River	A B C	95	10	5.0	6.0-8.5	1	32	265
081401	Dugdemona River–From headwaters to Big Creek	A B C	250	750	[14]	6.0-8.5	1	32	2,000
081402	Dugdemona River–From Big Creek to Little River	A B C	250	750	5.0	6.0-8.5	1	32	2,000
081501	Castor Creek–From headwaters to Little River	A B C	25	25	5.0	6.0-8.5	1	32	100
081502	Chatham Lake	A B C	25	25	5.0	6.0-8.5	1	32	100

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
081503	Beaucoup Creek–From headwaters to Castor Creek	A B C	25	25	[21]	6.0-8.5	1	32	100
081504	Flat Creek–From headwaters to Castor Creek	A B C	25	25	5.0	6.0-8.5	1	32	100
081505	Caney Lake	A B C	25	25	5.0	6.0-8.5	1	32	100
081601	Little River–From Castor Creek-Dugdemona confluence to Bear Creek (Scenic)	A B C G	250	500	5.0	6.0-8.5	1	33	1,000
081601-556716	Georgetown Reservoir	A B C G D	250	500	5.0	6.0-8.5	1	33	1,000
081602	Little River–From Bear Creek to Catahoula Lake (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
081603	Catahoula Lake	A B C	50	75	5.0	6.0-8.5	1	33	260
081604	Catahoula Lake Diversion Canal–From Catahoula Lake to Black River	A B C	50	75	5.0	6.0-8.5	1	33	260
081605	Little River–From Catahoula Lake to Dam at Archie	A B C	50	75	5.0	6.0-8.5	1	33	260
081606	Fish Creek–From headwaters to Little River (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
081607	Trout Creek–From headwaters to Little River (Scenic)	A B C G	50	75	5.0	6.0-8.5	1	33	260
081608	Big Creek–From headwaters to Little River (Scenic)	A B C D G	50	75	5.0	6.0-8.5	1	33	260
081609	Hemphill Creek–From headwaters to Catahoula Lake; includes Hair Creek	A B C	50	75	5.0	6.0-8.5	1	33	260
081610	Old River–From Catahoula Lake to Little River	A B C	250	75	5.0	6.0-8.5	1	32	500
081611	Bayou Funny Louis–From headwaters to Little River	A B C	50	75	5.0	6.0-8.5	1	33	260
Pearl River Basin (09)									
090101	Pearl River–From Mississippi state line to Pearl River Navigation Canal	A B C	20	15	5.0	6.0-8.5	1	32	180
090102	East Pearl River–From Holmes Bayou to I-10	A B C	20	15	5.0	6.0-8.5	1	32	180
090103	East Pearl River–From I-10 to Lake Borgne (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
090104	Peters Creek–From headwaters to Pearl River	A B C	20	30	5.0	6.0-8.5	1	30	150
090105	Pearl River Navigation Canal–From Pools Bluff to Lock No. 3	A B C	20	15	5.0	6.0-8.5	1	32	180
090106	Holmes Bayou–From Pearl River to West Pearl River (Scenic)	A B C G	20	15	5.0	6.0-8.5	1	32	180
090107	Pearl River–From Pearl River Navigation Canal to Holmes Bayou	A B C	20	15	5.0	6.0-8.5	1	32	180
090201	West Pearl River–From headwaters to Holmes Bayou (Scenic)	A B C G	20	15	5.0	6.0-8.5	1	32	180
090202	West Pearl River–From Holmes Bayou to The Rigolets; includes east and west mouths (Scenic)	A B C G	90	20	5.0	6.0-8.5	1	32	235
090202-5126	Morgan River–From Porters River to West Pearl River (Scenic)	A B C G	90	20	5.0	6.0-8.5	1	32	235
090203	Lower Bogue Chitto–From Pearl River Navigation Canal to Wilsons Slough	A B C	15	10	5.0	6.0-8.5	1	32	105
090204	Pearl River Navigation Canal–From below Lock No. 3	A B C	15	10	5.0	6.0-8.5	1	32	105
090205	Wilson Slough–From Bogue Chitto to West Pearl River (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	32	105
090206	Bradley Slough–From Bogue Chitto to West Pearl River (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	32	105
090207	Middle Pearl River and West Middle Pearl River–From West Pearl River to Little Lake	A B C	90	20	5.0	6.0-8.5	1	32	235
090207-5112	Morgan Bayou–From headwaters near I-10 to Middle River	A B C	90	20	5.0	6.0-8.5	1	32	235

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
090208	Little Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
090301	Pushepatapa Creek–From headwaters and tributaries at Mississippi state line to Pearl River floodplain (Scenic)	A B C G	15	12	5.0	6.0-8.5	1	35	105
090401	Bogue Lusa Creek–From headwaters to Pearl River floodplain	A B C	30	45	5.0	6.0-8.5	1	32	300
090501	Bogue Chitto River–From Mississippi state line to Pearl River Navigation Canal (Scenic)	A B C G	15	10	5.0	6.0-8.5	1	35	105
090502	Big Silver Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090503	Little Silver Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090504	Lawrence Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090505	Bonner Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
090506	Thigpen Creek–From headwaters to Bogue Chitto River	A B C	15	10	5.0	6.0-8.5	1	35	105
Red River Basin (10)									
100101	Red River–From Arkansas state line to US-165 in Alexandria	A B C D F	185	110	5.0	6.0-8.5	1	34	780
100201	Red River–From US-165 to Old River Control Structure Outflow Channel	A B C	185	110	5.0	6.0-8.5	1	34	780
100202	Little River–From headwaters to Old River near Marksville	A B C	250	75	5.0	6.0-8.5	1	32	500
100203	Old River; includes associated water bodies in Spring Bayou WMA; also called LaVielle Riviere	A B C	250	75	5.0	6.0-8.5	1	32	500
100301	Black Bayou–From Texas state line to LA-1 at Black Bayou Lake	A B C F	250	25	5.0	6.0-8.5	1	33	500
100302	Black Bayou Lake–From LA-1 to spillway	A B C	250	25	5.0	6.0-8.5	1	33	500
100303	Black Bayou–From spillway at Black Bayou Lake to Twelve Mile Bayou	A B C	250	25	5.0	6.0-8.5	1	33	500
100304	Twelve Mile Bayou–From headwaters to Red River	A B C D F	175	75	5.0	6.0-8.5	1	32	500
100305	Mahlin Bayou and McCain Creek–From headwaters to Twelve Mile Bayou	B L	175	75	[14]	6.0-8.5	2	32	500
100306	Kelly Bayou–From Arkansas state line to Black Bayou	A B C F	90	40	5.0	6.0-8.5	1	33	665
100307	Caddo Lake–From Texas state line to spillway; includes James Bayou	A B C D F	120	35	5.0	6.0-8.5	1	34	325
100308	Paw Paw Bayou–From Texas state line to Cross Lake; includes tributaries	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100309	Cross Bayou–From Texas state line to Cross Lake	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100310	Cross Lake	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100401	Bayou Bodcau–From Arkansas state line to Red Chute Bayou at Cypress Bayou confluence	A B C F	250	75	5.0	6.0-8.5	1	32	800
100402	Red Chute Bayou–From Cypress Bayou to Flat River	A B C	250	75	[14]	6.0-8.5	1	32	800
100403	Cypress Bayou–From headwaters to Cypress Bayou Reservoir	A B C F	100	25	5.0	6.0-8.5	1	32	300
100404	Cypress Bayou Reservoir	A B C D F	100	25	5.0	6.0-8.5	1	32	300
100405	Black Bayou–From headwaters to spillway at Black Bayou Reservoir; includes Black Bayou Reservoir	A B C F	100	25	5.0	6.0-8.5	1	32	300
100406	Flat River–From headwaters to Loggy Bayou	A B C	250	75	5.0	6.0-8.5	1	32	300

Table 3. Numerical Criteria and Designated Uses

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
100501	Bayou Dorcheat–From Arkansas state line to Lake Bistineau (Scenic)	A B C F G	250	25	5.0	6.0-8.5	1	33	440
100502	Lake Bistineau	A B C F	250	25	5.0	6.0-8.5	1	33	440
100503	Caney Creek–From headwaters to Bayou Dorcheat; excludes Caney Lake	A B C F	250	75	5.0	6.0-8.5	1	32	500
100504	Caney Lake	A B C F	250	75	5.0	6.0-8.5	1	32	500
100505	Loggy Bayou–From Lake Bistineau dam to Flat River	A B C F	75	35	5.0	6.0-8.5	1	32	250
100506	Loggy Bayou–From Flat River to Red River	A B C F	250	75	5.0	6.0-8.5	1	32	800
100601	Bayou Pierre–From headwaters to Bayou Pierre	A B C F	150	75	5.0	6.0-8.5	1	32	500
100602	Boggy Bayou–From headwaters to Wallace Lake	A B C F	150	75	5.0	6.0-8.5	1	32	500
100603	Wallace Lake	A B C F	150	75	5.0	6.0-8.5	1	32	500
100604	Wallace Bayou–From Wallace Lake to Bayou Pierre	A B C F	150	75	5.0	6.0-8.5	1	32	500
100605	Clear Lake and Smithport Lake; includes old Edwards Lake	A B C F	250	75	5.0	6.0-8.5	1	32	500
100606	Bayou Pierre–From Sawing Lake to Red River	A B C F	150	75	5.0	6.0-8.5	1	32	500
100701	Black Lake Bayou–From headwaters to 1 mile north of confluence with Leatherman Creek	A B C F	26	9	5.0	6.0-8.5	1	32	79
100702	Black Lake Bayou–From 1 mile north of Leatherman Creek to Black Lake (Scenic)	A B C F G	26	9	5.0	6.0-8.5	1	32	79
100703	Black Lake and Clear Lake	A B C D F	26	9	5.0	6.0-8.5	1	32	79
100704	Kepler Creek–From headwaters to Kepler Lake	A B C F	25	25	5.0	6.0-8.5	1	32	79
100705	Kepler Lake	A B C F	25	25	5.0	6.0-8.5	1	32	79
100706	Kepler Creek–From Kepler Lake to Black Lake Bayou	A B C F	25	25	5.0	6.0-8.5	1	32	79
100707	Castor Creek–From headwaters to Black Lake Bayou	A B C	26	9	5.0	6.0-8.5	1	32	79
100708	Castor Creek Tributary–From headwaters to Castor Creek	B C	26	9	[2]	6.0-8.5	2	32	79
100709	Grand Bayou–From headwaters to Black Lake Bayou	A B C D	26	9	5.0	6.0-8.5	1	32	79
100710	Grand Bayou Tributary–From headwaters to Grand Bayou	B C	26	9	[2]	6.0-8.5	2	32	79
100801	Saline Bayou–From headwaters near Arcadia to Saline Lake (Scenic)	A B C F G	110	20	5.0	6.0-8.5	1	32	250
100802	Saline Lake	A B C F	110	20	5.0	6.0-8.5	1	32	250
100803	Saline Bayou–From Saline Lake to Red River	A B C F	110	20	5.0	6.0-8.5	1	32	250
100804	Saline Bayou Tributary–From headwaters to Saline Bayou near Arcadia	B C	110	20	[2]	6.0-8.5	2	32	250
100901	Nantaches Creek–From headwaters to Nantaches Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
100902	Nantaches Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
100903	Bayou Nantaches–From Nantaches Lake to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100
101001	Sibley Lake	A B C D F	25	25	5.0	6.0-8.5	1	32	100
101101	Cane River–From above Natchitoches to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100

Table 3. Numerical Criteria and Designated Uses

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
101102	Kisatchie Bayou–From headwaters to Kisatchie National Forest	A B C F	25	25	5.0	6.0-8.5	1	32	100
101103	Kisatchie Bayou–From Kisatchie National Forest to Old River (Scenic)	A B C F G	25	25	5.0	6.0-8.5	1	32	100
101201	Cotile Reservoir	A B C	50	25	5.0	6.0-8.5	1	32	200
101301	Rigolette Bayou–From headwaters to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100
101302	Iatt Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
101303	Iatt Creek–From headwaters to Iatt Lake	A B C F	25	25	5.0	6.0-8.5	1	32	100
101401	Buhlow Lake near Pineville	A B C	100	50	5.0	6.0-8.5	1	32	250
101501	Big Saline Bayou–From Catahoula Lake to Saline Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
101502	Saline Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
101504	Saline Bayou–From Larto Lake to Saline Lake (Scenic)	A B C G	45	10	5.0	6.0-8.5	1	32	165
101505	Larto Lake	A B C	45	10	5.0	6.0-8.5	1	32	165
101506	Big Creek–From headwaters to Saline Lake	A B C	45	10	5.0	6.0-8.5	1	32	165
101601	Bayou Cocodrie–From Little Cross Bayou to Wild Cow Bayou (Scenic)	A B C F G	250	75	5.0	6.0-8.5	1	32	500
101602	Cocodrie Lake	A B C	250	75	5.0	6.0-8.5	1	32	500
101603	Lake St. John	A B C	250	75	5.0	6.0-8.5	1	32	500
101604	Lake Concordia	A B C	250	75	5.0	6.0-8.5	1	32	500
101605	Bayou Cocodrie–From Lake Concordia to LA-15	A B C	250	75	5.0	6.0-8.5	1	32	500
101606	Bayou Cocodrie–From Wild Cow Bayou to Red River	A B C	250	75	5.0	6.0-8.5	1	32	500
101607	Bayou Cocodrie–From LA-15 to Little Cross Bayou	B L	250	75	[13]	6.0-8.5	2	32	500
Sabine River Basin (11)									
110101	Toledo Bend Reservoir–From Texas-Louisiana state line to Toledo Bend Dam	A B C D F	120	60	5.0	6.0-8.5	1	34	500
110201	Sabine River–From Toledo Bend Dam to Old River below Sabine Island WMA	A B C	120	60	5.0	6.0-8.5	1	33	500
110202	Pearl Creek–From headwaters to Sabine River (Scenic)	A B C G	120	60	5.0	6.0-8.5	1	33	500
110301	Sabine River–From Old River below Sabine Island WMA to Sabine Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
110302	Black Bayou–From Pirogue Ditch to Sabine Lake (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	32	N/A
110303	Sabine Lake (Estuarine)	A B C E	N/A	N/A	4.0	6.0-8.5	4	35	N/A
110304	Sabine Pass (Estuarine)	A B C E	N/A	N/A	4.0	6.5-9.0	4	35	N/A
110401	Bayou Toro–From headwaters to LA-473	A B C	25	25	5.0	6.0-8.5	1	32	150
110402	Bayou Toro–From LA-473 to Sabine River	A B C	25	25	5.0	6.0-8.5	1	32	150
110501	West Anacoco Creek–From headwaters to Vernon Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110502	East Anacoco Creek–From headwaters to Vernon Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110503	Vernon Lake	A B C	15	10	5.0	6.0-8.5	1	32	90

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
110504	Bayou Anacoco–From Vernon Lake to Anacoco Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110505	Anacoco Lake	A B C	15	10	5.0	6.0-8.5	1	32	90
110506	Bayou Anacoco–From Anacoco Lake to Cypress Creek	A B C	15	10	5.0	6.0-8.5	1	32	90
110507	Bayou Anacoco–From Cypress Creek to Sabine River	A B C	150	300	5.0	6.0-8.5	1	32	1,000
110601	Vinton Waterway–From Vinton to ICWW (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
110602	Black Bayou–From ICWW to Pirogue Ditch (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
110701	Sabine River Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A
Terrebonne Basin (12)									
120102	Bayou Poydras–From headwaters to Bayou Choctaw	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120103	Bayou Choctaw–From Bayou Poydras to Bayou Grosse Tete	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120104	Bayou Grosse Tete–From headwaters to ICWW near Wilbert Canal	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200
120105	Chamberlin Canal–From Chamberlin to Bayou Choctaw	A B C	250	75	5.0	6.0-8.5	1	32	500
120106	Bayou Plaquemine–From Plaquemine Lock to ICWW	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120107	Upper Grand River and Lower Flat River–From headwaters to ICWW	A B C	250	75	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120108	False River	A B C	25	25	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	200
120109	Intracoastal Waterway–From Port Allen Locks to Bayou Sorrel Locks	A B C D	60	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	300
120110	Bayou Cholpe–From headwaters to Bayou Choctaw	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200
120111	Bayou Maringouin–From headwaters to East Atchafalaya Basin Levee	A B C	25	25	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	200
120201	Lower Grand River and Belle River–From Bayou Sorrel Lock to Lake Palourde; includes Bay Natchez, Lake Natchez, Bayou Milhomme, and Bayou Long	A B C	60	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	300
120202	Bayou Black–From ICWW to Houma	A B C D	85	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	500
120203	Bayou Boeuf–From Lake Palourde to ICWW	A B C D	250	75	5.0	6.0-8.5	1	32	500

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
120204	Lake Verret and Grassy Lake	A B C	100	75	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	350
120205	Lake Palourde	A B C D	100	75	3.3 April-Sept.; 5.0 Oct.-Mar.	6.0-8.5	1	32	350
120206	Grand Bayou and Little Grand Bayou–From headwaters to Lake Verret	A B C	60	40	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	300
120207	Thibodaux Swamp–Forested wetland located in Lafourche and Terrebonne Parishes, 6.2 miles southwest of Thibodaux, east of Terrebonne-Lafourche Drainage Canal, and north of Southern Pacific Railroad; also called Pointe Au Chene Swamp	B C	[5]	[5]	[5]	[5]	2	[5]	[5]
120208	Bayou Ramos Swamp Wetland–Forested wetland located 1.25 miles north of Amelia in St. Mary Parish, south of Lake Palourde	B C	[18]	[18]	[18]	[18]	2	[18]	[18]
120301	Bayou Terrebonne–From Thibodaux to ICWW in Houma	A B C	540	90	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.0-8.5	1	32	1,350
120302	Bayou Folse–From headwaters to Company Canal	A B C D F	500	150	5.0	6.5-9.0	1	32	1,000
120303	Bayou L'eau Bleu–From Company Canal to ICWW	A B C	500	150	2.3 Mar.-Nov.; 5.0 Dec.-Feb.	6.5-9.0	1	32	1,000
120304	Intracoastal Waterway–From Houma to Larose	A B C D F	250	75	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	32	500
120401	Bayou Penchant–From Bayou Chene to Lake Penchant	A B C G	500	150	5.0	6.5-9.0	1	32	1,000
120402	Bayou Chene–From ICWW to Bayou Penchant	A B C	250	75	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-8.0	1	32	500
120403	Intracoastal Waterway–From Bayou Boeuf Locks to Bayou Black in Houma; includes segments of Bayous Boeuf, Black, and Chene	A B C D F	250	75	3.8 June-Aug.; 4.0 Sept.-May	6.5-8.5	1	32	500
120404	Lake Penchant	A B C	500	150	5.0	6.5-9.0	1	32	1,000
120405	Lake Hache and Lake Theriot	A B C	500	150	5.0	6.0-8.5	1	32	1,000
120406	Lake de Cade	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120501	Bayou Grand Caillou–From Houma to Bayou Pelton	A B C	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-8.5	1	32	1,000
120502	Bayou Grand Caillou–From Bayou Pelton to Houma Navigation Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
120503	Bayou Petit Caillou–From Bayou Terrebonne to LA-24 bridge	A B C E	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	1,000

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Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
120504	Bayou Petit Caillou–From LA-24 bridge to Boudreaux Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	N/A
120505	Bayou Du Large–From Houma to Marmande Canal	A B C	500	150	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000
120506	Bayou Du Large–From Marmande Canal to 1/2 mile north of St. Andrews Mission (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	35	N/A
120507	Bayou Chauvin–From Ashland Canal to Lake Boudreaux (Estuarine)	A B C	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	32	N/A
120508	Houma Navigation Canal–From Bayou Pelton to 1 mile south of Bayou Grand Caillou (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120509	Houma Navigation Canal–From Houma to Bayou Pelton	A B C D	500	150	3.8 June-Aug.; 4.0 Sept.-May	6.0-8.5	1	32	1,000
120601	Bayou Terrebonne–From Houma to Company Canal (Estuarine)	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	1	32	1,230
120602	Bayou Terrebonne–From Company Canal to Humble Canal (Estuarine)	A B C E	5,055	775	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	32	10,000
120603	Company Canal–From ICWW to Bayou Terrebonne	A B C	500	150	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	1	32	1,000
120604	Bayou Blue–From ICWW to Grand Bayou Canal	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000
120605	Bayou Pointe Au Chien–From headwaters to St. Louis Canal	A B C	445	105	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	1,000
120606	Bayou Blue–From Grand Bayou Canal to Bully Camp Canal (Estuarine)	A B C	5,055	775	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	1	32	10,000
120701	Bayou Grand Caillou–From Houma Navigation Canal to Caillou Bay (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
120702	Bayou Petit Caillou–From Boudreaux Canal to Houma Navigation Canal (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	32	N/A
120703	Bayou Du Large–From 1/2 mile north of St. Andrews Mission to Caillou Bay (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	35	N/A
120704	Bayou Terrebonne–From Humble Canal to Lake Barre (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A

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			Numerical Criteria						
Code	**Stream Description**	**Designated Uses**	**CL**	**SO_4**	**DO**	**pH**	**BAC**	**°C**	**TDS**
120705	Houma Navigation Canal–From 1/2 mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120706	Bayou Blue–From Bully Camp Canal to Lake Raccourci (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120707	Lake Boudreaux	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120708	Lost Lake and Four League Bay	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120709	Bayou Petite Caillou–From Houma Navigation Canal to Terrebonne Bay	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.0-9.0	4	32	N/A
120801	Caillou Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120802	Terrebonne Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120803	Timbalier Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120804	Lake Barre	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120805	Lake Pelto	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120806	Terrebonne Basin Coastal Bays and Gulf Waters to the State 3 mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A

ENDNOTES:

[1] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5.0 mg/L November-April, 3.5 mg/L May-October.

[2] Designated Intermittent Stream; Seasonal DO Criteria: 5.0 mg/L November-April, 2.0 mg/L May-October; Seasonal Water Uses: All uses November-April, No uses May-October.

[3] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5.0 mg/L December-February, 3.0 mg/L March-November.

[4] Designated Man-Made Water body; Seasonal DO Criteria: 4.0 mg/L November-March, 2.5 mg/L April-October; Subcategory Fish and Wildlife Use, Blue Crab Use.

[5] Designated Naturally Dystrophic Waters Segment—Not Available (N/A); the following criteria are applicable:

(a) No more than 20 percent decrease in naturally occurring litter fall or stem growth;

(b) No significant decrease in the dominance index or stem density of bald cypress;

(c) No significant decrease in faunal species diversity and no more than a 20 percent decrease in biomass.

[6] Site-Specific Seasonal DO Criteria: 5 mg/L January-April, 3.5 mg/L May-December.

[7] Designated Man-Made Water body; Cl, SO4, and TDS levels will not cause acute toxicity to the limited wildlife and aquatic life community established in the designated Monte Sano Bayou subsegment. Aquatic Life Acute Criteria will apply and Human Health Criteria will be calculated with Secondary Contact Recreation Criteria and 6.5 g/day fish consumption rate.

[8] The temperature differential limit of 2.8°C is not applicable to this water body subsegment.

[9] Site-Specific DO Criteria.

[10] Scenic River Segment limited to: Junction with Whiskey Chitto Creek to confluence with Marsh Bayou.

[11] Scenic River Segment limited to: Confluence with Marsh Bayou to Ward 8 Park in Calcasieu Parish above Moss Bluff.

[12] Scenic River Segment limited to: Confluence of East and West Prong to La. Hwy. 437, north of Covington.

[13] Site-Specific Seasonal DO Criteria: 3 mg/L November-April, 2 mg/L May-October.

[14] Site-Specific Seasonal DO Criteria: 5 mg/L November-April, 3 mg/L May-October.

[15] Site-Specific Seasonal DO Criteria: 3 mg/L June and July, 4.5 mg/L August, 5 mg/L September through May. These seasonal criteria may be unattainable during or following naturally occurring high flow (when the gage at the Felsenthal Dam exceeds 65 feet and also for the two weeks following the recession of flood waters below 65 feet), which may occur from May through August. Naturally occurring conditions that fail to meet criteria should not be interpreted as violations of the criteria.

[16] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L December-February, 3 mg/L March- November.

[17] Designated Naturally Dystrophic Waters Segment. The following criteria are applicable:

(a) No more than 50 percent reduction in the wetlands faunal assemblage total abundance, total abundance of dominant species, or the species richness of fish and macroinvertebrates, minimum of five replicate samples per site; p = 0.05.

(b) No more than 20 percent reduction in the total above-ground wetland productivity as measured by tree, shrub, and/or marsh grass productivity.

[18] Designated Naturally Dystrophic Waters Segment. The following criteria are applicable:

(a) No more than 20 percent decrease in naturally occurring litter fall or stem growth;

(b) No significant decrease in the dominance index or stem density of bald cypress;

(c) No significant decrease in faunal species diversity and no more than a 20 percent decrease in abundance.

[19] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L November-March, 3.5 mg/L April-October.

[20] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L October-June, 3 mg/L July-September.

[21] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L October-June, 2.5 mg/L July-September.

[22] Site-Specific Seasonal DO Criteria: 3 mg/L May-September, 5 mg/L October-April.

[23] Designated Naturally Dystrophic Waters Segment. The following criteria apply: no more than 20% reduction in the total above-ground wetland productivity as measured by tree, shrub, and/or marsh grass productivity.

[24] Designated Man-Made Water Bodies; Seasonal DO Criteria: 3.0 mg/L November-April, 2.0 mg/L May-October; Rodere Canal and Commercial Canal have BAC 2; Port Canal and New Iberia Southern Drainage Canal have BAC 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010).

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1301. Scope and Purpose

A. It is the purpose of these regulations to establish a fee system for funding the operation and activities under these regulations of the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2549 (November 2000).

§1303. Authority

A. These regulations provide fees as required by R.S. 30:2014(B) and 2089.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 24:326 (February 1998).

§1305. Short Title

A. These regulations shall be known and may be cited by the short title "Water Program Fee Regulations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985).

§1307. Definitions

A. All terms used in these regulations, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act, or in substantive regulations promulgated by the Secretary of the Department of Environmental Quality, shall have their usual meaning. In addition, for purposes of these regulations, the following definitions apply.

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

Annual Fee—the fee which is paid annually based on the state's fiscal year (July 1 to June 30). This fee shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law, R.S. 30:2071 et seq.

Department—the Department of Environmental Quality.

Due Date—the date indicated on the invoice.

Facility—for the purposes of the Louisiana Water Pollution Control Fee System, a pollution source, or any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where an activity is conducted that discharges or may result in the discharge of pollutants into waters of the state.

Inactive Facility—any facility which has been permanently closed and inoperative except for minor and essential maintenance activities for a period of at least one year but retains a valid permit to facilitate a potential resumption of operations. Facilities that are temporarily closed for maintenance or turnaround activities or inventory reduction are not considered to be inactive.

Major Facility—for the purposes of the Louisiana Water Pollution Control Fee System, any facility classified as such by the administrative authority.

Minor Facility—any facility not classified as a major facility by the administrative authority.

Municipal Facility—any facility operated by the state or a city, town, village, district or parish governing authority for the purpose of providing necessary public services.

New, Modified, or Reissued Permit Fee—the fee applicable to any such permit action.

Permit or License—for the purposes of the Louisiana Water Pollution Control Fee System, written authorization issued by the administrative authority to discharge, emit, or dispose of liquid, gaseous, semi-solid or solid waste or reusable materials, or radioactive material from or at a site or facility, including all conditions set forth therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2549 (November 2000).

§1309. Fee System

A. Applicability. Fees established by these regulations shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law, R.S. 30:2071 et seq., including those with no discharge and/or closed system permits.

B. Annual Fee

1. The annual fee shall be calculated by multiplying the rating points times the rate factor except that the annual fee for each general permit shall be established by the administrative authority as provided below.

2. The rating points shall be computed using the appropriate Annual Fee Rating Worksheet.

3. The rate factor shall be applied per rating point as follows:

a. for municipal facilities:

i. $97.50 per rating point through June 30, 1998;

ii. $104.81 per rating point from July 1, 1998, through June 30, 1999;

iii. $112.12 per rating point as of July 1, 1999;

iv. $134.54 per rating point as of July 1, 2002; and

v. $148.00 per rating point as of July 1, 2003; and

b. for all other facilities:

i. $179.16 per rating point through June 30, 1998;

ii. $192.60 per rating point from July 1, 1998, through June 30, 1999;

iii. $206.03 per rating point as of July 1, 1999;

iv. $247.24 per rating point as of July 1, 2002; and

v. $271.96 per rating point as of July 1, 2003.

4. The annual fee shall be paid each year a facility is subject to regulation under the Louisiana Water Control Law, R.S. 30:2071 et seq. The year shall correspond with the state's fiscal year, July 1 through June 30.

5. For new facilities, the annual fee may be prorated to correspond to the start-up date.

6. The annual fee for inactive facilities may be reduced by 50 percent during any fiscal year in which the facility was inactive for the entire fiscal year. In no case shall the fee be reduced below the minimum fee.

C. New Permit Fee

1. A new permit fee shall be paid for issuance of any new or temporary permit.

2. The new permit fee shall be assessed subsequent to the receipt and review of an application or other request for permit action.

3. This fee shall be 20 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Paragraph E.1 of this Section.

D. Modified or Reissued Permit Fee

1. A modified or reissued permit fee shall be paid for any permit action which requires modification or reissuance of an existing permit.

2. The modified or reissued permit fee shall be assessed subsequent to the receipt and review of an application or other request for permit action.

3. This fee shall be 20 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Paragraph E.1 of this Section, for permit actions requiring implementation of the public notice procedure.

4. For all other permit actions, this fee shall be 10 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Paragraph E.1 of this Section.

E. Minimum and Maximum Annual Fee

1. The minimum annual fee shall be:

a. $227.50 through June 30, 1998;

b. $244.56 from July 1, 1998, through June 30, 1999;

c. $261.63 as of July 1, 1999;

d. $314.00 as of July 1, 2002; and

e. $345.00 as of July 1, 2003.

2. The maximum annual fee shall be:

a. $94,500 through June 30, 1998;

b. $101,587.50 from July 1, 1998, through June 30, 1999;

c. $108,675 as of July 1, 1999;

d. $130,410 as of July 1, 2002; and

e. $143,451 as of July 1, 2003.

F. General Permit Fee. At the discretion of the administrative authority, an annual fee may be assessed for facilities regulated by a general permit. In deciding to establish an annual fee for facilities covered by a general permit, the administrative authority should consider the resources involved in administering the general permit, the economic impact on the regulated community, and the economic impact on the fee program. If the decision is made to assess an annual fee for an activity covered by a general permit, then each facility involved in that activity and covered by the general permit shall be assessed the fee.

G. Due Date. Fees shall be received by the department by the due date indicated on the invoice.

H. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

I. Failure to Pay. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

J. Refunds

1. There shall be no refunds of new, modified or reissued permit fees.

2. The annual fee may be prorated and/or refunded should a facility relinquish its discharge permit.

K. Annual Fee Rating Worksheet. The annual fee shall be computed using the appropriate Annual Fee Rating Worksheet as provided in LAC 33:IX.1313 or LAC 33:IX.1317. Instructions for completing the appropriate Annual Fee Rating Worksheet are provided in LAC 33:IX.1311 and LAC 33:IX.1315.

L. Facility Complexity Designation

1. The facility complexity designation shall be based on the SIC code as established in the tables in LAC 33:IX.1319.

2. If a facility is not specifically covered by an SIC code, the administrative authority may assign an SIC code and/or Facility Complexity Designation on a case-by-case basis.

3. When it is demonstrated that factors associated with processes and waste generation are fundamentally different from those considered in assignment of a complexity designation, the administrative authority, on a case-by-case basis, may assign a minor facility a different complexity designation than that indicated in LAC 33:IX.1319. In making such a reassignment the administrative authority shall consider:

a. type and quantity of wastewaters discharged, the ultimate avenue of disposal, and the potential to discharge; and

b. complexity of the permitting procedure and the inspection requirements for this type of facility.

M. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

N. Other Fees

Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	$ 322
Gen-LAG33-Coastal	$2,640
Gen-LAG47-Auto Repair/Dealers	$ 264
Gen-LAG119-Concrete/Asphalt (SW)	$ 387
Gen-LAG78-C & D Landfills	$ 660
Gen-LAG89-Type D Truck Maintenance	$ 660
Gen-LAG75-Exterior Vehicle Wash	$ 264
Gen-LAG-Animal Waste	$ 300
Gen-LAR-Baseline	$ 99
Gen-LAG87-Bulk Terminals	$ 322
Gen-LAR10-Construction	$ 264
Gen-LAG67-Hydrostatic Test	$ 300
Gen-LAG48-Light Commercial	$ 345
Gen-LAR05-Multi-Sector	$ 99
Gen-LAG38-Potable Water	$ 345
Gen-LAG949-GW Remediation (SW)	$ 990
Gen-LAG49-Sand and Gravel	$ 660
Gen-LAG26-Territorial Seas	$2,640
Gen-LAG30-UST Dewatering	$ 99
Gen-LAG94-GW Remediation	$ 990
Gen-LAG679-Hydrostatic Test (SW)	$ 792
Gen-LAG759-Mobile Vehicle/Equipment Wash	$ 317
Gen-LAG83- Petroleum UST Remediation	$ 990
Gen-LAG839-Petroleum UST (SW)	$2,640
Gen-LAG14-RR Classified Yards	$ 322

Permit Type	Amount
Gen-LAG53-Sanitary Class I	$ 99
Gen-LAG54-Sanitary Class II	$ 264
Gen-LAG56-Sanitary Class III	$ 495
Gen-LAG57-Sanitary Class IV	$ 594
Gen-LAG309-UST Dewatering (SW)	$ 851
Gen-LAG98-Vermilion Basin Sanitary	$ 323

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1493 (August 2009), LR 35:2181 (October 2009).

§1311. Instructions for Completing Treatment Works Treating Domestic Sewage Annual Fee Rating Worksheet

A. Facility Complexity Designation

1. Determine the specific industrial category applicable to the facility.

2. From the permit application, determine SIC codes. Also determine processes and products reported. Compare this information to LAC 33:IX.1319 to determine the applicable industrial category and the related complexity designation. When more than one category applies, select the one with the highest complexity designation. Record the SIC code applicable to the category selected in the first SIC code blank and all other reported SIC codes in the second blank. Record the SIC title.

3. Check the applicable complexity designation and record the associated points in the complexity points blank.

> [NOTE: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.L.2.]

4. The SIC codes listed in the tables are not exhaustive and any questions concerning the appropriate SIC code or complexity designation for a particular facility will be decided by the administrative authority.

B. Flow Volume and Type

1. Determine the wastewater type and average discharge volume.

2. Review the permit application to determine the composition of the wastewater discharge(s). If there are multiple discharges, the composite of all discharges should be used. Compare the relative magnitudes of process wastewater, noncontact cooling water and other wastewaters with the definitions of wastewater types in Table 1 below, and select the appropriate wastewater type (select only one type).

Table 1 Types of Wastewater	
Wastewaters are divided into three types based on their relative pollution potential.	
Type I	Type I wastewaters are relatively uncontaminated. They include noncontact cooling water only, or mixed flows which contain at least 90 percent noncontact cooling water and not more than 1 mgd of process wastewaters.
Type II	Type II wastewaters are the most contaminated. They include process wastewater flows or any mixed wastewaters containing more than 10 percent process wastewaters or containing more than 1 mgd of process wastewaters.
Type III	Type III wastewaters include sanitary wastewater, boiler blowdown, recirculating cooling system blowdown, water treatment wastewaters and relatively uncontaminated surface run-off (contaminated surface runoff should be considered process wastewater). Any mixture of these wastewaters is considered Type III. A mixture which includes noncontact cooling water is also Type III unless the noncontact cooling water exceeds 90 percent of the flow (Type I).

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to the department in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

C. Traditional Pollutants

1. Review the permit to determine if BOD, COD, TSS and/or ammonia are limited. Points should only be assigned for these four parameters if they are limited in the permit. The permit limits used to determine pollutant loads should be those limits currently in effect. Add the daily average load limit for each parameter for all discharges.

2. Check the applicable load range for BOD and/or COD and record the highest associated points in the BOD or COD points blank. In some cases, oxygen demand may be limited by some parameter other than BOD or COD [i.e., ultimate oxygen demand (UOD), total organic carbon (TOC), or total oxygen demand (TOD)]. If this is the case, check the applicable load range in the BOD criterion and record the alternate parameter used in the blank indicated.

3. Check the applicable TSS and ammonia load ranges and record the associated points. An alternate nitrogen load parameter may be used in some cases when ammonia is not limited. If another nitrogen parameter is limited in the permit, check the appropriate load range in the ammonia criterion and record the alternate parameter used in the blank indicated.

4. Sum the totals A, B, and C and record the total pollution points in the space provided.

D. Potential Public Health Points

1. Determine if the receiving water is used for a municipal water supply.

2. Review the complexity designation assigned in LAC 33:IX.1311.A. If groups I or II were assigned, check the first complexity designation blank, record 0 points in the public health points blank and go to the next instruction.

3. If a higher complexity designation (III, IV, V, or VI) was assigned, then a determination if the receiving water is used as a drinking water supply source must be made. To qualify for points under this criterion, either the receiving water to which wastewater is discharged or a water body to which the receiving water is tributary must be used as a drinking water supply source within 50 miles downstream.

4. Check the appropriate complexity designation blank and record associated points in the public health points blank.

E. Major/Minor Facility Designation

1. Determine if the facility has been designated a major facility by the administrative authority. If the answer is YES, then check the appropriate blank and assign 25 points. If the answer is NO, then proceed to the next part.

2. Determine if the permitted effluent limitations assigned were based on water quality factors in the receiving water. Check the appropriate answer and assign the points required.

F. Total Rating Points. Sum the rating points assigned to each of the six sections and record the total in the total rating points blank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:627 (September 1988), LR 18:732 (July 1992), LR 24:327 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2549 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1493 (August 2009).

§1313. Treatment Works Treating Domestic Sewage Annual Fee Rating Worksheet

Invoice No._____

ANNUAL FEE RATING WORKSHEET
PERMIT NO._____

1. FACILITY COMPLEXITY DESIGNATION

Primary SIC _____Other SIC _____

Complexity Designation =

_____	I	(0 points)
_____	II	(10 points)
_____	III	(20 points)
_____	IV	(30 points)
_____	V	(40 points)
_____	VI	(50 points)

COMPLEXITY DESIGNATION POINTS _____

2. FLOW VOLUME AND TYPE

A. Wastewater Type I

Is total Daily Average Discharge greater than 60 mgd?

_____Yes, then points =__30

_____No, then

Points = 0.5 X Total Daily Average Discharge (mgd)

Points = 0.5 X_____ = _____

Total Points = _____

B. Wastewater Type II

Is total Daily Average Discharge greater than 5 mgd?

_____Yes, then points =__50

_____No, then

Points=10 X Total Daily Average Discharge (mgd)

Points=10 X _____ = _____

Total Points = _____

C. Wastewater Type III

Is total Daily Average Discharge greater than 25 mgd?

_____Yes, then points =__50

_____No, then

Points=2 X Total Daily Average Discharge (mgd)

Points=2 X _____ = _____

Total Points = _____

FLOW VOLUME AND TYPE POINTS _____

3. TRADITIONAL POLLUTANTS

A. BOD or Daily Average Load =

_____	≤	50 lb/day	(0 points)
_____	>	50-500	(5 points)
_____	>	500-1000	(10 points)
_____	>	1000-3000	(20 points)
_____	>	3000-5000	(30 points)
_____	>	5000 lb/day	(40 points)

COD or Daily Average Load =

_____	≤	100 lb/day	(0 points)
_____	>	100-500	(5 points)
_____	>	500-1000	(10 points)
_____	>	1000-5000	(20 points)
_____	>	5000–10000	(30 points)
_____	>	10,000 lb/day	(40 points)

BOD OR COD DEMAND POINTS _____
(whichever is greater)

B. TSS

Daily Average Load =

_____	≤	100 lb/day	(0 points)
_____	>	100-500	(5 points)
_____	>	500-1000	(10 points)
_____	>	1000-5000	(20 points)
_____	>	5000–10000	(30 points)

_____ > 10,000 lb/day (40 points)

TSS POINTS _____

C. AMMONIA or (Alternative nitrogen parameter used)

Daily Average Load =

_____ ≤ 200 lb/day (0 points)

_____ > 200-500 (5 points)

_____ > 500-1000 (10 points)

_____ > 1000-5000 (20 points)

_____ > 5000-10000 (30 points)

_____ > 10,000 lb/day (40 points)

AMMONIA POINTS _____

TOTAL POLLUTANT POINTS _____

4. POTENTIAL PUBLIC HEALTH IMPACTS

Is the receiving water to which the wastewater is discharged or a water body to which it is a tributary used as a drinking water supply source within 50 miles downstream?

_____No (0 points)

_____Yes, then . . .

Complexity Designation

_____ I, II (0 points)

_____ III (5 points)

_____ IV (10 points)

_____ V (20 points)

_____ VI (30 points)

POTENTIAL PUBLIC HEALTH IMPACT POINTS_____

5. MAJOR/MINOR FACILITY DESIGNATION

Has your facility been designated a major facility by the administrative authority?

_____Yes, then Points = 25

_____No, then

Were effluent limitations assigned to the discharge based on water quality factors in the receiving stream?

_____No, then Points = 0

_____Yes, then Points = 5

TOTAL MAJOR/MINOR POINTS_____

TOTAL RATING POINTS ASSIGNED _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:628 (September 1988) LR 18:732 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1494 (August 2009).

§1315. Instructions for Completing Industrial Facility (all non-Treatment Works Treating Domestic Sewage) Annual Fee Rating Worksheet

A. Facility Complexity Designation

1. Determine the specific industrial category applicable to the facility.

2. From the permit application, determine SIC codes. Also determine processes and products reported. Compare this information to LAC 33:IX.1319 to determine the applicable industrial category and the related complexity designation. When more than one category applies, select the one with the highest complexity designation. Record the SIC code applicable to the category selected in the first SIC code blank and all other reported SIC codes in the second blank. Record the SIC title.

3. Check the applicable complexity designation and record the associated points in the complexity points blank.

[NOTE: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.L.2.]

4. The SIC codes listed in the tables are not exhaustive and any questions concerning the appropriate SIC code or complexity designation for a particular facility will be decided by the administrative authority.

B. Flow Volume and Type

1. Determine the wastewater type and average discharge volume.

2. Review the permit application to determine the composition of the wastewater discharge(s). If there are multiple discharges, the composite of all discharges should be used. Compare the relative magnitudes of process wastewater, noncontact cooling water and other wastewaters with the definitions of wastewater types in Table 2 below, and select the appropriate wastewater type (select only one type).

Table 2 Types of Wastewater	
Wastewaters are divided into three types based on their relative pollution potential.	
Type I	Type I wastewaters are relatively uncontaminated. They include noncontact cooling water only, or mixed flows which contain at least 90 percent noncontact cooling water and not more than 1 mgd of process wastewaters.
Type II	Type II wastewaters are the most contaminated. They include process wastewater flows or any mixed wastewaters containing more than 10 percent process wastewaters or containing more than 1 mgd of process wastewaters.
Type III	Type III wastewaters include sanitary wastewater, boiler blowdown, recirculating cooling system blowdown, water treatment wastewaters and relatively uncontaminated surface run-off (contaminated surface runoff should be considered process wastewater). Any mixture of these wastewaters is considered Type III. A mixture which includes noncontact cooling water is also Type III unless the noncontact cooling water exceeds 90 percent of the flow (Type I).

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to the department in the permit application. If there

are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

C. Pollutants

1. Review the permit to determine if BOD, COD, and TSS are limited. Points should only be assigned for these parameters if they are limited in the permit. The permit limits used to determine pollutant loads should be those limits currently in effect. Add the daily average load limit for each parameter for all discharges.

2. Check the applicable load range for BOD and/or COD, complete the formula, if applicable, and record the highest associated points in the BOD or COD points blank. In some cases, oxygen demand may be limited by some parameter other than BOD or COD [i.e., ultimate oxygen demand (UOD), total organic carbon (TOC), or total oxygen demand (TOD)]. If this is the case, substitute the alternate parameter for the COD criterion and record the alternate parameter used in the blank indicated.

3. Check the applicable TSS load range, complete the formula, if applicable, and record the associated points.

4. Obtain the latest reported toxic discharge to surface water information for the facility, complete the formula and record the associated points. This information may be updated and the rating revised if the annual report shows a change of at least 10 percent in the amount discharged.

5. Sum the totals A, B, and C and record the total pollutant points in the space provided.

D. Temperature (Heat Load)

1. A heat load should be computed for large thermal discharges. Such discharges are usually indicated by temperature limits in the permit. Computation for a flow less than 10 mgd is unnecessary as it will receive no heat load points.

2. Use maximum temperature limit in the permit (maximum temperature reported in application if not limited in the permit) and subtract 70° to compute $^{\Delta}T$ in °F, then determine the daily average heat load during the most critical conditions. This is usually during the summer months when stream temperature and cooling water flow rates are the highest.

3. If larger heat loads are discharged at other time periods because of seasonal operations, the daily average heat load for those periods should be used. The summer flow rate may not be indicated in the permit application. It can be determined from Discharge Monitoring Reports.

4. Compute the heat load using the computed $^{\Delta}T$ and the selected flow rate. Check the applicable heat load range and record the associated points in the heat load points blank.

E. Potential Public Health Points

1. Determine if the receiving water is used for a municipal water supply.

2. Review the complexity designation assigned in LAC 33:IX.1311.A. If groups I or II were assigned, check the first complexity designation blank, record 0 points in the public health points blank and go to the next instruction.

3. If a higher complexity designation (III, IV, V, or VI) was assigned, then a determination if the receiving water is used as a drinking water supply source must be made. To qualify for points under this criterion, either the receiving water to which wastewater is discharged or a water body to which the receiving water is tributary must be used as a drinking water supply source within 50 miles downstream.

4. Check the appropriate complexity designation blank and record associated points in the public health points blank.

F. Major/Minor Facility Designation

1. Determine if the facility has been designated a major facility by the administrative authority. If the answer is YES, then check the appropriate blank and assign 25 points. If the answer is NO, then proceed to the next part.

2. Determine if the permitted effluent limitations assigned were based on water quality factors in the receiving water. Check the appropriate answer and assign the points required.

G. Total Rating Points. Sum the rating points assigned to each of the six sections and record the total in the total rating points blank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 18:733 (July 1992), amended LR 24:327 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1494 (August 2009).

§1317. Industrial Facility (all non-Treatment Works Treating Domestic Sewage) Annual Fee Rating Worksheet

Invoice No._____

ANNUAL FEE RATING WORKSHEET
PERMIT NO._____

1. FACILITY COMPLEXITY DESIGNATION

Primary SIC _____Other SIC _____

Complexity Designation =

_____	I	(0 points)
_____	II	(10 points)
_____	III	(20 points)
_____	IV	(30 points)
_____	V	(40 points)
_____	VI	(50 points)

COMPLEXITY DESIGNATION POINTS _____

2. FLOW VOLUME AND TYPE

A. Wastewater Type I

Is total Daily Average Discharge greater than 400 m?

_____Yes, then points =__200

_____No, then

Points = 0.5 X Total Daily Average Discharge (mgd)

Points = 0.5 X_____ = _____

Total Points = _____

B. Wastewater Type II

Points=10 X Total Daily Average Discharge (mgd)

Points=10 X _____ = _____

Total Points = _____

C. Wastewater Type III

Points=2 X Total Daily Average Discharge (mgd)

Points=2 X _____ = _____

Total Points = _____

FLOW VOLUME AND TYPE POINTS _____

3. POLLUTANTS

A. BOD or Daily Average Load =

_____	≤	50 lb/day	(0 points)
_____	>	50-500	(5 points)
_____	>	500-1000	(10 points)
_____	>	1000-3000	(20 points)
_____	>	3000-5000	(30 points)
_____	>	5000 lb/day	(calculate)

Points = 0.008 X Daily Average Load (lbs.)

Points = 0.008 X _____ = _____

COD or Daily Average Load =

_____	≤	100 lb/day	(0 points)
_____	>	100-500	(5 points)
_____	>	500-1000	(10 points)
_____	>	1000-5000	(20 points)
_____	>	5000–10000	(30 points)
_____	>	10000 lb/day	(calculate)

Points = 0.004 X Daily Average Load (lbs.)

Points = 0.004 X _____=_____

BOD OR COD DEMAND POINTS _____

(whichever is greater)

B. TSS

Daily Average Load =

_____	≤	100 lb/day	(0 points)
_____	>	100-500	(5 points)
_____	>	500-1000	(10 points)
_____	>	1000-5000	(20 points)
_____	>	5000–10000	(30 points)
_____	>	10,000 lb/day	(calculate)

Points = 0.004 X Daily Average Load (lbs.)

Points = 0.004 X _____ = _____

TSS POINTS _____

C. TOXICS

Total Annual Discharge to Water = _____ (lbs.)

Points = 0.01 X Annual discharge (lbs.)

Points = 0.01 X _____ = _____

TOXIC POINTS _____

TOTAL POLLUTANT POINTS _____

4. TEMPERATURE (HEAT LOAD)

Heat Load = Average Summer flow (mgd) X $^{\Delta}$T X 0.00834

where $^{\Delta}$T = Permit Limit (Max. Temp.) -70°

Heat Load = ___(mgd) X ___ X 0.00834 =_____Billion BTU

Heat Load =

_____	≤	4 billion BTU	(0 points)
_____	>	4-20 billion BTU	(5 points)
_____	>	20-100 billion BTU	(10 points)
_____	>	100-200 billion BTU	(15 points)
_____	>	200 billion BTU	(20 points)

HEAT LOAD POINTS_____

5. POTENTIAL PUBLIC HEALTH IMPACTS

Is the receiving water to which the wastewater is discharged or a water body to which it is a tributary used as a drinking water supply source within 50 miles downstream?

_____No (0 points)

_____Yes, then . . .

Complexity Designation

_____	I, II	(0 points)
_____	III	(5 points)
_____	IV	(10 points)
_____	V	(20 points)
_____	VI	(30 points)

POTENTIAL PUBLIC HEALTH IMPACT POINTS_____

6. MAJOR/MINOR FACILITY DESIGNATION

Has your facility been designated a major facility by the administrative authority?

_____Yes, then Points =__25

_____No, then

Were effluent limitations assigned to the discharge based on water quality factors in the receiving stream?

_____No, then Points = __0

_____Yes, then Points = __5

TOTAL MAJOR/MINOR POINTS_____

TOTAL RATING POINTS ASSIGNED _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:734 (July 1992) amended by the Office of the Secretary, Legal Affairs Division, LR 35:1494 (August 2009).

§1319. SIC Code Complexity Tables

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
1011	Iron Ores	Ore Mining and Dressing	Iron Ore	IV
1021	Copper Ores	Ore Mining and Dressing	Base and Precious Metals	V
1031	Lead and Zinc Ores	Ore Mining and Dressing	Base and Precious Metals	V
1041	Gold Ores	Ore Mining and Dressing	Base and Precious Metals	V
1044	Silver Ores	Ore Mining and Dressing	Base and Precious Metals	V
1061	Ferroalloy Ores, Except Vanadium	Ore Mining and Dressing	Ferroalloy	V
1094	Uranium-Radium-Vanadium Ores	Ore Mining and Dressing	Uranium	VI
1099	Miscellaneous Metal Ores NEC	Ore Mining and Dressing	Aluminum	IV
1099	Mercury Ores	Ore Mining and Dressing	Mercury	V
1099	Miscellaneous Metal Ores NEC	Ore Mining and Dressing	Metal Ore, NEC	V
1221	Bituminous Coal and Lignite	Coal Mining	Acid or Ferruginous Mines	IV
1221	Bituminous Coal and Lignite	Coal Mining	Alkaline Mines	IV
1221	Bituminous Coal and Lignite	Coal Mining	Coal Preparation Plants	IV
1221	Bituminous Coal and Lignite	Coal Mining	Regrade/Revegetation	III
1231	Anthracite Mining	Coal Mining	Acid or Ferruginous Mines	IV
1231	Anthracite Mining	Coal Mining	Alkaline Mines	IV
1231	Anthracite Mining	Coal Mining	Anthracite Segment of Acid Mine Subcategory	III
1231	Anthracite Mining	Coal Mining	Coal Preparation Plants	IV
1231	Anthracite Mining	Coal Mining	Regrade/Revegetation	III
1311	Oil and Gas Extraction	Crude Petroleum and Natural Gas	Exploration and Production, Except Storm Water Only	III
1321	Natural Gas Liquids	Recovering/Fractioning	Natural Gas	II
1389	Oil and Gas Field Services	Miscellaneous	Reserve Pit Treaters	IV
1389	Oil and Gas Field Services	Miscellaneous	Oilfield Waste Disposal	V
1389	Oil and Gas Field Services	Miscellaneous	Treatment of Oilfield Waste	IV
1389	Oil and Gas Field Services	Miscellaneous	External Cleaning of Equipment	II
1389	Oil and Gas Field Services	Miscellaneous	Internal Cleaning of Equipment	III
1440	Mining of Nonmetallic Minerals	Sand and Gravel	All	II
1475	Phosphate Rock	Phosphate Mining	Phosphate Mining	IV
1479	Chemical and Fertilizer Mineral Mining NEC	Rock Salt	All	III
1479	Chemical and Fertilizer Mineral Mining NEC	Sulfur	All	V
2000	Food and Kindred Products	Processing Food and Beverages	All	II
2211	Broad Woven Fabric Mills, Cotton	Textile Mills	Greige Mills	II
2211	Broad Woven Fabric Mills, Cotton	Textile Mills	Woven Fabric Finishing	V
2221	Broad Woven Fabric Mills, Man-Made Fiber and Silk	Textile Mills	Greige Mills	II
2231	Broad Woven Fabric Mills, Wool	Textile Mills	Greige Mills	II
2231	Broad Woven Fabric Mills, Wool	Textile Mills	Wool Finishing	V
2241	Narrow Fabrics and Other Smallwares Mills	Textile Mills	Greige Mills	II
2241	Narrow Fabrics and Other Smallwares Mills	Textile Mills	Woven Fabric Finishing	V
2251	Women's Full Length and Knee Length Hosiery	Textile Mills	Hosiery	V
2252	Hosiery, Except Women's Full Length and Knee Length	Textile Mills	Hosiery	V
2253	Knit Outerwear Mills	Textile Mills	Greige Mills	II
2253	Knit Outerwear Mills	Textile Mills	Knit Fabric Finishing	V
2254	Knit Underwear Mills	Textile Mills	Knit Fabric Finishing	V
2255	Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2256	Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2257	Circular Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2258	Lace and Warp Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2259	Knitting Mills, NEC	Textile Mills	Knit Fabric Finishing	V
2261	Finishers of Broad Woven Fabrics of Cotton	Textile Mills	Woven Fabric Finishing	V
2262	Finishers of Broad Woven Fabrics/Man-Made Fiber	Textile Mills	Woven Fabric Finishing	V
2269	Finishers of Textiles, NEC	Textile Mills	Woven Fabric Finishing	V
2273	Carpets and Rugs	Textile Mills	Carpet Finishing	V
2273	Carpets and Rugs	Textile Mills	Greige Mills	II
2281	Yarn Spinning Mills	Textile Mills	Greige Mills	II
2281	Yarn Spinning Mills	Textile Mills	Stock and Yarn Dyeing	V
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	Textile Mills	Greige Mills	II

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	Textile Mills	Stock and Yarn Dyeing	V
2284	Thread Mills	Textile Mills	Stock and Yarn Dyeing	V
2293	Textile Goods NEC	Textile Mills	Padding and Upholstery	II
2294	Textile Goods NEC	Textile Mills	Processed Textile Wastes	II
2297	Nonwoven Fabrics	Textile Mills	Nonwoven Manufacturing	V
2299	Textile Goods NEC	Textile Mills	Wool Scouring and Felt Manufacturing	V
2300	Apparel and Other Finished Products/From Fabrics	Textile Mills	Apparel	II
2410	Logging Camps and Logging Contractors	Timber Products Processing	All	II
2421	Sawmills and Planing Mills, General	Timber Products Processing	Sawmills and Planing Mills	II
2426	Hardwood Dimension and Flooring Mills	Timber Products Processing	Hardwood Dimension and Flooring Mills	II
2429	Special Product Sawmills, NEC	Timber Products Processing	Special Products Sawmills, NEC	II
2431	Millwork	Timber Products Processing	Millwork	II
2434	Wood Kitchen Cabinets	Timber Products Processing	Wood Kitchen Cabinets	II
2435	Hardwood Veneer and Plywood	Timber Products Processing	Plywood	IV
2435	Hardwood Veneer and Plywood	Timber Products Processing	Veneer	II
2436	Softwood Veneer and Plywood	Timber Products Processing	Plywood	IV
2436	Softwood Veneer and Plywood	Timber Products Processing	Veneer	II
2439	Structural Wood Members, NEC	Timber Products Processing	Millwork, Veneer, Plywood and Structural Wood Members	II
2440	Wood Containers	Timber Products Processing	All	II
2450	Wooden Buildings and Mobile Homes	Timber Products Processing	All	II
2491	Wood Preserving	Timber Products Processing	Wood Preserving—Steam	IV
2491	Wood Preserving	Timber Products Processing	Wood Preserving—Boulton	IV
2491	Wood Preserving	Timber Products Processing	Wood Preserving—Inorganic	II
2493	Reconstituted Wood Products	Timber Products Processing	Particleboard	II
2493	Wood Products NEC	Timber Products Processing	Hardboard—Dry Process	II
2493	Wood Products NEC	Timber Products Processing	Wet Process Hardboard (Two Subcategories)	IV
2493	Wood Products NEC	Timber Products Processing	Wood Products, NEC	II
2500	Furniture and Fixtures	Household and Office Furniture	All	II
2611	Pulp Mills	Pulp, Paper and Paperboard	All	III
2621	Paper Mills	Pulp, Paper and Paperboard	All	III
2621	Building Paper and Buildingboard Mills	Pulp, Paper and Paperboard	Waste Paper—Construction	III
2621	Building Paper and Buildingboard Mills	Pulp, Paper and Paperboard	Waste Paper—Board	III
2631	Paperboard Mills	Pulp, Paper and Paperboard	All	III
2640	Converted Paper and Paperboard Products	Pulp, Paper and Paperboard	All, Except Containers and Boxes	II
2650	Paperboard Containers and Boxes	Pulp, Paper and Paperboard	All	II
2661	Building Paper and Buildingboard Mills	Timber Products Processing	Barking	II
2679	Building Paper and Buildingboard Mills	Timber Products Processing	Insulation Board (Two Subcategories)	IV
2700	Printing, Publishing and Allied Industries	Printing and Publishing	All	II
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Chlorine	V
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Diaphragm Cell	V
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Mercury Cell	V
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Potassium Carbonate	IV
2812	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Bicarbonate	II
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Sodium Carbonate	IV
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Carbon Dioxide	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Carbon Monoxide	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Hydrogen	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Gases, Industrial Compressed Liquid/Solid	IV
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Nitrous Oxide	IV
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Oxygen and Nitrogen	II
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Barium Sulfate	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Byrytes Pigments	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Chloride Process	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Chrome Pigments	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Colors	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Oxide, Black	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Oxide, Magnetic	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Oxide, Yellow	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Lead Dioxide, Brown ($Pb0_2$)	IV

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Lead Oxide, Red (Pb_30_4)	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Ochers	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Satin White Pigment	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Siennas	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Sulfate Process	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Titanium Dioxide	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Ultramarine Pigment	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Umbers	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	White Lead Pigment ($Pb(OH)_2$+$PbCO)_3$	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Whiting	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Fluoride	V
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Hydroxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Alums	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonia Alum	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Chloride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Hydroxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Molybdate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Perchlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Thiosulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Barium Carbonate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Barium Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Beryllium Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Bleaching Powder	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Borax	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Boric Acid	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Boron Compounds (Not Produced at Mines)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Borosilicate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Brine	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Bromine	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Carbide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Carbonate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Compounds (Inorganic)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Hypochlorite	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cerium Salts	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chlorosulfuric Acid	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chromic Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chromium Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chromium Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cobalt Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cobalt Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cobalt 60 (Radioactive)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Copper Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Copper Iodide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Copper Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cuprous Oxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ferric Chloride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ferrous Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Fissionable Materials Production	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Fluorine	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Heavy Water	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrated Alumina Silicate Powder	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrochloric Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrofluoric Acid	V
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrogen Cyanide	V
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrogen Peroxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrogen Sulfide	IV

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrophosphites	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Indium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Inorganic Acids (Except HNO_2 or H_2PO_4)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Iodides	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Iodine	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Isotopes Radioactive	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lead Arsenate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lead Monoxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lead Silicate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lithium Carbonate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lithium Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Luminous Compounds (Radium)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Magnesium Compounds (Inorganic)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Manganese Dioxide (Powder Synthetic)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Manganese Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Mercury Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Mercury Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Ammonium Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Carbonate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Fluoroborate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Nitrate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nitric Acid (Strong)	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nitric Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nuclear Fuel Reactor Cases, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nuclear Fuel Scrap Reprocessing	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Oleum (Fuming Sulfuric Acid)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Oxidation Catalyst from Porcelain	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Percloric Acid	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Peroxides, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potash Alum	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potash Magnesia	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Aluminum Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Bromide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Chloride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Cyanide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Chlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Compounds Inorganic (Except KOH-K_2CO_3)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Dichromate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Hypochlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Iodide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Metal	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Nitrate and Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Permanganate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Radium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Radium Luminous Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Rare Earth Metal Salts	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Reagent Grade Chemicals (Inorganic: Refined From Technical Grades)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Salts of Rare Earth Metals	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silica Amorphous	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silica Gel	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Bromide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Carbonate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Cyanide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Iodide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Nitrate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Soda Alum	IV

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Antimoniate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Bisulfite	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Chlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Compounds, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Cyanide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Dichromate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Fluoride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Hydrosulfite	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Hydrosulfide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Metal	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Silicate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Silicofluoride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Sulfite	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Thiosulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Stannic and Stannous Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Stannic Oxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Strontium Carbonate (Precipitated and Oxide)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Strontium Nitrate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfides and Sulfites	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfocyanides	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur (Recovered or Refined, Including From Sour Natural Gas)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur Dioxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur Hexafluoride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfuric Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Thiocyanates, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Tin Compounds, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Uranium Slug, Radioactive	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Uranium Recovery from Phosphoric Acid Production	VI
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Oxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Sulfide	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Defluorinated Rock	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Defluorinated Acid	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Elemental Phosphorus	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Phosphorus Derived Chemicals	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Phosphates	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Sodium Phosphates	IV
2821	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	Gum and Wood Chemicals	Rosin Based Derivatives	III
2821	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	Plastics and Synthetics	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	VI
2821	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	Plastics and Synthetics	Melamine Crystals	III
2822	Synthetic Rubber (Vulcanizable Elastomers)	Rubber	All	V
2823	Cellulosic Man-Made Fibers	Plastics and Synthetics	Cellulosic Man-Made Fibers	VI
2824	Synthetic Organic Fibers, Except Cellulosic	Plastics and Synthetics	Synthetic Organic Fibers, Except Cellulosic	VI
2833	Medicinal Chemicals and Botanical Products	Pharmaceutical Manufacturing	All	VI
2834	Pharmaceutical Preparations	Pharmaceutical Manufacturing	Mising and Formulation (Pharmaceutical Preparations)	VI
2836	Biological Products	Pharmaceutical Manufacturing	Extraction (Biological Products)	VI
2841	Soaps and Other Detergents, Except Specialty Cleaners	Soaps and Detergents	All	III
2842	Specialty Cleaning, Polishing and Sanitary Preperation	Soaps and Detergents	All	III
2843	Surface Active Agents, Finishing Agents, Etc.	Soaps and Detergents	All	III
2844	Perfumes, Cosmetics and Other Toilet Preparations	Soaps and Detergents	Manufacturing of Liquid Soaps	III
2851	Paints/Varnishes/Lacquers/Enamels and Allied Products	Paint and Ink	Caustic or Water Washed Paint	II

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		**Effluent Guidelines Division Designations**		**Complexity Designation**
No.	**SIC Title**	**Major Industry**	**Industrial Subcategory**	
2851	Paints/Varnishes/Lacquers/Enamels and Allied Products	Paint and Ink	Solvent Wash Paint	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Char and Charcoal Briquettes	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Essential Oil	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Gum Rosin	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Rosin Based Derivatives	IV
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Sulfate Turpentine	IV
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Tall Oil	IV
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Wood Rosin	IV
2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	Organic Chemicals	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	VI
2869	Industrial Organic Chemicals NEC	Organic Chemicals	Industrial Organic Chemicals, NEC	VI
2869	Industrial Organic Chemicals NEC	Organic Chemicals	Ethanol by Fermentation, Food Additives	III
2873	Nitrogenous Fertilizers	Agricultural Chemicals	All	VI
2874	Phosphatic Fertilizers	Agricultural Chemicals	Phosphatic Fertilizing Materials Including Phosphoric Acid	VI
2875	Fertilizers, Mixing Only	Agricultural Chemicals	All	II
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Amides	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Formulation and Packaging of Agricultural Chemicals	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Halogenated Organics	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Heterocyclic Nitrogens	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Metallo Organic	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Miscellaneous	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Organophosphorus	VI
2891	Adhesives and Sealants	Adhesives and Sealants	Adhesives and Sealants	V
2892	Explosives	Explosives (Commercial Sector)	All	IV
2892	Explosives	Explosives (Military Sector)	All	IV
2893	Printing Ink	Paint and Ink	Caustic or Water Washed Ink	V
2893	Printing Ink	Paint and Ink	Solvent Wash Ink	II
2895	Carbon Black	Carbon Black	Channel Process	II
2895	Carbon Black	Carbon Black	Furnace Process	III
2895	Carbon Black	Carbon Black	Lamp Process	II
2895	Carbon Black	Carbon Black	Thermal Process	II
2899	Chemicals and Chemical Preparations, NEC	Chemicals	Miscellaneous Chemicals	I-VI* *Shall be determined on a case-by-case basis.
2911	Petroleum Refining	Petroleum Refining	Petroleum Refining	V
2950	Paving and Roofing Materials	Products of Petroleum and Coal	All Except 2951	III
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	Rerefining of Oils or Greases	IV
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	Waste Oil Reclamation	IV
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	Crude Oil Reclamation	III
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	All Lubricating Oils, Blended	III
2999	Petroleum and Coal Products, NEC	Miscellaneous Products of Petroleum and Coal	All	V
3011	Tires and Inner Tubes	Rubber	Tire and Inner Tube Production	IV
3052	Rubber and Plastic Hose and Belting	Rubber	Large-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3052	Rubber and Plastic Hose and Belting	Rubber	Medium-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3052	Rubber and Plastic Hose and Belting	Rubber	Small-Sized General Molded, Extruded and Fabricated Rubber Plants	III
3069	Fabricated Rubber Products, NEC	Rubber	Large-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3069	Fabricated Rubber Products, NEC	Rubber	Latex Foam	III

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		**Effluent Guidelines Division Designations**		**Complexity Designation**
No.	**SIC Title**	**Major Industry**	**Industrial Subcategory**	
3069	Fabricated Rubber Products, NEC	Rubber	Latex-Dipped, Latex-Extruded and Latex Molded Goods	III
3069	Fabricated Rubber Products, NEC	Rubber	Medium-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3069	Fabricated Rubber Products, NEC	Rubber	Small-Sized General Molded, Extruded and Fabricated Rubber Plants	III
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Miscellaneous Plastics Products	V
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Plastics Processing Without Contact Process Water	II
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Solution Casting	III
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Water Slurry Preforming Processes	III
3111	Leather Tanning and Finishing	Leather Tanning and Finishing	All	V
3131	Boot and Shoe Cut Stock and Findings	Leather Tanning and Finishing	Boot and Shoe Cut Stock and Findings	II
3142	House Slippers	Leather Tanning and Finishing	House Slippers	II
3143	Men's Footwear, Except Athletic	Leather Tanning and Finishing	Men's Footwear, Except Athletic	II
3144	Women's Footwear, Except Athletic	Leather Tanning and Finishing	Women's Footwear, Except Athletic	II
3149	Footwear, Except Rubber NEC	Leather Tanning and Finishing	Footwear, Except Rubber, NEC	II
3151	Leather Goods and Mittens	Leather Tanning and Finishing	Leather Gloves and Mittens	II
3161	Luggage	Leather Tanning and Finishing	Luggage	II
3171	Women's Handbags and Purses	Leather Tanning and Finishing	Women's Handbags and Purses	II
3172	Personal Leather Goods, Except Women's Handbags	Leather Tanning and Finishing	Personal Leather Goods Except Women's Handbags	II
3199	Leather Goods NEC	Leather Tanning and Finishing	Leather Goods, NEC	II
3200	Stone, Clay, Shell, Glass and Concrete Products	Stone, Clay, Shell, Glass, and Concrete Products	All Except Abrasive, Asbestos, Etc. in 3290	II
3290	Abrasive, Asbestos, and Miscellaneous Nonmetallic Mineral Products	Abrasives, Asbestos, Mineral Wool, Etc.	All Except 3295	IV
3295	Stone, Clay, Glass and Concrete Products	Minerals, Earths, Grinding	Barite	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Basic Oxygen Furnace (Wet Air Pollution Control Methods)	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Basic Oxygen Furnace; Semi-Wet Air Pollution Control Methods	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Beehive Coke	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Blast Furnace (Ferromanganese)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Blast Furnace (Iron)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Byproduct Coke	V
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Cold Rolling	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Combination Acid Pickling (Batch and Continuous)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Continuous Alkaline Cleaning	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Continuous Casting and Pressure Slab Molding	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Electric Arc Furnace (Wet Air Pollution Control Methods)	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Electric Arc Furnace; Semi-Wet Air Pollution Control Methods	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Coatings—Galvanizing	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Coatings—Terne	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Forming—Flat	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Forming—Primary	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Forming—Section	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Open Hearth Furnace	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Pickling—Hydrochloric Acid—Batch and Continuous	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Pickling—Sulfuric Acid—Batch and Continuous	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Pipe and Tube	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Scale Removal (Kolene and Hydride)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Sintering	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Vacuum Degassing	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Wire Pickling and Coating	III
3313	Electrometallurgical Products	Iron and Steel	Continuous Casting and Pressure Slab Molding	III
3313	Electrometallurgical Products	Iron and Steel	Electric Arc Furnace (Wet Air Pollution Control Methods)	III

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3313	Electrometallurgical Products	Iron and Steel	Electric Arc Furnace: Semi-Wet Air Pollution Control Methods	II
3313	Electrometallurgical Products	Iron and Steel	Vacuum Degassing	III
3315	Steel Wire Drawing and Steel Nails and Spikes	Iron and Steel	Hot Forming—Section	III
3316	Cold Rolled Steel Sheet	Iron and Steel	Cold Rolling	III
3317	Steel Pipe and Tubes	Iron and Steel	Pipe and Tube	III
3321	Gray Iron Foundries	Foundry	Iron and Steel	III
3322	Malleable Iron Foundries	Foundry	Iron and Steel	III
3324	Steel Investment Foundries	Foundry	Iron and Steel	III
3325	Steel Foundries, NEC	Foundry	Iron and Steel	III
3331	Primary Smelting and Refining of Copper	Nonferrous Metals	Primary Copper	VI
3334	Primary Production of Aluminum	Nonferrous Metals	Primary Aluminum	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Bauxite	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Indium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Antimony	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Arsenic	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Barium	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Beryllium	IV
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Bismuth	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Boron	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Cadmium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Calcium	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Cesium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Cobalt	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Columbium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Gallium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Germanium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Gold	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Hafnium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Lead	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Lithium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Magnesium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Mercury	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Molybdenum	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Nickel	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Platinum Group	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Rare Earths	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Rhenium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Rubidium	V

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		**Effluent Guidelines Division Designations**		**Complexity Designation**
No.	**SIC Title**	**Major Industry**	**Industrial Subcategory**	
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Selenium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Silver	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tantalum	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tellurium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tin	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Titanium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tungsten	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Uranium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Zinc	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Zirconium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Rhenium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Aluminum	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Babbitt	III
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Beryllium	III
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Boron	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Cobalt	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Columbian	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Copper	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Lead	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Magnesium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Mercury	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Nickel	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Plutonium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Precious Metals	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Silver	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Tantalum	III
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Tin	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Titanium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Tungsten	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Uranium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Zinc	V
3351	Rolling, Drawing and Extruding of Copper	Copper Forming	All	III
3353	Aluminum Sheet, Plate and Foil	Aluminum Forming	All	V
3354	Aluminum Extruded Products	Aluminum Forming	All	V
3355	Aluminum Rolling and Drawing NEC	Aluminum Forming	All	V
3356	Rolling, Drawing and Extraction of Other Nonferrous Metals	Primary Metals Forming	All, Except Copper and Aluminum	IV

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3357	Drawing and Insulating of Nonferrous Wire	Aluminum Forming	All	V
3363	Aluminum Foundries (Casting)	Foundry	Aluminum Casting	III
3366	Copper Foundries	Foundry	Copper Casting	III
3369	Nonferrous Foundries (Castings) NEC	Foundry	All	III
3398	Metal Heat Treating	Aluminum Forming	Heat Treating	V
3410	Metal Cans and Shipping Containers	Fabricated Metal Products	All	V
3420	Cutlery, Hand Tools and General Hardware	Fabricated Metal Products	All	II
3431	Enameled Iron and Metal Sanitary Ware	Fabricated Metal Products	Iron	III
3433	Heating Equipment Except Electric and Warm Air Furnaces	Fabricated Metal Products	All	II
3440	Fabricated Structural Metal Products	Fabricated Metal Products	All	II
3450	Screw Machine Products	Fabricated Metal Products	All, Including Bolts, Nuts, Screws, Rivets and Washers	II
3463	Nonferrous Forgings	Aluminum Forming	Forging	III
3463	Nonferrous Forgings	Copper Forming	Forging	III
3469	Metal Stampings	Fabricated Metal Products	All	II
3471	Electroplating, Plating, Polishing, Anodizing	Aluminum Forming	All	III
3479	Coating, Engraving and Allied Services	Coil Coating	All	III
3479	Coating, Engraving and Allied Services	Electroplating	Job Shops	III
3479	Coating, Engraving and Allied Services	Iron and Steel	Hot Coatings─Galvanizing	III
3490	Miscellaneous Fabricated Metal Products	Fabricated Metal Products	All Except 3497	II
3497	Metal Foil and Leaf	Coal Coating	Aluminum and Aluminized Steel	III
3500	Machinery	Engines and Farm Equipment	All	II
3600	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	Electronic Production, Battery Manufacturing, Etc.	All	III
3612	Power, Distribution and Specialty Transformers	Electronic Production, Battery Manufacturing, Etc.	All	III
3613	Switchgear and Switchboard Apparatus	Electronic Production, Battery Manufacturing, Etc.	Switchgear	III
3621	Motors and Generators	Electronic Production, Battery Manufacturing, Etc.	Motors, Generators and Alternators	III
3624	Carbon and Graphite Products	Electronic Production, Battery Manufacturing, Etc.	All	III
3629	Electrical Industrial Apparatus, NEC	Electronic Production, Battery Manufacturing, Etc.	Capacitors	III
3631	Household Cooking Equipment	Electronic Production, Battery Manufacturing, Etc.	All	III
3632	Household Refrigerators and Home and Farm Freezers	Electronic Production, Battery Manufacturing, Etc.	All	III
3633	Household Laundry Equipment	Electronic Production, Battery Manufacturing, Etc.	All	III
3639	Household Appliances, NEC	Electronic Production, Battery Manufacturing, Etc.	All	III
3641	Electric Lamps	Electronic Production, Battery Manufacturing, Etc.	Electric Lamps	III
3644	Non-Current-Carrying Wiring Devices	Electronic Production, Battery Manufacturing, Etc.	Insulating Devices	III
3671	Electron Tubes	Electronic Production, Battery Manufacturing, Etc.	All	III
3672	Printed Circuit Boards	Electronic Production, Battery Manufacturing, Etc.	All	III
3674	Semiconductors and Related Devices	Electronic Production, Battery Manufacturing, Etc.	Semiconductors	III
3675	Electronic Capacitors	Electronic Production, Battery Manufacturing, Etc.	Capacitors	III
3677	Electronic Coils, Transformers and Other Inductors	Electronic Production, Battery Manufacturing, Etc.	All	III
3679	Electronic Components, NEC	Electronic Production, Battery Manufacturing, Etc.	All	III
3691	Storage Batteries	Electronic Production, Battery Manufacturing, Etc.	All	III
3692	Primary Batteries, Dry and Wet	Electronic Production, Battery Manufacturing, Etc.	All	III
3693	Radiographic X-Ray, Fluoroscopic X-Ray, Etc.	Electronic Production, Battery Manufacturing, Etc.	Electric and Electronic Components	III
3694	Electrical Equipment For Internal Combustion Engines	Electronic Production, Battery Manufacturing, Etc.	Motors, Generators and Alternators	III

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		**Effluent Guidelines Division Designations**		**Complexity Designation**
No.	**SIC Title**	**Major Industry**	**Industrial Subcategory**	
3699	Electrical Machinery, Equipment and Supplies, NEC	Electronic Production, Battery Manufacturing, Etc.	Electric and Electronic Components	III
3710	Motor Vehicles and Motor Vehicle Equipment	Transportation Equipment	All	III
3731	Ship Building and Repairing	Transportation Equipment	Ship Building and Repairing	I – IV* *Shall be determined on a case-by-case basis.
3732	Boat Building and Repairing, Pleasure Craft	Transportation Equipment	All	II
3743	Railroad Equipment	Transportation Equipment	All	IV
3751	Motorcycles, Bicycles and Parts	Transportation Equipment	All	II
3764	Guided Missiles and Space Vehicle Propulsion Units	Transportation Equipment	All	V
3790	Miscellaneous Transportation Equipment	Transportation Equipment	All, Including Travel Trailers, Campers, Tanks, ATV	III
3800	Measuring, Analyzing and Controlling Instruments	Instrument Manufacturing	All Except 3844, 3845, and 3861	II
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	Instrument Manufacturing	All	III
3845	Electromedical and Electrotherapeutic Apparatus	Instrument Manufacturing	All	III
3861	Photographic Equipment and Supplies	Instrument Manufacturing	All	III
3900	Miscellaneous Manufacturing Industries	Toys, Musical Instruments, Caskets	All Except 3911	II
3911	Jewelry, Precious Metal	Miscellaneous Manufacturing Industries	All	III
4013	Railroad Transportation	Railroads	Switching and Terminal Establishments	III
4200	Motor Freight Transportation and Warehousing	Trucking, Courier Services, and Warehousing	All	II
4491	Water Transportation	Barge Cleaning	Petroleum and Chemical Products	III
4491	Water Transportation	Barge Cleaning	Grain Products	II
4491	Water Transportation	Bulk Terminals	Coal and Coke Terminals	II
4499	Water Transportation NEC	Transportation Services	All	II
4612	Pipelines, Except Natural Gas	Crude Petroleum Pipelines	Crude Oil with Storage	II
4613	Pipelines, Except Natural Gas	Refined Petroleum Pipelines	Refined Oil with Storage	II
4911	Electric Services	Steam Electric	Cooling Tower Blowdown (Fossil Fuel Plants)	IV
4911	Electric Services	Steam Electric	Nuclear Plants	V
4911	Electric Services	Steam Electric	Once-Through Cooling Water (Fossil Fuel Plants)	III
4922	Natural Gas Transmission	Transmission and Storage	Natural Gas, Compressors only	II
4931	Electric and Other Services Combined	Steam Electric	Cooling Tower Blowdown (Fossil Fuel Plants)	IV
4931	Electric and Other Services Combined	Steam Electric	Nuclear Plants	V
4931	Electric and Other Services Combined	Steam Electric	Once-Through Cooling Water (Fossil Fuel Plants)	III
4952	Sanitary Services	Sewerage Systems	Sewerage Systems	I
4953	Sanitary Services	Refuse Systems	Construction and Demolition Debris Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Municipal Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Commercial Municipal Waste Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Private Nonhazardous Industrial Waste Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Commercial Nonhazardous Industrial Waste Landfills and Landfarms	IV
4953	Sanitary Services	Refuse Systems	Hazardous Waste Disposal	VI
5093	Miscellaneous Durable Goods	Scrap and Waste Materials	Waste Oil Only	(Refer to SIC 2992)
5169	Chemicals and Allied Products NEC	Chemical Storage	Chemical Bulk Storage and Distribution	II
5171	Petroleum and Petroleum Products	Petroleum Bulk Stations and Terminals	Petroleum Bulk Stations and Terminals	II
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	Distribution of Petroleum and Petroleum Products	All	II
5191	Miscellaneous Nondurable Goods	Farm Supplies	Pesticides, Insecticides and Fertilizers	IV

Table 1. Numerical Listing Complexity Groups for SIC Codes				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
7211	Power Laundries, Family and Commercial	Auto and Other Laundries	Power Laundries	II
7213	Linen Supply	Auto and Other Laundries	Linen Supply	III
7214	Diaper Service	Auto and Other Laundries	Diaper Service	II
7215	Coin-Operated Laundries and Dry Cleaning	Auto and Other Laundries	Coin-Operated Laundries	I
7216	Dry Cleaning Plants, Except Rug Cleaning	Auto and Other Laundries	All Dry Cleaning Except Coin Operated Laundries	II
7217	Carpet and Upholstery Cleaning	Auto and Other Laundries	Carpet and Upholstery Cleaning	II
7218	Industrial Launderers	Auto and Other Laundries	Industrial Laundry	III
7218	Industrial Launderers	Auto and Other Laundries	External Cleaning of Equipment	II
7218	Industrial Launderers	Auto and Other Laundries	Internal Cleaning of Equipment	III
7542	Car Washes	Auto and Other Laundries	Car Wash	I
7542	Car Washes	Auto and Other Laundries	All Exterior Cleaning of Equipment (Trucks, Trailers, Etc.), Except Car Washes	II
7699	Repair Shops and Related Services NEC	Repair Services	All Except Tank Truck Cleaning	II
7699	Repair Shops and Related Services NEC	Repair Services	Internal Tank Truck Cleaning	III
8071	Medical Laboratories	Medical Laboratories	All	III
8072	Dental Laboratories	Dental Laboratories	All	III
8731	Commercial Physical and Biological Research	Commercial Physical and Biological Research	Only Chemical and Industrial Laboratories	III
8734	Testing Laboratories	Analytical Laboratories	All	III

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3290	Abrasive, Asbestos, and Miscellaneous Nonmetallic Mineral Products	Abrasives, Asbestos, Mineral Wool, Etc.	All Except 3295	IV
2891	Adhesives and Sealants	Adhesives and Sealants	Adhesives and Sealants	V
2873	Nitrogenous Fertilizers	Agricultural Chemicals	All	VI
2874	Phosphatic Fertilizers	Agricultural Chemicals	Phosphatic Fertilizing Materials Including Phosphoric Acid	VI
3353	Aluminum Sheet, Plate and Foil	Aluminum Forming	All	V
3354	Aluminum Extruded Products	Aluminum Forming	All	V
3355	Aluminum Rolling and Drawing NEC	Aluminum Forming	All	V
3357	Drawing and Insulating of Nonferrous Wire	Aluminum Forming	All	V
3398	Metal Heat Treating	Aluminum Forming	Heat Treating	V
3463	Nonferrous Forgings	Aluminum Forming	Forging	III
3471	Electroplating, Plating, Polishing, Anodizing	Aluminum Forming	All	III
8734	Testing Laboratories	Analytical Laboratories	All	III
7211	Power Laundries, Family and Commercial	Auto and Other Laundries	Power Laundries	II
7213	Linen Supply	Auto and Other Laundries	Linen Supply	III
7214	Diaper Service	Auto and Other Laundries	Diaper Service	II
7215	Coin-Operated Laundries and Dry Cleaning	Auto and Other Laundries	Coin-Operated Laundries	I
7216	Dry Cleaning Plants, Except Rug Cleaning	Auto and Other Laundries	All Dry Cleaning Except Coin Operated Laundries	II
7217	Carpet and Upholstery Cleaning	Auto and Other Laundries	Carpet and Upholstery Cleaning	II
7218	Industrial Launderers	Auto and Other Laundries	Industrial Laundry	III
7218	Industrial Launderers	Auto and Other Laundries	External Cleaning of Equipment	II
7218	Industrial Launderers	Auto and Other Laundries	Internal Cleaning of Equipment	III
7542	Car Washes	Auto and Other Laundries	Car Wash	I
7542	Car Washes	Auto and Other Laundries	All Exterior Cleaning of Equipment (Trucks, Trailers, Etc.), Except Car Washes	II
4491	Water Transportation	Barge Cleaning	Petroleum and Chemical Products	III
4491	Water Transportation	Barge Cleaning	Grain Products	II
4491	Water Transportation	Bulk Terminals	Coal and Coke Terminals	II
2895	Carbon Black	Carbon Black	Channel Process	II
2895	Carbon Black	Carbon Black	Furnace Process	III
2895	Carbon Black	Carbon Black	Lamp Process	II
2895	Carbon Black	Carbon Black	Thermal Process	II
5169	Chemicals and Allied Products NEC	Chemical Storage	Chemical Bulk Storage and Distribution	II

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		**Effluent Guidelines Division Designations**		**Complexity Designation**
No.	**SIC Title**	**Major Industry**	**Industrial Subcategory**	
2899	Chemicals and Chemical Preparations, NEC	Chemicals	Miscellaneous Chemicals	I-VI* *Shall be determined on a case-by-case basis.
3497	Metal Foil and Leaf	Coal Coating	Aluminum and Aluminized Steel	III
1221	Bituminous Coal and Lignite	Coal Mining	Acid or Ferruginous Mines	IV
1221	Bituminous Coal and Lignite	Coal Mining	Alkaline Mines	IV
1221	Bituminous Coal and Lignite	Coal Mining	Coal Preparation Plants	IV
1221	Bituminous Coal and Lignite	Coal Mining	Regrade/Revegetation	III
1231	Anthracite Mining	Coal Mining	Acid or Ferruginous Mines	IV
1231	Anthracite Mining	Coal Mining	Alkaline Mines	IV
1231	Anthracite Mining	Coal Mining	Anthracite Segment of Acid Mine Subcategory	III
1231	Anthracite Mining	Coal Mining	Coal Preparation Plants	IV
1231	Anthracite Mining	Coal Mining	Regrade/Revegetation	III
3479	Coating, Engraving and Allied Services	Coil Coating	All	III
8731	Commercial Physical and Biological Research	Commercial Physical and Biological Research	Only Chemical and Industrial Laboratories	III
3351	Rolling, Drawing and Extruding of Copper	Copper Forming	All	III
3463	Nonferrous Forgings	Copper Forming	Forging	III
4612	Pipelines, Except Natural Gas	Crude Petroleum Pipelines	Crude Oil with Storage	II
1311	Oil and Gas Extraction	Crude Petroleum and Natural Gas	Exploration and Production, Except Storm Water Only	III
8072	Dental Laboratories	Dental Laboratories	All	III
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	Distribution of Petroleum and Petroleum Products	All	II
3600	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	Electronic Production, Battery Manufacturing, Etc.	All	III
3612	Power, Distribution and Specialty Transformers	Electronic Production, Battery Manufacturing, Etc.	All	III
3613	Switchgear and Switchboard Apparatus	Electronic Production, Battery Manufacturing, Etc.	Switchgear	III
3621	Motors and Generators	Electronic Production, Battery Manufacturing, Etc.	Motors, Generators and Alternators	III
3624	Carbon and Graphite Products	Electronic Production, Battery Manufacturing, Etc.	All	III
3629	Electrical Industrial Apparatus, NEC	Electronic Production, Battery Manufacturing, Etc.	Capacitors	III
3631	Household Cooking Equipment	Electronic Production, Battery Manufacturing, Etc.	All	III
3632	Household Refrigerators and Home and Farm Freezers	Electronic Production, Battery Manufacturing, Etc.	All	III
3633	Household Laundry Equipment	Electronic Production, Battery Manufacturing, Etc.	All	III
3639	Household Appliances, NEC	Electronic Production, Battery Manufacturing, Etc.	All	III
3641	Electric Lamps	Electronic Production, Battery Manufacturing, Etc.	Electric Lamps	III
3671	Electron Tubes	Electronic Production, Battery Manufacturing, Etc.	All	III
3672	Printed Circuit Boards	Electronic Production, Battery Manufacturing, Etc.	All	III
3674	Semiconductors and Related Devices	Electronic Production, Battery Manufacturing, Etc.	Semiconductors	III
3675	Electronic Capacitors	Electronic Production, Battery Manufacturing, Etc.	Capacitors	III
3677	Electronic Coils, Transformers and Other Inductors	Electronic Production, Battery Manufacturing, Etc.	All	III
3679	Electronic Components, NEC	Electronic Production, Battery Manufacturing, Etc.	All	III
3691	Storage Batteries	Electronic Production, Battery Manufacturing, Etc.	All	III
3692	Primary Batteries, Dry and Wet	Electronic Production, Battery Manufacturing, Etc.	All	III

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3693	Radiographic X-Ray, Fluoroscopic X-Ray, Etc.	Electronic Production, Battery Manufacturing, Etc.	Electric and Electronic Components	III
3694	Electrical Equipment For Internal Combustion Engines	Electronic Production, Battery Manufacturing, Etc.	Motors, Generators and Alternators	III
3699	Electrical Machinery, Equipment and Supplies, NEC	Electronic Production, Battery Manufacturing, Etc.	Electric and Electronic Components	III
3500	Machinery Engines and Farm	Equipment	All	II
2892	Explosives	Explosives (Commercial Sector)	All	IV
2892	Explosives	Explosives (Military Sector)	All	IV
3410	Metal Cans and Shipping Containers	Fabricated Metal Products	All	V
3420	Cutlery, Hand Tools and General Hardware	Fabricated Metal Products	All	II
3431	Enameled Iron and Metal Sanitary Ware	Fabricated Metal Products	Iron	III
3433	Heating Equipment Except Electric and Warm Air Furnaces	Fabricated Metal Products	All	II
3440	Fabricated Structural Metal Products	Fabricated Metal Products	All	II
3450	Screw Machine Products	Fabricated Metal Products	All, Including Bolts, Nuts, Screws, Rivets and Washers	II
3469	Metal Stampings	Fabricated Metal Products	All	II
3490	Miscellaneous Fabricated Metal Products	Fabricated Metal Products	All Except 3497	II
5191	Miscellaneous Nondurable Goods	Farm Supplies	Pesticides, Insecticides and Fertilizers	IV
3321	Gray Iron Foundries	Foundry	Iron and Steel	III
3322	Malleable Iron Foundries	Foundry	Iron and Steel	III
3324	Steel Investment Foundries	Foundry	Iron and Steel	III
3325	Steel Foundries, NEC	Foundry	Iron and Steel	III
3363	Aluminum Foundries (Casting)	Foundry	Aluminum Casting	III
3366	Copper Foundries	Foundry	Copper Casting	III
3369	Nonferrous Foundries (Castings) NEC	Foundry	All	III
2821	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	Gum and Wood Chemicals	Rosin Based Derivatives	III
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Char and Charcoal Briquettes	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Essential Oil	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Gum Rosin	II
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Rosin Based Derivatives	IV
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Sulfate Turpentine	IV
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Tall Oil	IV
2861	Gum and Wood Chemicals	Gum and Wood Chemicals	Wood Rosin	IV
2500	Furniture and Fixtures	Household and Office Furniture	All	II
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Chlorine	V
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Diaphragm Cell	V
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Mercury Cell	V
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Potassium Carbonate	IV
2812	Alkalies and Chlorine	Inorganic Chemicals Manufacturing	Sodium Carbonate	IV
2812	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Bicarbonate	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Carbon Dioxide	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Carbon Monoxide	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Gases, Industrial Compressed Liquid/Solid	IV
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Hydrogen	II
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Nitrous Oxide	IV
2813	Industrial Gases	Inorganic Chemicals Manufacturing	Oxygen and Nitrogen	II
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Barium Sulfate	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Byrytes Pigments	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Chloride Process	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Chrome Pigments	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Colors	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Oxide, Black	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Oxide, Magnetic	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Iron Oxide, Yellow	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Lead Dioxide, Brown ($Pb0_2$)	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Lead Oxide, Red (Pb_30_4)	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Ochers	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Satin White Pigment	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Siennas	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Sulfate Process	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Titanium Dioxide	V
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Ultramarine Pigment	IV

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Umbers	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	White Lead Pigment $(Pb(OH)_2+PbCO)_3$	IV
2816	Inorganic Pigments	Inorganic Chemicals Manufacturing	Whiting	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Fluoride	V
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Hydroxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Aluminum Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Alums	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonia Alum	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Chloride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Hydroxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Molybdate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Perchlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ammonium Thiosulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Barium Carbonate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Barium Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Beryllium Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Bleaching Powder	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Borax	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Boric Acid	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Boron Compounds (Not Produced at Mines)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Borosilicate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Brine	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Bromine	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Carbide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Carbonate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Compounds (Inorganic)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Hypochlorite	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Calcium Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cerium Salts	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chlorosulfuric Acid	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chromic Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chromium Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Chromium Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cobalt 60 (Radioactive)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cobalt Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cobalt Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Copper Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Copper Iodide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Copper Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Cuprous Oxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ferric Chloride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Ferrous Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Fissionable Materials Production	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Fluorine	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Heavy Water	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrated Alumina Silicate Powder	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrochloric Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrofluoric Acid	V
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrogen Cyanide	V
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrogen Peroxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrogen Sulfide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Hydrophosphites	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Indium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Inorganic Acids (Except HNO_2 or H_2PO_4)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Iodides	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Iodine	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Isotopes Radioactive	IV

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lead Arsenate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lead Monoxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lead Silicate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lithium Carbonate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Lithium Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Luminous Compounds (Radium)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Magnesium Compounds (Inorganic)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Manganese Dioxide (Powder Synthetic)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Manganese Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Mercury Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Mercury Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Ammonium Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Carbonate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Fluoroborate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Nitrate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nickel Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nitric Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nitric Acid (Strong)	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nuclear Fuel Reactor Cases, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Nuclear Fuel Scrap Reprocessing	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Oleum (Fuming Sulfuric Acid)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Oxidation Catalyst from Porcelain	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Percloric Acid	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Peroxides, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potash Alum	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potash Magnesia	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Aluminum Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Bromide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Chlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Chloride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Compounds Inorganic (Except KOH-K_2CO_3)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Cyanide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Dichromate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Hypochlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Iodide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Metal	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Nitrate and Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Permanganate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Potassium Sulfate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Radium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Radium Luminous Compounds	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Rare Earth Metal Salts	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Reagent Grade Chemicals (Inorganic: Refined From Technical Grades)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Salts of Rare Earth Metals	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silica Amorphous	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silica Gel	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Bromide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Carbonate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Cyanide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Iodide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Nitrate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Silver Oxide	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Soda Alum	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Antimoniate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Bisulfite	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Chlorate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Compounds, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Cyanide	IV

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Dichromate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Fluoride	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Hydrosulfide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Hydrosulfite	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Metal	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Silicate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Silicofluoride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Sulfite	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sodium Thiosulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Stannic and Stannous Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Stannic Oxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Strontium Carbonate (Precipitated and Oxide)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Strontium Nitrate	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfides and Sulfites	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfocyanides	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur (Recovered or Refined, Including From Sour Natural Gas)	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur Dioxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfur Hexafluoride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Sulfuric Acid	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Thiocyanates, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Tin Compounds, Inorganic	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Uranium Slug, Radioactive	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Uranium Recovery from Phosphoric Acid Production	VI
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Chloride	IV
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Oxide	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Sulfate	II
2819	Industrial Inorganic Chemicals NEC	Inorganic Chemicals Manufacturing	Zinc Sulfide	IV
3800	Measuring, Analyzing and Controlling Instruments	Instrument Manufacturing	All Except 3844, 3845, and 3861	II
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	Instrument Manufacturing	All	III
3845	Electromedical and Electrotherapeutic Apparatus	Instrument Manufacturing	All	III
3861	Photographic Equipment and Supplies	Instrument Manufacturing	All	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Basic Oxygen Furnace (Wet Air Pollution Control Methods)	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Basic Oxygen Furnace; Semi-Wet Air Pollution Control Methods	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Beehive Coke	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Blast Furnace (Ferromanganese)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Blast Furnace (Iron)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Byproduct Coke	V
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Cold Rolling	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Combination Acid Pickling (Batch and Continuous)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Continuous Alkaline Cleaning	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Continuous Casting and Pressure Slab Molding	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Electric Arc Furnace (Wet Air Pollution Control Methods)	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Electric Arc Furnace; Semi-Wet Air Pollution Control Methods	II
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Coatings─Galvanizing	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Coatings─Terne	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Forming─Flat	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Forming─Primary	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Hot Forming─Section	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Open Hearth Furnace	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Pickling—Hydrochloric Acid—Batch and Continuous	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Pickling—Sulfuric Acid—Batch and Continuous	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Pipe and Tube	III

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Scale Removal (Kolene and Hydride)	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Sintering	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Vacuum Degassing	III
3312	Blast Furnaces, Steel Works and Rolling Mills	Iron and Steel	Wire Pickling and Coating	III
3313	Electrometallurgical Products	Iron and Steel	Continuous Casting and Pressure Slab Molding	III
3313	Electrometallurgical Products	Iron and Steel	Electric Arc Furnace (Wet Air Pollution Control Methods)	III
3313	Electrometallurgical Products	Iron and Steel	Electric Arc Furnace: Semi-Wet Air Pollution Control Methods	II
3313	Electrometallurgical Products	Iron and Steel	Vacuum Degassing	III
3315	Steel Wire Drawing and Steel Nails and Spikes	Iron and Steel	Hot Forming—Section	III
3316	Cold Rolled Steel Sheet	Iron and Steel	Cold Rolling	III
3317	Steel Pipe and Tubes	Iron and Steel	Pipe and Tube	III
3479	Coating, Engraving and Allied Services	Iron and Steel	Hot Coatings—Galvanizing	III
3111	Leather Tanning and Finishing	Leather Tanning and Finishing	All	V
3131	Boot and Shoe Cut Stock and Findings	Leather Tanning and Finishing	Boot and Shoe Cut Stock and Findings	II
3142	House Slippers	Leather Tanning and Finishing	House Slippers	II
3143	Men's Footwear, Except Athletic	Leather Tanning and Finishing	Men's Footwear, Except Athletic	II
3144	Women's Footwear, Except Athletic	Leather Tanning and Finishing	Women's Footwear, Except Athletic	II
3149	Footwear, Except Rubber NEC	Leather Tanning and Finishing	Footwear, Except Rubber, NEC	II
3151	Leather Goods and Mittens	Leather Tanning and Finishing	Leather Gloves and Mittens	II
3161	Luggage	Leather Tanning and Finishing	Luggage	II
3171	Women's Handbags and Purses	Leather Tanning and Finishing	Women's Handbags and Purses	II
3172	Personal Leather Goods, Except Women's Handbags	Leather Tanning and Finishing	Personal Leather Goods Except Women's Handbags	II
3199	Leather Goods NEC	Leather Tanning and Finishing	Leather Goods, NEC	II
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	Rerefining of Oils or Greases	IV
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	Waste Oil Reclamation	IV
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	Crude Oil Reclamation	III
2992	Miscellaneous Products of Petroleum and Coal	Lubricating Oils and Greases	All Lubricating Oils, Blended	III
8071	Medical Laboratories	Medical Laboratories	All	III
3295	Stone, Clay, Glass and Concrete Products	Minerals, Earths, Grinding	Barite	II
1389	Oil and Gas Field Services	Miscellaneous	Reserve Pit Treaters	IV
1389	Oil and Gas Field Services	Miscellaneous	Oilfield Waste Disposal	V
1389	Oil and Gas Field Services	Miscellaneous	Treatment of Oilfield Waste	IV
1389	Oil and Gas Field Services	Miscellaneous	External Cleaning of Equipment	II
1389	Oil and Gas Field Services	Miscellaneous	Internal Cleaning of Equipment	III
3911	Jewelry, Precious Metal	Miscellaneous Manufacturing Industries	All	III
2999	Petroleum and Coal Products, NEC	Miscellaneous Products of Petroleum and Coal	All	V
3331	Primary Smelting and Refining of Copper	Nonferrous Metals	Primary Copper	VI
3334	Primary Production of Aluminum	Nonferrous Metals	Primary Aluminum	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Bauxite	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Indium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Antimony	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Arsenic	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Barium	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Beryllium	IV
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Bismuth	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Boron	V

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Cadmium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Calcium	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Cesium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Cobalt	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Columbium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Gallium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Germanium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Gold	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Hafnium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Lead	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Lithium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Magnesium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Mercury	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Molybdenum	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Nickel	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Platinum Group	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Rare Earths	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Rhenium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Rubidium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Selenium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Silver	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tantalum	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tellurium	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tin	III
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Titanium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Tungsten	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Uranium	V
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Zinc	VI
3339	Primary Smelting and Refining of Nonferrous Metals Except Aluminum and Copper	Nonferrous Metals	Primary Zirconium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Rhenium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Aluminum	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Babbitt	III
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Beryllium	III
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Boron	V

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Cobalt	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Columbian	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Copper	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Lead	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Magnesium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Mercury	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Nickel	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Plutonium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Precious Metals	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Silver	VI
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Tantalum	III
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Tin	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Titanium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Tungsten	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Uranium	V
3341	Secondary Smelting and Refining of Nonferrous Metals	Nonferrous Metals	Secondary Zinc	V
1011	Iron Ores	Ore Mining and Dressing	Iron Ore	IV
1021	Copper Ores	Ore Mining and Dressing	Base and Precious Metals	V
1031	Lead and Zinc Ores	Ore Mining and Dressing	Base and Precious Metals	V
1041	Gold Ores	Ore Mining and Dressing	Base and Precious Metals	V
1044	Silver Ores	Ore Mining and Dressing	Base and Precious Metals	V
1061	Ferroalloy Ores, Except Vanadium	Ore Mining and Dressing	Ferroalloy	V
1094	Uranium-Radium-Vanadium Ores	Ore Mining and Dressing	Uranium	VI
1099	Mercury Ores	Ore Mining and Dressing	Mercury	V
1099	Miscellaneous Metal Ores NEC	Ore Mining and Dressing	Aluminum	IV
1099	Miscellaneous Metal Ores NEC	Ore Mining and Dressing	Metal Ore, NEC	V
2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	Organic Chemicals	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments	VI
2869	Industrial Organic Chemicals NEC	Organic Chemicals	Industrial Organic Chemicals, NEC	VI
2869	Industrial Organic Chemicals NEC	Organic Chemicals	Ethanol by Fermentation, Food Additives	III
2851	Paints/Varnishes/Lacquers/Enamels and Allied Products	Paint and Ink	Caustic or Water Washed Paint	V
2851	Paints/Varnishes/Lacquers/Enamels and Allied Products	Paint and Ink	Solvent Wash Paint	II
2893	Printing Ink	Paint and Ink	Caustic or Water Washed Ink	V
2893	Printing Ink	Paint and Ink	Solvent Wash Ink	II
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Amides	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Formulation and Packaging of Agricultural Chemicals	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Halogenated Organics	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Heterocyclic Nitrogens	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Metallo Organic	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Miscellaneous	VI
2879	Pesticides and Agricultural Chemicals, NEC	Pesticides	Organophosphorus	VI
5171	Petroleum and Petroleum Products	Petroleum Bulk Stations and Terminals	Petroleum Bulk Stations and Terminals	II
2911	Petroleum Refining	Petroleum Refining	Petroleum Refining	V
2833	Medicinal Chemicals and Botanical Products	Pharmaceutical Manufacturing	All	VI
2834	Pharmaceutical Preparations	Pharmaceutical Manufacturing	Mising and Formulation (Pharmaceutical Preparations)	VI

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2836	Biological Products	Pharmaceutical Manufacturing	Extraction (Biological Products)	VI
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Defluorinated Rock	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Defluorinated Acid	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Elemental Phosphorus	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Phosphorus Derived Chemicals	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Phosphates	IV
2819	Industrial Inorganic Chemicals NEC	Phosphate Manufacturing	Sodium Phosphates	IV
1475	Phosphate Rock	Phosphate Mining	Phosphate Mining	IV
2821	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	Plastics and Synthetics	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	VI
2821	Plastic Materials, Synthetic Resins and Nonvulcanizable Elastomers	Plastics and Synthetics	Melamine Crystals	III
2823	Cellulosic Man-Made Fibers	Plastics and Synthetics	Cellulosic Man-Made Fibers	VI
2824	Synthetic Organic Fibers, Except Cellulosic	Plastics and Synthetics	Synthetic Organic Fibers, Except Cellulosic	VI
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Plastics Processing Without Contact Process Water	II
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Solution Casting	III
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Miscellaneous Plastics Products	V
3089	Miscellaneous Plastics Products, NEC	Plastics Processing	Water Slurry Preforming Processes	III
3356	Rolling, Drawing and Extraction of Other Nonferrous Metals	Primary Metals Forming	All, Except Copper and Aluminum	IV
2700	Printing, Publishing and Allied Industries	Printing and Publishing	All	II
2000	Food and Kindred Products	Processing Food and Beverages	All	II
2950	Paving and Roofing Materials	Products of Petroleum and Coal	All except 2951	III
2611	Pulp Mills	Pulp, Paper and Paperboard	All	III
2621	Building Paper and Buildingboard Mills	Pulp, Paper and Paperboard	Waste Paper─Construction	III
2621	Building Paper and Buildingboard Mills	Pulp, Paper and Paperboard	Waste Paper─Board	III
2621	Paper Mills	Pulp, Paper and Paperboard	All	III
2631	Paperboard Mills	Pulp, Paper and Paperboard	All	III
2640	Converted Paper and Paperboard Products	Pulp, Paper and Paperboard	All, Except Containers and Boxes	II
2650	Paperboard Containers and Boxes	Pulp, Paper and Paperboard	All	II
4013	Railroad Transportation	Railroads	Switching and Terminal Establishments	III
1321	Natural Gas Liquids	Recovering/Fractioning	Natural Gas	II
4613	Pipelines, Except Natural Gas	Refined Petroleum Pipelines	Refined Oil with Storage	II
4953	Sanitary Services	Refuse Systems	Construction and Demolition Debris Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Municipal Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Commercial Municipal Waste Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Private Nonhazardous Industrial Waste Landfills and Landfarms	II
4953	Sanitary Services	Refuse Systems	Commercial Nonhazardous Industrial Waste Landfills and Landfarms	IV
4953	Sanitary Services	Refuse Systems	Hazardous Waste Disposal	VI
7699	Repair Shops and Related Services NEC	Repair Services	All Except Tank Truck Cleaning	II
7699	Repair Shops and Related Services NEC	Repair Services	Internal Tank Truck Cleaning	III
1479	Chemical and Fertilizer Mineral Mining NEC	Rock Salt	All	III
2822	Synthetic Rubber (Vulcanizable Elastomers)	Rubber	All	V
3011	Tires and Inner Tubes	Rubber	Tire and Inner Tube Production	IV
3052	Rubber and Plastic Hose and Belting	Rubber	Large-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3052	Rubber and Plastic Hose and Belting	Rubber	Medium-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3052	Rubber and Plastic Hose and Belting	Rubber	Small-Sized General Molded, Extruded and Fabricated Rubber Plants	III
3069	Fabricated Rubber Products, NEC	Rubber	Large-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3069	Fabricated Rubber Products, NEC	Rubber	Latex Foam	III
3069	Fabricated Rubber Products, NEC	Rubber	Latex-Dipped, Latex-Extruded and Latex Molded Goods	III

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
3069	Fabricated Rubber Products, NEC	Rubber	Medium-Sized General Molded, Extruded and Fabricated Rubber Plants	IV
3069	Fabricated Rubber Products, NEC	Rubber	Small-Sized General Molded, Extruded and Fabricated Rubber Plants	III
1440	Mining of Nonmetallic Minerals	Sand and Gravel	All	II
5093	Miscellaneous Durable Goods	Scrap and Waste Materials	Waste Oil Only	(Refer to SIC 2992)
4952	Sanitary Services	Sewerage Systems	Sewerage Systems	I
2841	Soaps and Other Detergents, Except Specialty Cleaners	Soaps and Detergents	All	III
2842	Specialty Cleaning, Polishing and Sanitary Preparation	Soaps and Detergents	All	III
2843	Surface Active Agents, Finishing Agents, Etc.	Soaps and Detergents	All	III
2844	Perfumes, Cosmetics and Other Toilet Preparations	Soaps and Detergents	Manufacturing of Liquid Soaps	III
4911	Electric Services	Steam Electric	Cooling Tower Blowdown (Fossil Fuel Plants)	IV
4911	Electric Services	Steam Electric	Nuclear Plants	V
4911	Electric Services	Steam Electric	Once-Through Cooling Water (Fossil Fuel Plants)	III
4931	Electric and Other Services Combined	Steam Electric	Cooling Tower Blowdown (Fossil Fuel Plants)	IV
4931	Electric and Other Services Combined	Steam Electric	Nuclear Plants	V
4931	Electric and Other Services Combined	Steam Electric	Once-Through Cooling Water (Fossil Fuel Plants)	III
3200	Stone, Clay, Shell, Glass and Concrete Products	Stone, Clay, Shell, Glass, and Concrete Products	All Except Abrasive, Asbestos, Etc. in 3290	II
1479	Chemical and Fertilizer Mineral Mining NEC	Sulfur	All	V
2211	Broad Woven Fabric Mills, Cotton	Textile Mills	Greige Mills	II
2211	Broad Woven Fabric Mills, Cotton	Textile Mills	Woven Fabric Finishing	V
2221	Broad Woven Fabric Mills, Man-Made Fiber and Silk	Textile Mills	Greige Mills	II
2231	Broad Woven Fabric Mills, Wool	Textile Mills	Greige Mills	II
2231	Broad Woven Fabric Mills, Wool	Textile Mills	Wool Finishing	V
2241	Narrow Fabrics and Other Smallwares Mills	Textile Mills	Greige Mills	II
2241	Narrow Fabrics and Other Smallwares Mills	Textile Mills	Woven Fabric Finishing	V
2251	Women's Full Length and Knee Length Hosiery	Textile Mills	Hosiery	V
2252	Hosiery, Except Women's Full Length and Knee Length	Textile Mills	Hosiery	V
2253	Knit Outerwear Mills	Textile Mills	Greige Mills	II
2253	Knit Outerwear Mills	Textile Mills	Knit Fabric Finishing	V
2254	Knit Underwear Mills	Textile Mills	Knit Fabric Finishing	V
2255	Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2256	Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2257	Circular Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2258	Lace and Warp Knit Fabric Mills	Textile Mills	Knit Fabric Finishing	V
2259	Knitting Mills, NEC	Textile Mills	Knit Fabric Finishing	V
2261	Finishers of Broad Woven Fabrics of Cotton	Textile Mills	Woven Fabric Finishing	V
2262	Finishers of Broad Woven Fabrics/Man-Made Fiber	Textile Mills	Woven Fabric Finishing	V
2269	Finishers of Textiles, NEC	Textile Mills	Woven Fabric Finishing	V
2273	Carpets and Rugs	Textile Mills	Carpet Finishing	V
2273	Carpets and Rugs	Textile Mills	Greige Mills	II
2281	Yarn Spinning Mills	Textile Mills	Greige Mills	II
2281	Yarn Spinning Mills	Textile Mills	Stock and Yarn Dyeing	V
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	Textile Mills	Greige Mills	II
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills	Textile Mills	Stock and Yarn Dyeing	V
2284	Thread Mills	Textile Mills	Stock and Yarn Dyeing	V
2293	Textile Goods NEC	Textile Mills	Padding and Upholstery	II
2294	Textile Goods NEC	Textile Mills	Processed Textile Wastes	II
2297	Nonwoven Fabrics	Textile Mills	Nonwoven Manufacturing	V
2299	Textile Goods NEC	Textile Mills	Wool Scouring and Felt Manufacturing	V

Table 2. Alphabetical Listing (Major Industry Type Column) Complexity Group for Effluent Guideline Industrial Subcategories				
SIC Code		Effluent Guidelines Division Designations		Complexity Designation
No.	SIC Title	Major Industry	Industrial Subcategory	
2300	Apparel and Other Finished Products/From Fabrics	Textile Mills	Apparel	II
2410	Logging Camps and Logging Contractors	Timber Products Processing	All	II
2421	Sawmills and Planing Mills, General	Timber Products Processing	Sawmills and Planing Mills	II
2426	Hardwood Dimension and Flooring Mills	Timber Products Processing	Hardwood Dimension and Flooring Mills	II
2429	Special Product Sawmills, NEC	Timber Products Processing	Special Products Sawmills, NEC	II
2431	Millwork	Timber Products Processing	Millwork	II
2434	Wood Kitchen Cabinets	Timber Products Processing	Wood Kitchen Cabinets	II
2435	Hardwood Veneer and Plywood	Timber Products Processing	Plywood	IV
2435	Hardwood Veneer and Plywood	Timber Products Processing	Veneer	II
2436	Softwood Veneer and Plywood	Timber Products Processing	Plywood	IV
2436	Softwood Veneer and Plywood	Timber Products Processing	Veneer	II
2439	Structural Wood Members, NEC	Timber Products Processing	Millwork, Veneer, Plywood and Structural Wood Members	II
2440	Wood Containers	Timber Products Processing	All	II
2450	Wooden Buildings and Mobile Homes	Timber Products Processing	All	II
2491	Wood Preserving	Timber Products Processing	Wood Preserving─Steam	IV
2491	Wood Preserving	Timber Products Processing	Wood Preserving─Boulton	IV
2491	Wood Preserving	Timber Products Processing	Wood Preserving─Inorganic	II
2493	Reconstituted Wood Products	Timber Products Processing	Particleboard	II
2493	Wood Products NEC	Timber Products Processing	Hardboard─Dry Process	II
2493	Wood Products NEC	Timber Products Processing	Wet Process Hardboard (Two Subcategories)	IV
2493	Wood Products NEC	Timber Products Processing	Wood Products, NEC	II
2661	Building Paper and Buildingboard Mills	Timber Products Processing	Barking	II
2679	Building Paper and Buildingboard Mills	Timber Products Processing	Insulation Board (Two Subcategories)	IV
3900	Miscellaneous Manufacturing Industries	Toys, Musical Instruments, Caskets	All Except 3911	II
4922	Natural Gas Transmission	Transmission and Storage	Natural Gas, Compressors only	II
3710	Motor Vehicles and Motor Vehicle Equipment	Transportation Equipment	All	III
3731	Ship Building and Repairing	Transportation Equipment	Ship Building and Repairing	I – IV* *Shall be determined on a case-by-case basis.
3732	Boat Building and Repairing, Pleasure Craft	Transportation Equipment	All	II
3743	Railroad Equipment	Transportation Equipment	All	IV
3751	Motorcycles, Bicycles and Parts	Transportation Equipment	All	II
3764	Guided Missiles and Space Vehicle Propulsion Units	Transportation Equipment	All	V
3790	Miscellaneous Transportation Equipment	Transportation Equipment	All, Including Travel Trailers, Campers, Tanks, ATV	III
4499	Water Transportation NEC	Transportation Services	All	II
4200	Motor Freight Transportation and Warehousing	Trucking, Courier Services, and Warehousing	All	II

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:628 (September 1988), LR 18:735 (July 1992), amended LR 21:798 (August 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1494 (August 2009).

Chapter 15. Water Quality Certification Procedures

§1501. Authority

A. R.S. 30:2074(B)(3) authorizes the adoption and promulgation by the Secretary of the Department of Environmental Quality of rules and regulations to prevent water pollution.

B. R.S. 30:2074(A)(3) establishes the procedures for issuance of certifications for applicants for federal permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984).

§1503. Scope

A. These procedures apply to all water quality certifications which applicants for federal licenses or permits are required to provide to the appropriate federal agency.

B. In the event that certification is requested for a proposed federal license or permit which is determined by the administrative authority to contain terms and conditions equivalent to an existing state permit previously issued

under the Louisiana Water Discharge Permit System (LWDPS), such LWDPS permit shall be considered the legal equivalent to a certification issued by the administrative authority under this Chapter, and no separate certification is required.

C. Upon delegation of the NPDES program to the state, the provisions of this Chapter with regard to NPDES permit certifications will no longer be applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984).

§1505. Definitions

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

Certification—approval by the administrative authority that any activity which may result in any discharge into or potential change of the waters of the state and as such requires application for a federal permit, will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance) and 307 (Toxic and Pretreatment Effluent Standards) of the Federal Water Pollution Control Act as amended.

Commercial Activity—any conduct, operation, or process performed by governmental agencies for public use or by private interests for business or other use for profit.

Commission—the Environmental Control Commission.

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

Land Management Plan—a land use plan approved by the United States Soil Conservation Service or the State Department of Transportation and Development Soil and Water Conservation Committee.

Noncommercial Activity—any conduct, operation, or process intended strictly for private use with no future profit potential expected.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person.

Waste—any material for which no use or reuse is intended and which is to be discarded.

Water Pollution—the introduction into waters of the state by any means including dredge and fill operations, of any substance in concentrations which tend to degrade the chemical, physical, biological, or radiological integrity of such waters, including, but not limited to, the discharge of brine from salt domes which are located on the coastline of Louisiana and the Gulf of Mexico into any waters off said coastline and extending therefrom 3 miles into the Gulf of Mexico.

Water Quality Management Plan—an approved water quality management plan prepared pursuant to the Act [R.S. 30:2074(A)(1)].

Water Quality Standards—standards and criteria established pursuant to the Act [R.S. 30:2074(A)(1)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000).

§1507. Procedures for Issuance of Water Quality Certification

A. Application Requirements

1. Application Requirements. Any person, desiring issuance of a state water quality certification, shall file an application for certification with the Department of Environmental Quality at its office in Baton Rouge. The application should include:

a. the date of application;

b. the name, address, or principal place of business of the applicant;

c. if the applicant is a corporation, the state in which it is incorporated, the name of its principal officers and the name and address of the Louisiana agent for service of process;

d. the name of the individual who shall be primarily responsible for conduct of the activity for which certification is sought (plant manager or other person responsible for facility operation);

e. the nature of the activity to be conducted by the applicant, including estimates of volume of excavation for dredge and fill activities;

f. whether the discharge is occurring or proposed, including an estimated schedule for all proposed activities;

g. the location of the discharge, stating if applicable, the municipality, the parish, the drainage basin, the name of the receiving water, and the location of the point of discharge with regard to the receiving water;

h. the nature of the receiving water, including type (creek, river, swamp, canal, lake or pond), nature (fresh, brackish or salt), and direction of flow;

i. description of waste treatment works, if any, that will receive and process the wastewater before discharge into the receiving water;

j. the type of discharge, including chemical composition, quantity (expressed as gallons per unit of time), frequency, temperature, and kinds and quantities of pollutants or contaminants;

k. projected future variations in the nature of the discharge;

l. the type, diameter or cross-section and length of any conduit conveying the discharge;

m. names and addresses of adjoining riparian owners; and

n. maps, drawings, or plats at an appropriate scale and referenced to a commonly used set of geographic coordinates (latitude/longitude or section/range/township) which provide sufficient detail to accurately delineate:

i. the boundaries of the lands owned or to be utilized by the applicant in carrying out any activity;

ii. the location and extent of receiving waters in the vicinity of said lands;

iii. the location, dimensions, and type of any temporary or permanent structures or conveyances erected or to be erected on said lands; and

iv. the location of discharges into receiving waters.

2. Processing Fee

a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

Noncommercial Activities	$ 33/application
Commercial Activities	$350/application

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by one of the methods listed in LAC 33:IX.1309.M.1-2.b and shall be nonrefundable.

3. Exemptions from Processing Fee. All 402 permit applications will be exempt from this fee since fees are already assessed as part of the state permit system.

4. Approved Land Management Plan Requirement. Applicants whose applications involve the clearing of land for agricultural purposes shall submit to the Office of Environmental Services an approved land management plan for the land to be cleared before the application will be deemed adequate.

5. Power to Request Additional Information. The administrative authority may request, and the applicant shall furnish, any additional information deemed necessary for the proper consideration of the application to determine if the proposed discharge meets all applicable effluent limitations, water quality related effluent limitations, water quality standards, new source performance standards, and toxic and pretreatment standards.

6. Omissions from Applications. If the applicant considers that it is not feasible or is unnecessary to furnish any portion of the information required by Paragraphs 1 and 2 of this Section, applicant shall submit a detailed statement explaining the reasons for omission of any such information; but if the administrative authority does not concur in such omission, applicant shall submit the omitted information.

7. Confidentiality of Information. Any information submitted by the applicant, as required by an application for certification, and declared as confidential by the applicant shall be handled in accordance with LAC 33:I.Chapter 5.

8. Signing of Applications. Applications will be considered valid only if the application bears the signature of an individual authorized by a company, corporation, municipality, governmental agency, or an individual if the individual is the applicant. The signatory shall certify that all information contained in the application is true and correct to the best of his knowledge.

B. Alternative Application Submittal. Any applicant may elect to submit to the Office of Environmental Services a duplicate of the proposed federal permit application in lieu of a separate application for state certification. Such submittal must include a cover letter requesting state certification and indicating that the attached copy of a federal permit application is to serve as the application for state certification.

C. Application Review

1. All applications will be reviewed for adequacy of content in accordance with application criteria and the type and extent of the proposed activity. The application shall be considered incomplete until payment of the processing fee is received. The administrative authority reserves the right to request additional information where it is deemed necessary to make a final certification decision. An application will be deemed complete if the administrative authority does not indicate otherwise by a written response to the applicant within 30 days.

2. The administrative authority reserves the right to conduct investigations concerning the application as deemed necessary. The applicant shall cooperate to the extent that he shall furnish additional information, allow access to lands or works of the applicant, and lend such assistance as shall be reasonable.

3. All applications will be reviewed in terms of compliance with State Water Quality Standards, the approved Water Quality Management Plan for the water body affected by the activity, and applicable state water laws, rules, and regulations.

D. Public Notice Requirements

1. Notice by Publication. Within 10 days after the review process is completed by the administrative authority, the applicant will be sent a public notice. The applicant shall publish the public notice one time in the official journal of the state and one time in at least one or more, at the discretion of the administrative authority, local newspapers or journals of general circulation in each parish in which the activity is to be conducted.

a. *The Advocate* of Baton Rouge is the official journal of the state.

b. A period of 10 calendar days after the date of publication will be allowed for public comment.

c. Contents of the notice shall be as follows:

i. name and address of applicant;

ii. activity proposed in the application;

iii. nature and location of the activity;

iv. date of and final action proposed by the administrative authority;

v. name and address of administrative authority's representative to whom comments shall be submitted;

vi. statement that comments will be received for 10 days following publication; and

vii. statement that additional information is on file with administrative authority, may be inspected at any time during normal working hours, and shall be made available upon payment of cost of printing to the administrative authority.

d. The applicant shall provide proofs of publication of the public notice to the administrative authority.

2. The administrative authority shall send a copy of the public notice to any person on a mailing list developed by the administrative authority or publish the public notice in a department bulletin mailed to such persons and to any person who requests a copy of the public notice for the particular action.

3. Notice of Hearing. If the administrative authority determines that a hearing, as hereinafter provided for, should be held concerning the granting or denial of the certification, notice of the hearing shall be published one time in the official journal of the state, and one time in at least one or more at the discretion of the administrative authority, newspapers or journals having general circulation in the locality in which the activity will occur. The notice shall be published at least 30 days prior to the date of the hearing. The notice shall state the time, place, and nature of the hearing. In addition, a copy of the notice shall be served on the applicant and the person or persons requesting the hearing at least 30 days prior to the date of the hearing.

4. Notice List. A copy of the notice of the hearing shall be mailed to each person on the notice list maintained by the administrative authority in accordance with the rules of procedure of the commission and to any person who specifically requests notice of a hearing on a specific application.

5. Notice to Other Persons. The administrative authority may give written notice to such other persons as is deemed necessary.

6. Other Notices. Notices required by this Section for state certification shall be in addition to any other notice concerning the same activity by the applicant or any federal agency unless the various state and/or federal agencies have adopted a procedure for the issuance of joint public notices.

7. Payment of Costs of Public Notice. The applicant shall bear the costs of publication of notices required by LAC 33:IX.1507.D in accordance with R.S. 30:2074(A)(3). When a hearing is requested by the applicant, and is held, the applicant shall bear the costs of publishing that hearing notice.

E. Public Hearings

1. Public Hearing on Certification Application

a. A public hearing may be held in connection with the consideration of an application for an original water quality certification or when it is proposed that an existing certification be modified or revoked.

b. Any person may request in writing within the comment period specified in the public notice required by LAC 33:IX.1507.D of this regulation that a public hearing will be held to consider material matters at issue in a certification application. Upon receipt of any such request, the administrative authority shall determine whether the issues raised are substantial and there is a valid public interest to be served by holding a public hearing.

c. Public hearing(s) are appropriate when there is significant public opposition to a proposed certification and the case involves significant economic, social, or environmental issues.

d. If the determination is made to hold a public hearing, the administrative authority shall so notify the applicant by registered or certified mail, return receipt requested, and shall publish and give notice as required by LAC 33:IX.1507.D of these regulations. Such hearing will be held within 90 days following date of notification.

2. Hearing for Applicant upon Certification Denial. If the certification is denied by the administrative authority, the applicant may make a request for a hearing, in writing, to the administrative authority within 10 days after notification of denial, unless the reason for the denial is a determination by the administrative authority at a prior hearing that the activity or proposed activity of the applicant would violate applicable provisions of the Federal Clean Water Act or the Louisiana Environmental Quality Act or any regulations thereof. The administrative authority may in its sole discretion, for good cause shown, grant such request. If request for hearing is granted, notice shall be given as required by LAC 33:IX.1507.D of these regulations.

3. Hearing Location. Every hearing held pursuant to this Section shall be held before the administrative authority at a location convenient to the nearest population center affected by the proposed certification, unless the administrative authority specifically designates some other location.

4. Hearing Records. The record of each hearing held under this Section shall remain open for a period of 30 days after the date of the hearing to received written comments. Written comments and statements received within the 30 day period shall become part of the official hearing record.

5. Other Hearings. Joint public hearings are encouraged whenever approved by federal and/or state agencies. No hearing under this Section, however, shall preclude or replace any hearing required by other laws and regulations of the state of Louisiana or any federal agency unless provision has been made for joint public hearings.

F. Issuance of Certification

1. Time Limit for Final Action. All applications for the certification shall be granted or denied within 60 days after the application is deemed complete by the administrative authority unless:

a. the applicant or federal agency agrees, in writing, to a longer period;

b. final decision is to be made pursuant to a public hearing;

c. applicant or federal agency fails to furnish information necessary to the completion of the application;

d. applicant or federal agency refuses the administrative authority access to records or premises for the purposes of gathering information necessary to the certification decision;

e. information necessary to the certification decision is unavailable; or

f. the application for certification is for an NPDES permit which requires an extended review period in accordance with an agreement with the federal agency.

2. Time Limit for Final Action after Hearing. All applications for certification shall be granted or denied within 90 days after public hearing unless applicant otherwise agrees in writing, or unless LAC 33:IX.1507.F.1.c-f apply.

3. Conditions for Certification

a. If, after review of the application and any comments, publication of public notices, public hearing if applicable, expiration of the required periods for public comment, and receipt of proofs of publication, it is determined that the proposed project will not violate State Water Quality Standards, is in accordance with an approved Water Quality Management Plan, or applicable state water laws, rules, or regulations, the administrative authority will issue a letter of no objection with a statement of water quality certification to the applicant and forward a copy of the certification to the applicable federal agency.

b. The letter of certification will include any stipulations or conditions necessary to ensure compliance with state Water Quality Standards, approved Water Quality Management Plans, or applicable state water laws, rules, or regulations.

c. Notification of Denial, Modification, or Revocation of Certification

i. In the event that the administrative authority denies, modifies or revokes certification or for any reason is unable to approve the application, it shall so notify the applicant by certified or registered mail, return receipt requested, specifying in such notification the reasons for the denial, modification, or revocation or inability to approve the application.

ii. A copy of the notification of denial, modification or revocation shall be mailed to the appropriate federal agency or agencies.

G. Modification of Certification

1. Requests for revision of an application or modification of an existing certification shall include a description of the proposed changes in accordance with guidelines for content of applications.

2. Requests for modification of an existing certification will require notice in accordance with LAC 33:IX.1507.D of this regulation under the following conditions, or at the discretion of the administrative authority.

a. The proposed modification could result in violations of state Water Quality Standards, an approved Water Quality Management Plan, or applicable laws, rules, or regulations based on LAC 33:IX.1507.C or LAC 33:IX.1507.F.3 of this regulation.

b. A public hearing was conducted with regard to the original certification.

c. The federal agency requiring the application for modification requires public notice.

H. Revocation of Certification

1. Any certification issued pursuant to this regulation is subject to revocation or modification for violation of any guideline, criterion, or condition under which the certification was approved.

2. Any certification issued pursuant to this regulation is subject to revocation or modification upon a determination that information contained in the application or presented in support thereof is incorrect or if conditions under which the certification was made have changed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345

(May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 35:2181 (October 2009).

Chapter 17. Rules Governing Disposal of Waste Oil, Oil Field Brine, and All Other Materials Resulting from the Drilling for, Production of, or Transportation of Oil, Gas or Sulfur (As Amended January 27, 1953)

§1701. Adopted by the Stream Control Commission, State of Louisiana, under Authority of Section 1435, Chapter 3, Part I, of Title 56, Louisiana Revised Statutes of 1950

A. Crude oil, waste oil, oil sludge, oil-water emulsion, or oil bearing mixtures of any kind shall be gathered and destroyed by burning or otherwise on the lease where the wastes originate, and in such manner as to eliminate any pollution hazard.

B. No oily fluids shall be discharged to, or allowed to flow on the ground, or be carried from the original lease in open ditches, or discharged or allowed to flow into any stream, lake or other body of water.

C. Each producing well, except those over marsh and water, all oil booster pumps, and any pump used to move oil or oily fluids, shall be provided with a surrounding gathering ditch or equally effective device, to prevent the escape of oily wastes from the location, such ditch to be graded to a gathering sump which shall be cleaned regularly by removal and destruction of oily wastes. All spillage of oil shall be promptly gathered and destroyed.

1. On all pumping wells, over water or marsh, there shall be installed an adequate impervious deck or other device with catch tank installed around the wellhead. The catch tank should be equipped with a "stiff-leg" to enable the operator to dispose of excess rainfall.

2. All drilling barges, whether for workover or drilling new wells shall be equipped with a device at the open end or ends of keyways to prevent oil or oil fluids from escaping therefrom. This device shall be so installed as to be adjustable for tidal changes and all oil collected within keyways shall be picked up and disposed of in compliance with LAC 33:IX.1701.C.1 and 2.

3. All barges containing drilling, workover or power units shall be equipped with a coaming or other device as to drain all oil or oily fluids into a catch tank.

4. All necessary steps shall be taken to avoid loss of oil during workover operation.

D. Each permanent oil tank or battery of tanks that are located within the corporate limits of any city, town, or village or where such tanks are closer than 500 feet to any highway or inhabited dwelling or closer than 1,000 feet to any school or church, or where such tanks are so located as to be deemed a hazard by the Stream Control Commission, must be surrounded by a dike (or fire wall) or retaining wall, of at least the capacity of such tank or battery of tanks, with the exception of such areas where such dikes (or fire walls) or retaining walls would be impossible such as in water areas. At the discretion of the Stream Control Commission, fire walls of 100 percent capacity can be required where other conditions or circumstances warrant their construction. (As amended December 13, 1963.) Tanks not falling in the above categories must be surrounded by a retaining wall, or must be suitably ditched to a collecting sump, each of sufficient capacity to contain the spillage and prevent pollution of the surrounding areas.

E. Oil gathering lines, or any other lines used for transporting oil, shall be regularly inspected and all leaks shall be immediately repaired. Waste from leaks shall be collected and destroyed immediately upon discovery. All barges used for the transportation of crude oil or petroleum products shall be in first class condition. Leaking barges shall be repaired before reuse. Loading racks, barge-loading outlets, and similar installations shall be operated at all times with full precaution against spillage. Such installations shall be surrounded by a ditch graded to a gathering sump, or shall be provided with an impervious deck surrounded by a steel gutter leading to a sump, or with such other equipment adequate for the accomplishment of the same purpose as may be approved by the Stream Control Commission. All such gathering sumps shall be cleared regularly by removal and destruction or other safe disposal of the oily waste. After each operation of barge or tanker loading equipment, loading hose and connections shall be carefully drained, and the gathering sumps shall be emptied, preferably to the barge or tanker.

F. No salt water shall be discharged from a lease until all oily waste has been completely separated therefrom, except in cases where the transfer of such salt water from the lease to a central treating plant has been approved in writing by the Stream Control Commission or one of its agents. Separating pits or other equally effective device, for the separation of oily wastes from oil field brine shall be constructed and operated in such a manner that no oily waste will be carried from the lease, except to central treating plants, and shall meet any reasonable minimum requirements set up in any particular field or lease by the Stream Control Commission. In oil field brines discharged to streams the oil content shall not exceed 30 ppm.

G. No oil field brine shall be discharged into any stream, lake or other body of water, or into any ditch or surface drainage leading to any stream, lake or other body of water, when it is determined by the Stream Control Commission that such discharge would adversely affect the palatability of a source of potable water to an appreciable degree, or would be deleterious to the public health, or to the prosecution of

an industry or lawful occupation for which or in which any such waters may be lawfully used or employed, or whereby the carrying on of any agricultural pursuit may be injuriously affected or whereby the lawful conduct of any livestock industry or the use of any such waters for domestic animals may be prevented, injuriously affected or impaired, or whereby any lawful use of any such waters by the state of Louisiana, or by any political subdivision, or by any corporation, association, partnership, or person, or any other legal entity may be lessened or impaired, or materially interfered with, or whereby any fish life, or any beneficial animal or vegetable life in said waters may be destroyed, or the growth or propagation thereof prevented or injuriously affected; provided that oil-free brine may be discharged under maximum dilution ratios prescribed for any particular stream or field by the Stream Control Commission, or during any particular period in which such discharge is determined by the commission to be free from pollution hazard, or necessary in the public interest.

H. Wherever possible, disposition of oil field brine shall be accomplished by discharge through disposal wells to underground horizons below the fresh water level, such wells to be so drilled, cased, cemented, equipped, and operated that no fresh water horizon shall be polluted; provided that this rule shall not apply in fields or areas where it is determined by the Stream Control Commission that disposition of the brine is or may be accomplished by discharge into water bodies normally or seasonably sufficiently saline to preclude any actual or potential pollution hazard due to such discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1435, Chapter 3, Part I.

HISTORICAL NOTE: Adopted by the Department of Wildlife and Fisheries, Office of Coastal and Marine Resources on January 27, 1953, amended by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000).

Chapter 19. State of Louisiana Stream Control Commission

§1901. Order

A. Effective July 1, 1968, it shall be the order of the Louisiana Stream Control Commission that no oil field wastes, including salt water, produced by gas or oil field operations in the state of Louisiana shall be allowed to drain or flow into waters of the state except:

1. salt water may be disposed of in normally saline waters, tidally affected waters, brackish waters or other waters unsuitable for human consumption or agricultural purposes. Where quality of receiving waters is not clearly brackish, saline or tidally affected, or unsuitable for human consumption or agricultural purposes, individual judgment shall be rendered by the Stream Control Commission; and

2. as further provided under the applicable rules and regulations of the Department of Conservation.

B. Nothing herein contained is intended to repeal, modify or otherwise affect existing regulations of this commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1435.

HISTORICAL NOTE: Adopted by the Department of Wildlife and Fisheries, Office of Coastal and Marine Resources on July l, 1968.

Chapter 21. Clean Water State Revolving Fund

Subchapter A. Clean Water State Revolving Fund

§2101. Introduction to the Clean Water State Revolving Fund (CWSRF)

A. The 1972 amendments to the Federal Water Pollution Control Act of 1956, commonly referred to as the Clean Water Act, provided for a strong federal role in the construction of publicly owned wastewater treatment works by increasing the level of federal aid and expanding the federal grant share to 75 percent in an effort to increase the pace of wastewater treatment facility construction and eliminate the backlog of needed facilities. Congress intended that states and municipalities eventually assume full responsibility for financing, building, operating, maintaining, and replacing their treatment facilities.

B. The 1977 amendments to the Clean Water Act began shifting responsibility to state and local governments by authorizing the U.S. Environmental Protection Agency (EPA) to delegate most of its construction grants management functions to the states. The 1981 Amendments further reduced the federal role by reducing the annual federal authorization by half, reducing the federal grant share, narrowing the eligible funding categories, and reducing the eligible treatment capacity to that required to meet existing needs.

C. The 1987 amendments to the Clean Water Act set forth a schedule and mechanism for completing the transition to full state and municipal responsibility. The EPA continued to have the authority to allot funds to states for the award of grants to municipalities to construct wastewater treatment facilities through Federal Fiscal Year (FY) 1990. A new authority was created in the amendments that allowed EPA to make grants to capitalize clean water state revolving funds (CWSRF)s, the primary purpose of which is to provide loans and other financial assistance to municipalities for the construction of wastewater treatment facilities. Beginning in FY 1987, states were able to exercise an option to use a portion of their annual construction grants allotments for the capitalization of CWSRFs. The last year in which funds were appropriated for direct project funding through construction grants was FY 1990. Separate appropriations for CWSRF capitalization grants were authorized from FY 1989 through FY 1994. Although Congress has continued to provide funding beyond FY 1994 at its discretion, the funding for CWSRFs may stop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:767 (April 2014).

§2103. Authority

A. Act 349 of the 1986 Regular Session of the Louisiana Legislature enacted R.S. 30:2011(D)(4), 2074(A)(4) and (B)(6), and 2078 relative to the Louisiana Environmental Quality Act. Those subsections were amended by Act 296 in the 2010 Regular Session of the Louisiana Legislature. Together, Acts 349 and 296 established the CWSRF; authorized the administrative authority of the Department of Environmental Quality to apply for and accept certain grants for the CWSRF; provided for matching funds; required that money received through such grants and state matching funds be deposited into the CWSRF; provided for the use, capitalization, investment, and disposition of the funds; provided for an exemption to certain public bond trust restrictions; and provided for related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:767 (April 2014).

§2105. Definitions

Act—Act 349 of the 1986 Louisiana Legislature enacting R.S. 30:2011(D)(4), 2074(A)(4) and (B)(6), and 2078 relative to the Louisiana Environmental Quality Act, and/or Act 296 of the 2010 Regular Session of the Louisiana Legislature, amending R.S. 30:2011(D)(4), 2074(A)(4) and (B)(6), and 2078.

Administrative Authority—the secretary of the department or his/her designee.

Allowable Cost—those project costs that are eligible, reasonable, necessary, and allocable to the project; permitted by the appropriate federal cost principles, and approved in the loan agreement.

Applicant—any political subdivision, agency, commission of the state, or private entity allowed by federal act or federal regulation, that submits an application for financial assistance in accordance with these regulations.

Bonds—the bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidences of indebtedness authorized to be issued by the department.

Construction—includes preliminary planning, engineering, architectural, legal, fiscal, economic investigations and/or studies, surveys, designs, plans, working drawings, specifications, erection, building, acquisition, alteration, remodeling, improvement or extension of treatment works.

Cost—the cost of acquisition and construction; the cost of all land, rights-of-way, property rights, easements, franchise rights and interests required by the department for such acquisition and construction; the cost of all machinery, furnishings, and equipment; all financing charges, and interest prior to and during construction; the cost of all engineering services and all expenses of research and development with respect to eligible projects; the cost of all legal services and expenses; the cost of all plans, specifications, land surveying and estimates of cost and revenues; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquisition or construction of any such project; all administrative expenses and such other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the department providing for the issuance of revenue bonds to be paid into any special funds from the proceeds of such bonds; and the financing of the placing of any such project in operation.

Department—the Louisiana Department of Environmental Quality.

Designated Management Agency—an agency identified by a water quality management plan and designated by the governor to implement specific control recommendations.

Eligible Recipient—a political subdivision, public trust, agency or commission of the state, or a private entity as allowed by the federal act and/or federal regulations.

Environmentally Sensitive Area—an area with unique ecological features which may suffer irreversible damage from even small changes in the environment. This includes, but is not limited to, floodplains, wetlands, prime agricultural lands, aquifer recharge areas, coastal zones, habitats of rare or endangered species, wild and scenic rivers, etc.

Federal Act—the Federal Water Pollution Control Act Amendments of 1972, known as the Clean Water Act, as amended, 33 U.S.C. § 1245 et seq. (1972).

Federal Government—the United States of America and any agency of instrumentality, corporate or otherwise, of the United States of America.

Financial Capability—the applicant shall demonstrate an unencumbered and sufficient future revenue stream to meet the annual debt service of the loan being provided by the CWSRF as determined by the administering authority. Sufficiency of a future revenue stream may be determined by examining audited financial statements, review of future net income based on increased user fees, and/or approval of the funding by the Louisiana State Bond Commission.

Initiation of Operation—for wastewater treatment projects, the date operations of the treatment works are

initiated or are capable of being initiated, whichever is earlier.

Lending Institution—any bank, bank or trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead, insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, or any "Edge Act Corporation" or agreement corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

Loan Program Agreement—a contractual arrangement by and between a municipality and the state acting by and through the department, providing for loans to such municipality for the purpose of paying the cost of construction of eligible projects.

Municipality—a city, town, village, district, parish, Native American tribe, or an authorized Native American tribal organization, or public body having jurisdiction over transport, treatment, and/or disposal of sewage, industrial waste, other waste.

Operation and Maintenance—those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

Person—Repealed April 2014.

Pollution—

1. the discharge, release, escape, deposit or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes or other wastes, of whatever kind or character, in or near any water of the state, in such condition, manner or quantity, as does, will, or is likely to contaminate or substantially contribute to the alteration of the physical, chemical or biological properties of any such waters, if such contamination or alteration where an *applicant* only contributes thereto, is to such an extent as to make any of such waters:

a. directly or indirectly harmful, detrimental or injurious to the public health, safety, and welfare;

b. directly or indirectly detrimental to existing animal, bird, fish, aquatic or plant life;

c. unsuitable for present or future domestic, commercial, industrial, agricultural, recreational, scenic or other legitimate uses; and also means:

2. the discharge, release, escape, deposit, or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes or other wastes, of whatever kind of character, in or near any waters of the state in such condition, manner or quantity of the waters of the state below the standards established therefore by the United States or any department, agency, board or commission of this state authorized to establish such standards.

Program Loans—loans made to an applicant by the state which are required to be repaid pursuant to a loan program agreement.

Project Completion—the date a project is complete and accepted by the owner. For wastewater treatment projects, the project completion is the initiation of operation date.

Replacement—obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

Secretary—Repealed April 2014.

Sewage—water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface waters as may be present.

State—the state of Louisiana or any agency or instrumentality thereof.

User Charge—a charge levied on users of a treatment works for the cost of operation and maintenance, including replacement or loan payment.

Wastewater—any water containing sewage, industrial wastes, or other wastes or contaminants derived from the prior use of such water, and shall include without limiting the generality of the foregoing, surface water of the type storm sewers are designed to collect and dispose of.

Wastewater Facilities—facilities for the purpose of collecting, transporting, treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding wastewater, including without limitation the generality of the foregoing, facilities for the treatment and disposal of sewage, industrial wastes, or other wastes, wastewater, and the residue thereof; facilities for the temporary or permanent impoundment of wastewater, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport wastewater together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefore.

Water Quality Management Plan—a state or areawide waste treatment management plan that identifies water quality problems and details the state's objectives and strategies for their resolution, and outlines the institutional framework necessary for the effective implementation of the proposed strategies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:768 (April 2014).

§2107. Eligibility for Participation in Program

A. Loans may be made only to *eligible recipients* as defined in LAC 33:IX.2105 for the construction of *wastewater facilities* as defined in LAC 33:IX.2105 necessary to serve the population designated in the approved planning area for the *municipality* as defined in LAC 33:IX.2105, or to an *applicant* as defined in LAC 33:IX.2105 to implement an approved nonpoint source management plan. Loans to applicants may be used to develop and implement estuary conservation and management plans.

B. Not every *cost* as defined in LAC 33:IX.2105 associated with an applicant's wastewater treatment project may be an *allowable cost* as defined in LAC 33:IX.2105 for loan participation. Allowable cost determinations are based on applicable law and regulations. Allowable costs may include those listed in LAC 33:IX.2121 of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

§2109. Priority System

A. The state's *priority system* as defined in LAC 33:IX.2105 and the criteria contained therein will be used to generate an annual project priority list. The project priority list will consist of an ordered listing of all projects submitted by applicants that qualify for participation in the CWSRF program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

§2111. Application Process for Funding

A. Any potential applicant applying for a project loan shall first submit a completed preapplication form and associated documentation to the department. All qualified projects for which a preapplication is submitted shall be included on the next fiscal year's project priority list in accordance with the S.T.E.T. priority system.

B. Applicants selected by the department to be tentatively funded for loan assistance in the current fiscal year shall be notified in writing.

C. An applicant notified by the department for tentative funding shall submit a completed application package to the department for review and approval. The contents of the application shall be consistent with the information detailed in the preapplication form. The application package shall include all application forms and schedules required by the department and documents necessary to demonstrate the necessity, and benefits, and costs associated with the project. Supporting documents may include, but are not limited to, the following:

1. feasibility studies, engineering reports, and environmental impact evaluations required by LAC 33:IX.2125;

2. project plans and specifications;

3. financial information (possibly including project schedules, financial audits, copies of ordinances, State Bond Commission approval, and other required forms); and

4. other documents that may be deemed necessary by the department.

D. Once all required information is received and approved by the department, a loan may be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

§2113. Loans

A. Loans shall be made only to eligible applicants that:

1. meet the requirements of *financial capability* as defined in LAC 33:IX.2105 set by the department to assure sufficient revenues to operate and maintain the facility for its useful life and to repay the loan;

2. possess an acceptable source of revenue for repayment of the loan. Acceptable sources of revenue for municipalities may include; *charges* as defined in LAC 33:IX.2105, sales taxes, property taxes, other sources of revenue that may be legally dedicated, and revenue that is deemed acceptable by the department;

3. agree to operate and maintain the wastewater facility so that the facility will function properly over the design life of the facility, which shall not be less than the term of the loan;

4. agree to properly maintain financial records, to allow an audit of the project's financial records by a certified public accountant, and to make these records available to the department upon request;

5. provide a written assurance, signed by an attorney, that the applicant has proper title, easement and right-of-way to the property upon or through which the project is to be constructed or extended; and

6. agree to provide a written notice to the department of completion of the project; and

7. ensure that the expenditure of funds by loan recipients for *construction* as defined in LAC 33:IX.2105 or other eligible project costs shall begin within six months after entering into a binding commitment or on a more stringent time frame as may be required by financing agreements. Failure by the loan recipient to start the expenditure of funds within one year after entering into a binding commitment will result in the withdrawal of all financial assistance from the CWSRF.

B. Loans shall be made for a period of time not to exceed 30 years.

C. Loan repayments of the principal and interest installments will be set by the department in the executed loan agreement. Interest payments on the amount drawn shall begin within one year following the loan closing. Principal repayments shall begin within one year following completion of the project, but no later than three years after the loan closing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

§2115. Project Construction

A. The applicant shall comply with all state and federal laws, rules and regulations related to construction of the project. These items shall include, but shall not be limited to:

1. public bid laws;

2. procurement of professional services;

3. procurement of construction contractor;

4. Davis-Bacon Act (40 U.S.C. § 3141 et seq.) and related acts (if applicable);

5. performance and payment *bonds* as defined in LAC 33:IX.2105;

6. noncompetitive procurement; and

7. civil rights act.

B. Any project constructed in whole or in part with funds obtained with a loan through the CWSRF shall be constructed in accordance with the plans and specifications approved by the department. Any deviation from the approved plans and specifications shall be approved by the department separately through the use of addenda and/or change orders.

1. The applicant may issue, prior to bid opening, addenda to correct errors, to clarify information in bidding documents or to incorporate the current wage rate determination. The addenda shall be issued in a reasonable time prior to the deadline for the receipt of bids and the applicant shall insure that the addenda have been issued to each bidder.

2. The applicant shall be responsible for negotiation of construction contract change orders. During negotiations with the contractor, the applicant or, if authorized, his engineer shall:

a. make certain that the contractor has a clear understanding of the scope and extent of work;

b. assure that the contractor demonstrates that he will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the specified time;

c. assure a fair and reasonable price for the required work; and

d. submit to the department all change orders for review and approval.

C. The applicant shall submit to the department for review a complete statement of work to be performed, the terms and conditions of the proposed contract to be awarded, a clear explanation of the methods of bidding and of evaluating bid prices and the limits of work for each item on the proposal form.

D. From the time of first submission of the loan application, throughout all stages of construction, and at any time while financial assistance from the CWSRF to the applicant is outstanding, the department, through its duly authorized representative, shall have the right to inspect any and all projects, and any and all incidental works, areas, facilities and premises otherwise pertaining to the project for which the application is made. The department shall further have the same right of inspection to inspect any and all books, accounts, records, contracts or other instruments, documents or information possessed by the applicant or entity representing the applicant which relate to the receipt, deposit and/or expenditure of financial assistance funds or to the planning, design, construction and operation of any facilities which may have been constructed as a result of such financial assistance. By submittal of a loan application to the department, the applicants shall be deemed to consent and agree to the right of reasonable inspection and all applicants shall allow the department all necessary and reasonable access and opportunity for such purposes.

E. The applicant shall provide the department with a written notification upon completion of any project for which financial assistance is provided through the CWSRF. The department shall conduct a final on-site inspection of the project and an audit of any and all financial assistance furnished to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:770 (April 2014).

§2117. Events of Default and Remedies

A. The provisions for events of default and remedies will be specified in the loan agreement and indentures specifically for each individual loan recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988).

§2119. Miscellaneous

A. The department shall have an annual audit conducted of the fiscal operation of the CWSRF for submission to the governor and the legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:770 (April 2014).

§2121. Allowable Costs

A. *Allowable costs* as defined in LAC 33:IX.2105 may include, but may not be limited to, the following:

1. costs of salaries, benefits, and expendable material the applicant incurs for the project;

2. costs under construction contracts;

3. professional and consultant services;

4. facilities planning directly related to a treatment works;

5. sewer system evaluation;

6. project feasibility and engineering reports;

7. costs of complying with the National Environmental Policy Act, including costs of public notices and hearings;

8. preparation of construction drawings, specifications, estimates, and construction contract documents;

9. landscaping;

10. removal and relocation or replacement of utilities, for which the applicant is legally obligated to pay;

11. materials acquired, consumed, or expended specifically for the project;

12. a reasonable inventory of laboratory chemicals and/or other supplies necessary to initiate operation of the project;

13. start-up services for new treatment works, in accordance with guidance issued by the department;

14. project identification signs, if necessary;

15. development of a municipal pre-treatment program and purchase of monitoring equipment and construction of facilities to be used by the municipal treatment works in the pre-treatment program; and

16. costs of complying with procurement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:770 (April 2014).

Subchapter B. Clean Water State Revolving Fund Priority System

§2123. Introduction to the Clean Water State Revolving Fund (CWSRF) Priority System

A. Introduction

l. On October 18, 1972, the Federal Water Pollution Control Act Amendments became Public Law 92-500. PL 92-500 was amended by PL 95-217, the Clean Water Act of 1977, PL 97-117, the Municipal Wastewater Treatment Construction Grant Amendments of 1981, and by PL 100-4 (Water Quality Act of 1987).

2. The primary aim of the f*ederal act* as defined in LAC 33:IX.2105 is to “restore and maintain the chemical, physical, and biological integrity of the nation's water.” The federal act states the goal of suitable water quality for recreational contact, and for protection and propagation of fish and wildlife. In addition, the federal act emphasizes the need for controlling or eliminating discharges of toxic pollutants through the control of point and nonpoint sources of *pollution* as defined in LAC 33:IX.2105. A permit program has been established to restrict pollutant discharges from factories, municipalities, and large agricultural operations. The permit program has been expanded to include pollutants entering the nation’s water through nonpoint sources, including stormwater runoff from municipalities, factories, agricultural operations, and other sources that do not require NPDES permits.

3. The Water Quality Act of 1987 added Title VI to the Clean Water Act, which provided for a program of low interest loans. Section 603(c) of the federal act states that the amounts of funds available to each state water pollution control revolving fund shall be used only for providing financial assistance:

a. to any *municipality* as defined in the LAC 33:IX.2105, intermunicipal, interstate, or state agency for *construction* as defined in the LAC 33:IX.2105 of publicly owned treatment works as defined in section 212 of the Clean Water Act;

b. for the implementation of a management program established under section 319 of the Clean Water Act; and

c. for development and implementation of a conservation and management plan under section 320 of the Clean Water Act.

4. Section 603(g) of the federal act states that the state may provide financial assistance with the state revolving loan fund only if a construction project as described in subsection (c)(1) is on the state's priority list under section 216 of the federal act. Assistance may be provided regardless of the rank of a project on the list. Section 603(g) of the federal act does not require that a project for the implementation of a management program established under section 319 of the federal act, and for development and implementation of a conservation and management plan under section 320 of the federal act shall be on the state's priority list to receive financial assistance. These projects shall be included on the priority list and assigned priority ratings in accordance with LAC 33:IX.2123.C.7.

5. Section 603(c) of the federal act states that after public comment and review, each state shall prepare an annual plan identifying the intended uses of the money to its revolving loan fund.

6. The department has established the state of Louisiana CWSRF priority system due to the federal requirements of the program.

7. This system provides a priority list of publicly owned treatment works projects that meet the definition in section 212 of the federal act, and provides for the selection of eligible projects to be included on the annual intended use plan (IUP) for each year.

B. List of Stream Subsegments and Subsegment Priority Numbers

l. The priority of the program's management is to give more importance to the areas where significant problems occur.

2. The state of Louisiana is divided into 12 water quality management basins which exhibit distinct hydrologic characteristics. Each designated basin is divided into stream segments and subsegments which exhibit common reactions to stresses (e.g., pollutants). The stream segmentation for Louisiana is contained in the area-wide *water quality management plans* as defined in LAC 33:IX.2105 and submitted under section 303(e) of the federal act.

3. In order to direct the water quality management effort, each stream subsegment is ranked according to its designated uses and the degree to which they are supported. The values from each of the category classifications, from Table B-l of this Section, are multiplied together to produce a stream subsegment priority number. If a subsegment has multiple designated uses, the single highest product of a designated use and degree of support shall be utilized as the stream subsegment priority number.

4. Information on designated uses and degree of support is taken from the latest approved Louisiana water quality inventory integrated report, which may be found on the department's website.

5. The stream priority list is used as the base for the later determination of the project priority ratings.

Table B-1:
Subsegment Priority Ranking Multipliers

Designated Uses	Multiplier
Shellfish Propagation	20
Sole Source Drinking Water Supply	15
Outstanding Natural Resource	10
Primary Contact Recreation	5
Secondary Contact Recreation	5
Fish and Wildlife Propagation	5
Agriculture	5
Limited Aquatic Wildlife Use	2
Degree of Support	**Multiplier**
Not Supported	5
Partially Supported	4
Fully Supported but Threatened	3
Fully Supported	2
Formula:	
Designated Uses X Degree of Support = Stream Subsegment Priority Number	

C. List by Priority Rank

l. In conjunction with the priority of the stream subsegments of the state of Louisiana, each municipality that requests consideration for funding is rated by its ability to comply with the federal act.

2. The priority rating for each municipality being considered for a loan is composed of the stream subsegment priority rating and the municipality factor. These numbers are added together to form the basic project priority rating.

3. The municipality factor is the summation of the category factor and the pollution reduction factor. The category factor depends on the age of a particular treatment or collection system within a project area.

a. The category factor value for treatment system only projects shall be obtained from Table C-1 of this Section.

b. The category factor value for collection system projects shall be obtained from Table C-2 of this Section.

c. The category factor value for treatment and collection system projects shall be the higher values from Table C-1 or C-2 of this Section and shall be used to calculate the municipality factor.

d. The pollution reduction factor value is an indication of the ability to reduce the pollution discharged into the receiving waters, and shall be obtained from Table C-3 of this Section.

Table C-1
Treatment System Category Factor

Age of Treatment Plant	Type of Treatment Plant			
	Mechanical Plant	Aerated Lagoon	Stabilization Pond	Other
0 - 5 years	2	1	0	0
6 - 10 years	4	2	1	0
11 - 15 years	6	4	2	1

Table C-1 Treatment System Category Factor				
Age of Treatment Plant	Type of Treatment Plant			
	Mechanical Plant	Aerated Lagoon	Stabilization Pond	Other
16 - 20 years	8	5	3	1
Over 20 years	10	7	4	2

Table C-2 Collection System Category Factor	
Age of Collection System	**Points**
0 - 10 years	2
11 - 20 years	4
21 - 30 years	6
31 - 40 years	8
Over 40 years	10

Table C-3 Pollution Reduction Factor				
Present Treatment Level	**Future Level of Treatment**			
	Secondary	**Advanced (BOD≥20)**	**Advanced (20>BOD≥10)**	**Advanced (BOD<10)**
Raw (from existing outfall)	80	90	90	100
Less than Secondary	60	70	80	90
Secondary	20*	60	70	80
Advanced (BOD≥20)	N/A	20*	60	70
Advanced (20>BOD≥10)	N/A	N/A	20*	60
Advanced (BOD<10)	N/A	N/A	N/A	20*
Unsewered (no outfall)	30	40	50	60
N/A- No reduction in pollution discharge anticipated				20
* If no change to treatment, but increase in capacity, change 20 to 40 Formula: Category Factor + Pollution Reduction Factor = Municipality Factor				

4. A separate municipality factor shall be determined for each treatment facility and the collection system within its service area. When two or more treatment facilities are included in a single project, the municipality factor for the project will be the weighted average, according to population served for all treatment facilities included in the project regardless of whether they are in the same or different municipalities.

Basic Project Priority Rating = Stream Subsegment Priority Rating + Municipality Factor

5. The priority rating for a municipality may be reconsidered and adjusted when new information is made available. Information may result from water quality analysis, facility planning, etc.

6. Any municipality may request a reconsideration of its priority rating. Such a request shall include the reason(s) the municipality believes the priority rating is incorrect.

7. Projects for the implementation of a management program established under section 319 of the Federal Act, and for development and implementation of a conservation and management plan under section 320 of the Federal Act, shall be assigned a stream subsegment priority number based on the most impacted by the project. These projects shall also be assigned an additional factor based on the ability of the project to reduce pollution in receiving waters. This factor shall be assigned by the department based on evaluation of individual project applications and shall not exceed 100 points. The basic priority rating for projects under sections 319 and 320 of the Federal Act are detailed in the equation below.

Basic Project Priority Rating = Stream Subsegment Priority Rating + Additional Assigned Factor

D. CWSRF Priority List

1. Upon receipt of a request by the authorized representative of an applicant, the basic priority rating will be determined and the proposed project shall be placed on the CWSRF priority list.

2. For public entities only, requests for inclusion on the CWSRF priority list shall include:

a. a resolution from the governing authority designating a project representative and authorizing him/her to submit preapplication material;

b. a completed preapplication; and

c. a map of the proposed planning area.

3. It is the responsibility of each authorized project representative to maintain current and accurate information for his/her project, and to submit any revised or updated project information to the department each year. The information will be used to prepare the CWSRF priority list.

4. The loan amount shown on the list shall be the estimated amount of the items eligible for loan assistance. Eligibility of specific items shall be based on the latest federal requirements in effect at the time the list is prepared. Should these requirements be changed subsequent to preparation of the list, all projects on the list shall be adjusted accordingly. The monetary amount of each item shall be based on the latest information supplied by the authorized project representative in accordance with Paragraph D.2 of this Section.

5. Projects normally proceed by facility planning, design, and construction. Projects that have completed facility planning and design, and are ready to begin construction may be considered for funding. Projects shall be awarded points in addition to the basic priority rating based on the readiness to proceed to construction in accordance with the Table D.1 of this Section.

Table D-1	
Milestone	**Points**
Project has completed facility planning and planning documents have been approved	1000
The plan and design for the project has been completed, and the specifications have been approved	2000

6. Assistance may be offered in several phases to large projects upon request by the authorized project representative. Assistance is based on a comparison of project cost and funds available, or other factors that may require delayed funding for portions of a project. Each phase of a project shall be listed separately on the CWSRF priority list. All phases shall have the same basic priority rating, but each phase will have its own points awarded based on readiness to proceed.

7. The CWSRF priority list shall include all projects that have requested funding assistance, ranked in priority order, regardless of the amount of funds available. The priority list shall be used for the later preparation of the CWSRF Intended Use Plan.

8. Projects on the CWSRF priority list shall be selected to receive funds from the amount expected to be available in accordance with Paragraph E.2 of this Section, less any reserves established in accordance with Subsection F of this Section.

9. The department shall provide public notice of the CWSRF priority list by publishing the availability of the list in the official state journal and by placing the notice on the DEQ website. The public shall have 30 days from the publication date of the notice to provide written comments to the department. After the end of the 30 day comment period, the department shall hold a public hearing on the CWSRF priority list. The department shall consider all comments received and make any changes deemed necessary. Afterwards, the department shall submit the CWSRF priority list to the EPA.

10. Any project or project phase shall be removed from the CWSRF priority list once funding for the project or project phase has been provided through the CWSRF. The project or project phase shall be removed after it been constructed using another source of funds.

11. Any project request without written communication with the department and no presentation of progress toward prerequisites to funding for a period of five years shall be deemed to be an inactive project and may be removed from the CWSRF priority list. Prior to removal of an inactive project from the CWSRF priority list, the department shall contact the project representative in writing to inform him/her of the impending removal.

12. The CWSRF priority list is divided into the fundable portion and the future funding portion. The fundable portion includes those projects expected to be awarded assistance during the fiscal year in which the list was prepared. The future funding portion includes those projects expected to receive funding in future fiscal years.

13. A project may be moved from the fundable portion to the future funding portion of the list, if the department determines that the project will not be ready to proceed during the funding year. The department shall contact the project representative in writing to advise him/her of the impending decision to move the project to the future funding list. The applicant shall have 30 days to present updated information to avoid being moved to the future funding list.

14. Projects from the future funding portion of the list that have completed the priority list public participation requirements may advance to the fundable portion of the list if program funding allows, or if additional funds are available. Individual projects shall advance in accordance with the provisions of Paragraph D.8 of this Section, until the available federal funding is consumed if additional funds are available.

15. If the actual amount available during the year is less than the projected amount expected to be available in accordance with Paragraph E.2 of this Section, and it is not possible to fund all projects on the fundable portion of the priority list, then those projects selected last for inclusion on the priority list will be moved from the fundable portion of the list to the future funding portion until the remaining projects can be funded with the available funds.

16. If granting the additional funds would result in insufficient funds for the remaining projects on the fundable portion, the additional funds shall not be granted. The project contact may request that additional funds be added to the future funding portion of the project.

E. Intended Use Plan (IUP)

1. An is prepared for each state fiscal year (SFY), and it details the intended use of amounts expected to be available to the CWSRF during the SFY. These intended uses shall include loans for projects and other allowable uses of the fund. This includes, but is not limited to, repayment of *bonds* as defined in LAC 33:IX.2105 issued by the fund, loan guarantees, insurance for local obligations, and payment of allowable costs of administering the fund. The priority list from Subsection D of this Section is an integral component of the IUP.

2. On July 1 of each year the *administrative authority* as defined in LAC 33:IX.2105, or his/her designee, shall determine the loan amount expected to be available for projects in the current SFY.

3. Of the amount expected to be available in accordance with Paragraph E.2 of this Section, certain amounts shall be reserved in accordance with Subsection F of this Section.

4. Projects shall be included on the current CWSRF priority list that have met public participation requirements and have been submitted to the EPA in order to be selected for the IUP. Projects on the proposed CWSRF priority list may be selected for the proposed IUP, provided that both the proposed priority list and IUP meet public participation requirements and are accepted by the EPA.

5. The department shall provide a CWSRF IUP public notice by publishing it in the official state journal and by placing the notice on the DEQ website. The public shall have 10 business days from the publication of the notice to provide written comments to the department. After the end of the 10 business-day comment period, the department may hold a public hearing on the CWSRF IUP. The department shall consider all comments received and make any changes deemed necessary.

6. The CWSRF IUP shall be submitted to the EPA for review and approval after the public comment period has expired.

F. Reserves Related to the IUP

1. Reserves for State Management Assistance

a. The state may set aside a portion of the total funds available during each SFY for use by the department in fulfilling its obligations to manage the CWSRF program.

b. The reserve shall be limited to the amount authorized by federal law as a percentage of each federal capitalization grant.

2. Reserve for Loans for Facilities Planning and Design

a. The state may set aside a portion of the total funds available during the SFY for loans to applicants for facilities planning and design.

b. The reserve is limited to applicants who meet all of the following conditions.

i. The construction portion of the project shall appear within the five year planning portion of the IUP.

ii. The loan shall be used to perform facility planning or design work that has not been previously funded.

iii. The applicant certifies that it does not have the financial capability to complete facility planning and design work without financial assistance.

c. The reserve shall be implemented only to the extent that the department deems necessary to provide assistance to applicants who are unable to complete facilities planning and design work without assistance. Applicants are expected to receive assistance for construction when facility planning and design work are completed. This reserve shall not exceed 10 percent of the funds available, in accordance with Paragraph E.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:771 (April 2014).

Subchapter C. State Environmental Review Process

§2125. Introduction to the State Environmental Review Process

A. The state environmental review process (SERP) provides the policy for conducting environmental reviews of construction projects that are funded by federal funds in Louisiana's CWSRF. The reviews shall be consistent with the requirements of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., as implemented by the Council on Environmental Quality (CEQ) NEPA Regulations (40 CFR Parts 1500-1508). Pursuant to the 1987 Amendments to the Clean Water Act, the United States Environmental Protection Agency (EPA) specified that state agencies may either develop or revise their own environmental review methods. They may also adopt and apply the procedures of 40 Code of Federal Regulations (CFR) part 6. The CWSRF has adopted the procedures as outlined in 40 CFR part 6, *Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effect Abroad of EPA Actions*.

B. All terminology used in this document is consistent with the terms defined in 40 CFR part 1508 (CEQ NEPA Regulations). The following definitions are provided for clarity.

Environmental Information Document (EID)—any written analysis prepared by an applicant, or their authorized representative, describing the environmental impacts of a proposed project. This document shall be of sufficient scope to enable the CWSRF to identify potentially significant environmental concerns and the associated potential impacts of the proposed project.

Environmental Review—the process whereby an evaluation is undertaken by the CWSRF to determine whether a proposed project may have a significant impact on the environment.

Preliminary Engineering Report (PER)—any written study prepared by an applicant, or their authorized representative, describing the need and recommendations for new, expanded, or upgraded wastewater facilities. The documents shall include a study of any socioeconomic, environmental, or other unique features. It shall include; a forecast of planning area future conditions a detailed economic analysis for each principal alternative, and a description of the process, design flow, effluent limits, cost, and plan for implementation of the proposed wastewater treatment works.

C. The department shall conduct a NEPA-type review of construction projects proposed for funding through the CWSRF, if required. This review shall be conducted as early as possible in project formulation to ensure that all projects comply with applicable local, state, and federal laws, and departmental rules relating to the protection and enhancement of the environment. Based upon the department's review, it shall make a formal determination

regarding the potential social and environmental impacts of the proposed project. The determination shall include any necessary mitigation measures as a condition of financial assistance. No financial assistance shall be provided until a final environmental determination has been made. Any public, private, or governmental entity shall be allowed to seek any administrative or legal review provided by law from the department determinations. Applicants to the CWSRF shall obtain guidance from the department regarding the scope of the environmental review to be conducted, and the environmental information the applicant is required to submit in support of the proposed project. Applicants are strongly encouraged to consult with the department in the early stage of project formulation. This consultation is to determine whether a project is eligible to be categorically excluded from a substantive environmental review, determine alternatives to the proposed project for evaluation, and/or identify potential environmental issues which may impact its application.

1. The determinations that will apply to construction projects proposed to be implemented include a determination to:

a. issue a categorical exclusion (CE);

b. issue a finding of no significant impact (FONSI); or

c. require an environmental impact statement (EIS).

2. A project may be categorically excluded from a substantive environmental review if the project fits within a category of actions identified in Subparagraph C.2.c of this Section that are eligible for exclusion and the project does not involve any extraordinary circumstances identified in Subparagraph C.2.d of this Section. Applicants are not required to prepare an environmental information document (EID) or Preliminary Engineering Report (PER) for projects that are being considered for CE. An environmental assessment (EA) is not required if the project is categorically excluded.

a. If a project is determined to be categorically excluded, a written CE determination shall be prepared by the department and published in the official parish journal at the location of the project. The CE determination constitutes a final decision of the administrative authority.

b. The department may identify categories of actions that do not individually, cumulatively over time, or in conjunction with other actions, have a significant effect on the quality of the human environment. These do not include projects that provide a capacity to serve a population 30 percent greater than the existing population, that directly or indirectly involve upgrading, or that extend infrastructure systems primarily for the purposes of future development.

c. Department-identified CEs include, but may not be limited to:

i. actions at facilities involving routine facility maintenance, repair, and groundskeeping; minor rehabilitation, restoration, renovation, or revitalization of existing facilities; *replacement* as defined in LAC 33:IX.2105, of equipment; acquisition and installation of equipment (including equipment needed solely for purposes of emergency preparedness); or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities;

ii. actions relating to existing infrastructure systems (i.e., sewer systems, drinking water supply systems, and stormwater systems that include combined sewer overflow systems) that involve minor upgrading, minor expansion of system capacity or rehabilitation (i.e., functional replacement) of the existing system and system components, (i.e., sewer collection network and treatment system; the system to collect, treat, store, and distribute drinking water; and stormwater systems, including combined sewer overflow systems) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include actions that:

(a). involve new or relocated discharges to surface or ground water;

(b). will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water;

(c). will provide capacity to serve a population 30 percent greater than the existing population;

(d). are not supported by the state, other regional growth plan, or strategy; or

(e). directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development; and

iii. actions in unsewered communities involving the replacement of existing on-site systems, providing the new on-site systems do not result in substantial increases in the volume of discharge, or the loadings of pollutants from existing sources, or relocating an existing discharge.

d. Extraordinary circumstances that would preclude issuance of a CE include, but are not limited to, the following:

i. the proposed project is likely to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time;

ii. the proposed project is likely to have disproportionately high and adverse human health or environmental effects on any community including minority communities, low income communities, or federally-recognized Native American tribal communities;

iii. the proposed project is likely to significantly affect federally listed, threatened, endangered species, or their critical habitat;

iv. the proposed project is likely to significantly affect national natural landmarks or any property with nationally significant architectural, historic, prehistoric, archeological, or cultural value, including but not limited to,

property listed on or eligible for the National Register of Historic Places;

v. the proposed project is likely to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat;

vi. the proposed project is likely to cause significant adverse air quality effects;

vii. the proposed project is likely to have a significant effect on the pattern, type of land use (i.e., industrial, commercial, agricultural, recreational, or residential), growth and distribution of population including altering the character of existing residential areas, or not consistent with state government, local government, or federally-recognized Native American tribe approved land use plans, or federal land management plans;

viii. the proposed project is likely to cause significant public controversy about a potential environmental impact of the proposed project; and

ix. the proposed project is likely to conflict with federal, state, local government, federally-recognized Native American tribe, federal environmental, resource protection, or land use laws or regulations.

e. A CE determination shall be rescinded if:

i. the proposed project no longer complies with the applicable 40 CFR part 6 criteria for CE due to project changes, or

ii. new information involves or relates to at least one of the extraordinary circumstances, or otherwise indicates serious environmental issues exist.

f. When the department has determined that a CE is to be rescinded based upon this criteria, the department shall prepare a notice of intent (NOI) to rescind the CE previously applied to the project and require the preparation of an EID or EIS.

3. A FONSI may be prepared based on a proposed project's EA, which will be prepared based on a substantive environmental review conducted by the department and supported by an EID prepared in conjunction with the facility plan (FP) prepared by the applicant. If the EA supports the finding that the proposed project will not have a significant effect on the human environment or includes any commitments to mitigation that render the impacts of the proposed project insignificant, then the administrative authority will issue a FONSI. If the EA does not support a FONSI, then an EIS shall be prepared.

4. An EIS may be required based on a proposed project's EA, which will be prepared based on a substantive environmental review conducted by the department and supported by an EID prepared in conjunction with the PER prepared by the applicant. An EIS may also be required without an EA when the proposed project is deemed a major action significantly affecting the quality of the human environment. A project normally requires an EIS if the administrative authority determines:

a. the project will significantly affect the pattern and type of land use (i.e., industrial, commercial, recreational, or residential), or growth and distribution of the population;

b. the proposed project is inconsistent with federal, state, local government, federally-recognized Native American tribe, or federal environmental, resource protection, or land-use laws and management plans for protection of the environment;

c. the project is likely to significantly affect environmentally important resources such as:

i. wetlands;

ii. significant agricultural lands;

iii. aquifer recharge zones;

iv. threatened and endangered species or their habitats;

v. coastal zones;

vi. barrier islands;

vii. wild and scenic rivers;

viii. significant fish or wildlife habitat;

ix. national natural landmarks; and/or

x. any property on or eligible for the National Register of Historic Places; or

d. the project is likely to directly or indirectly, through induced development, involve uncertain environmental effects, produce significant cumulative impacts in conjunction with other government projects, or have significant adverse effects upon local ambient air quality, local noise levels, surface water reservoirs, or navigation projects.

5. Amended Projects, Previous Environmental Determinations, and Usage of Other Relevant Environmental Documents by the Department

a. In the event that changes are made to a project after an environmental determination has been issued, the administrative authority shall, prior to approval, examine the plans and specifications, loan application, and related documents for consistency with the environmental determination. Based upon the department's review of the amended project, the administrative authority shall:

i. reaffirm and amend, as necessary, the original determination through the issuance of a statement of findings;

ii. rescind a CE and issue a NOI that the preparation of an EID or an EIS will be required;

iii. revise a FONSI and make available to the public;

iv. rescind a FONSI and issue a NOI that the preparation of an EIS will be required;

v. revise a record of decision (ROD) associated with an EIS and make available to the public; or

vi. rescind a ROD via the issuance of a NOI that financial assistance will not be provided.

b. The administrative authority may accept and adopt previous NEPA environmental determinations (i.e., CE, EA/FONSI, and EIS/ROD) issued within the last five years with the submittal of an application to the CWSRF. Acceptance of previous environmental determinations shall be affirmed through the issuance of a statement of findings. Otherwise, the administrative authority shall re-evaluate the project, environmental conditions, public views, and may reaffirm the original environmental determination, or have a new environmental review conducted in accordance with Subsection A of this Section.

c. The administrative authority may review relevant planning, decision making, and/or environmental review documents to determine if the proposed project or any of its alternatives have previously been considered. The department may adopt the existing document, or incorporate by reference, any pertinent part of that document.

6. Construction Prior to Environmental Review

a. An applicant may, at the applicant's risk, commence construction of part of the proposed project prior to completion of the necessary environmental review when that part of the project will:

i. immediately remedy a severe public health, water quality, or environmental problem;

ii. not preclude any identified reasonable alternatives;

iii. not cause significant direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project;

iv. not be significantly controversial concerning a potential environmental impact; and

v. all other parts of the proposed project remain subject to the completion of the environmental review process prior to construction.

b. The administrative authority shall make a determination of eligibility for work performed under Subparagraph C.6.a of this Section after submittal, approval of the PER, and completion of the environmental review. There is no guarantee that work undertaken prior to the loan award will be eligible for funding.

D. Environmental Information Requirements

1. A minimum of one copy of the information required in this Subsection shall be submitted to the department by the applicant.

a. Categorical Exclusions (CE). Applicants seeking a CE shall provide the department with sufficient documentation to demonstrate compliance with the criteria listed under Subparagraph C.2.c. of this Section. If requested by the administrative authority the applicant shall submit additional information to support the application of a CE to the applicant's project and/or whether any extraordinary circumstance applies. At a minimum, additional information consists of:

i. a brief description of the proposed project, including maps and drawings;

ii. a brief description of the no action alternative;

iii. a statement specifying the department-identified CE, as listed in Subparagraph C.2.c of this Section which applies to the proposed project; and

iv. a statement that no extraordinary circumstances, as identified in Subparagraph C.2.d of this Section, apply to the proposed project.

b. Environmental Information Documents (EID). An EID is not required when the project is categorically excluded and does not involve extraordinary circumstances, or when the project has already been determined to require the preparation of an EIS. Otherwise, the applicant shall submit an EID that provides sufficient information for the administrative authority to undertake an environmental review and prepare either an EA/FONSI and/or request the preparation of an EIS for the project. The EID may be incorporated into the PER or submitted separately, and the administrative authority shall provide guidance to applicants on both the format and contents of the EID.

i. Contents. At a minimum the contents of the EID shall include:

(a). the purpose and need for the project;

(b). the existing environmental setting of the project;

(c). the alternatives to the project, including the no action alternative;

(d). a description of the proposed project;

(e). the potential environmental impacts of the proposed project, including those which cannot be avoided;

(f). a description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and

(g). documentation of coordination with appropriate governmental agencies.

ii. Availability to the Public. At least 30 days in advance of submittal and availability of the PER and EID, the applicant shall provide a public notice of the availability of the PER and EID for public review and comment in a newspaper of general circulation in the project area. The applicant shall make the PER and EID available to all federal, state, local agencies, the affected public, and others that may have previously expressed an interest in the project. A public hearing may be required by the department if there

is substantial public interest in conducting a hearing, or a hearing is requested by another agency with jurisdiction over the proposed project. In the event that a public hearing is required, the administrative authority shall provide guidance to the applicant regarding the contents of the public hearing notice and of the public hearing. The public hearing and the availability of the PER for public review shall be advertised by the applicant at least 30 days in advance in the newspaper of general circulation in the project area. Following the public hearing the applicant shall provide the department with a verbatim transcript of the hearing, a copy of the public hearing notice with proof of publication, a list of all applicants and agencies notified of the public hearing, a list of all attendees, and responses to any substantive comments received.

c. Environmental Impact Statements (EIS). In the event that an EIS is required, the applicant shall provide sound analysis and clear presentation of alternatives, including the no action alternative, the selected alternative, and their environmental, economic, and social impacts. The administrative authority may request the applicant to prepare an EIS without first undertaking an EA. The EIS format shall be followed by the applicant unless the administrative authority determines otherwise. The EIS format shall include:

i. a cover sheet identifying the applicant, the project(s), and the program through which financial assistance is requested; and

ii. an executive summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary shall include:

(a). a description of the existing problem;

(b). a description of each alternative, including the no action alternative;

(c). a listing of each alternative's potential environmental impacts, mitigation measures, and any areas of concern; and

(d). any conclusions.

iii. The body of the EIS shall contain the following information:

(a). a complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives;

(b). a discussion of alternatives including, but not limited to:

(i). a balanced description of each alternative considered by the applicant including the no action alternative;

(ii). description including the size and location of the facilities, water lines, land requirements, and construction schedules; and

(iii). the preferred alternative identified, and any alternatives that are eliminated from examination along with the reasons for their elimination;

(c). a description of the alternatives available to the department including:

(i). providing financial assistance to the proposed project;

(ii). requiring that the proposed project be modified prior to providing financial assistance with conditions requiring the implementation of mitigation measures; and

(iii). not providing financial assistance to the proposed project;

(d). a description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance, or otherwise affect or have an interest in any of the alternatives; and

(e). a description of the affected environment and environmental impacts of each alternative, including, but not limited to:

(i). The alternative evaluation of the affected environment, which shall be based on, but not be limited to: hydrology, geology, air quality, noise, biology, socioeconomic factors, land use, and cultural resources of the planning area;

(ii). analysis of the total impact of each alternative in a manner that will facilitate comparison;

(iii). the effect of the no action alternative to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives; and

(iv). description of the existing environment in the no action section for background information;

iv. the draft EIS shall be public noticed for a period of 30 days. The final EIS shall include a list of comments, a list of commenters, a commenter key, responses, and the final decision(s) of the department on any such comments pertinent to the project or the EIS;

v. material incorporated by reference into an EIS shall be organized to the extent possible into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested applicants within the comment periods specified in Clause D.1.c.iv of this Section and Subclause D.1.c.vii.(b.) of this Section;

vi. when an EIS is prepared by contractors either for the department or the applicant, the department shall independently evaluate the EIS prior to issuance of the record of decision and take responsibility for its scope and contents. The department staff who reviews this evaluation shall be identified under the list of preparers, along with

those of the contractor, and any other parties responsible for the content of the EIS;

vii. public participation required for an EIS shall be conducted by the department, but may be supplemented by the applicant depending upon the nature and scope of the proposed project. The following requirements represent the minimum allowable to the applicant and the department;

(a). as soon as practicable, and in accordance with Subparagraph E.2.c of this Section, the department shall convene a scoping meeting of the affected federal, state, and local agencies; the applicant; and other interested parties to determine the scope of the EIS after a determination has been made that an EIS is required. As part of the scoping meeting the department shall, at a minimum:

(i). determine the significant issues and the scope of analysis required of those issues in the EIS;

(ii). identify the preliminary range of alternatives to be considered;

(iii). identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(iv). discuss the method of EIS preparation and the public participation strategy;

(v). identify consultation requirements of other laws and regulations; and

(vi). determine the relationship between the preparation of the EIS and the completion of the PER, and any necessary arrangements for coordination of the preparation of both documents;

(b). following the scoping process the administrative authority shall begin the identification and evaluation of all potential available alternatives to adequately address the range of issues developed in the scoping process. A summary, including a list of the significant issues identified, shall be provided to the applicant and other interested parties. Preparation of the EIS shall be done at the discretion of the department, by the staff, consultants to the department, or a consultant contracted by the applicant subject to approval by the department. When a consultant is used for the preparation of the EIS, the consultant shall be required to execute a disclosure statement signifying it has no financial or other conflicting interest in the outcome of the project. Both the draft EIS and the final EIS shall be distributed and made available for public review in a manner consistent with the requirements of Clause D.1.b.ii of this Section. The department shall publish, in the *Louisiana Register* and a newspaper(s) of general circulation in the project area, a notice of availability of the final EIS giving locations at which it will be available for public review for at least 30 days prior to making the decision to provide or deny financial assistance to the proposed project;

(c). at the time of its decision to provide or deny financial assistance to the proposed project, the administrative authority shall prepare a concise public ROD that shall:

(i). include a brief description of the proposed project and all alternatives considered in the EIS, specifying the alternative that was considered to be environmentally preferable;

(ii). clearly state the decision being made and provide an explanation behind the decision; and

(iii). identify, if necessary, any commitments to mitigation.

E. Environmental Reviews and Determinations

1. A substantial environmental review resulting in the preparation of an EA is required for proposed projects that are expected to result in environmental impacts and where the significance of the impacts is not known. An EA is not required if the proposed project is categorically excluded, or if the administrative authority has determined that an EIS is required. The environmental review, supported by the applicant's EID and PER, shall be conducted by the administrative authority to determine whether any significant environmental impacts are anticipated and whether any changes may be made to the proposed project in order to eliminate significant adverse environmental impacts. As part of the review, the administrative authority may require the applicant to submit additional information or undertake additional public participation and coordination to support its environmental determination. Based on the environmental review, the administrative authority shall prepare an EA that provides sufficient information and analysis for determining whether to issue a FONSI or require the preparation of an EIS. The EA shall include:

a. a brief discussion of the:

i. need for the proposed project;

ii. alternatives considered, including the no action alternative;

iii. existing environment; and

iv. environmental impacts of the proposed project;

b. identification and description of any mitigation measures considered, including any mitigation measures that shall be adopted to ensure the action will not have significant impacts; and

c. incorporation of documents by reference, if appropriate, including the EID and PER for the proposed project.

2. Based on the EA, the administrative authority shall issue a FONSI or a NOI to prepare an EIS.

a. The FONSI shall include a brief description of:

i. the proposed project;

ii. any mitigation measures required of the applicant as a condition of its receipt of financial assistance; and

iii. a statement to the effect that comments supporting or opposing with the FONSI may be submitted for consideration by the department.

b. The FONSI and EA shall be distributed to all public and private parties, governmental entities, and agencies that have previously expressed an interest in the proposed project. The availability of the FONSI and EA shall be public noticed in a newspaper of general circulation in the project area and invite the affected public to review and provide comments. The public notice initiates the required 30-day public comment period. No action regarding approval of the PER or the provision of financial assistance shall be taken by the department until the end of the public comment period.

c. The NOI to prepare an EIS shall include a brief description of the:

i. proposed project and possible alternatives;

ii. department's proposed scoping process (see Clause D.1.c.vii of this Section) including an invitation for comments and suggestions on the scope of the EIS, if available, when, and where any scoping meeting will be held; and

iii. name and contact information for the applicant's representative designated by the department to answer questions about the proposed project and the EIS.

d. The NOI to prepare an EIS shall be public noticed in a newspaper of general circulation in the project area and shall be distributed to all public and private parties, governmental entities, and agencies that have previously expressed an interest in the proposed project. Distribution of the NOI begins the scoping process for the EIS, which shall allow for a public comment period of 30 days. The department shall announce the location, date, and time of any scoping meetings in the NOI, or by other appropriate means, at least 15 days before the scoping meeting is held.

F. Cross-Cutting Environmental Laws

1. All projects receiving funding from the CWSRF shall comply with the following nonexclusive applicable laws respecting the human environment:

a. Archeological and Historic Preservation Act, as amended;

b. Clean Air Act, as amended;

c. Clean Water Act, as amended;

d. Coastal Barrier Resources Act, as amended;

e. Coastal Zone Management Act, as amended;

f. Endangered Species Act, as amended;

g. Environmental Justice, Executive Order 12898, as amended;

h. Farmland Protection Policy Act, as amended;

i. Fish and Wildlife Coordination Act, as amended;

j. Floodplain Management, Executive Order 11988, as amended;

k. National Historic Preservation Act, as amended;

l. Protection of Wetlands, Executive Order 11990, as amended;

m. Safe Drinking Water Act, as amended;

n. Demonstration Cities and Metropolitan Development Act, as amended;

o. Wild and Scenic Rivers Act, as amended; and

p. Wilderness Act, as amended.

2. Because particular federal, state, and/or local agencies are charged with enforcement and/or permitting required under these laws, applicants shall be provided guidance regarding agency contact information and consultation. The department shall require appropriate coordination and project planning with these agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 33:2165 (October 2007) amended by the Office of the Secretary, Legal Division, LR 40:774 (April 2014).

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. The conditions and requirements in this Chapter apply only to facilities and discharges within the scope of coverage of the NPDES program and to permits issued in accordance with the assumption of the NPDES program. Provisions of the federal regulations addressing sewage sludge use and disposal have been retained and state terminology has been substituted for federal terminology as appropriate. Unless specifically indicated in LAC 33:IX.Chapter 73 as being applicable, requirements relative to a state sewage sludge management program in LAC 33:IX.Chapters 23-71 are not applicable until the Department of Environmental Quality (DEQ) receives the sewage sludge management program authority, in accordance with 40 CFR Part 501 under the NPDES program. Until DEQ receives the sewage sludge management program authority, in accordance with 40 CFR Part 501 under the NPDES program, the requirements relative to the state sewage sludge management program are those in LAC 33:IX.Chapter 73. In accordance with R.S. 40:4(A)(6), plans and specifications for a sanitary wastewater treatment facility are reviewed and approved by the state health officer or his designee.

B. In accordance with 40 CFR 123.1(i) all requirements in LAC 33:IX.Chapters 5-21 that are within the scope of coverage of the NPDES program shall apply to the LPDES program. Any requirements that are less stringent than the NPDES program requirements shall not apply. Any requirements that are not within the scope of coverage of the NPDES program may only be applied and enforced as state-only requirements. Examples of requirements that are not within the scope of coverage of the NPDES program include, but are not limited to, regulations relative to groundwater, permits required for non-point-source discharges, and permits required for shell dredging activities.

C. LAC 33:IX.Chapters 1 and 3 shall not apply to any facility or discharge that is within the scope of coverage of the NPDES program.

D. Upon assumption of the NPDES program by the state, the status of NPDES and LWDPS permits shall be as follows:

1. for facilities with valid NPDES permits only, the existing NPDES permits shall become LPDES permits with an expiration date consistent with that originally designated;

2. for facilities with both valid NPDES and valid LWDPS permits, the NPDES permit shall become the LPDES permit and become enforceable under these regulations. The LWDPS permit will also remain in effect and be enforceable under these regulations until such time as it expires or is terminated;

3. for facilities with valid LWDPS permits only, the LWDPS permit shall remain in effect and be enforceable under these regulations until such time as the LWDPS permit expires or is terminated and an LPDES permit is issued; and

4. for facilities for which an extension has been authorized by EPA under the NPDES program, such extension shall become enforceable under the LPDES program, and any valid NPDES permit applications for such facilities, which have been submitted in a timely manner (LAC 33:IX.2321.A and B and 2701.B), shall become LPDES permit applications upon the effective date of these regulations.

E. In addition to the requirements in LAC 33:IX.Chapters 23-63, the conditions of LAC 33:IX.Chapter 65 shall apply to the LPDES program.

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2009 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 33:2365 (November 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010).

§2311. Purpose and Scope

A. Scope of the LPDES Permit Requirement

1. The LPDES program requires permits for the discharge of pollutants from any point source into waters of the state. The terms pollutant, point source, and waters of the state are defined in LAC 33:IX.2313.

2. The permit program established under LAC 33:IX.Chapters 23-29 also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain an LPDES permit in accordance with Paragraph A.1 of this Section, unless all requirements implementing Section 405(d) of the CWA applicable to the treatment works

treating domestic sewage are included in a permit issued under the appropriate provisions of Subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under state permit programs approved by the administrator as adequate to assure compliance with Section 405 of the CWA.

3. The state administrative authority may designate any person subject to the standards for sewage sludge use and disposal as a *treatment works treating domestic sewage* as defined in LAC 33:IX.2313, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA Section 405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit under LAC 33:IX.2501 within 180 days of being notified by the state administrative authority that a permit is required. The state administrative authority's decision to designate a person as a treatment works treating domestic sewage under this Paragraph shall be stated in the fact sheet or statement of basis for the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:463 (March 2002), repromulgated LR 30:230 (February 2004).

§2313. Definitions

A. The following definitions apply to LAC 33:IX.Chapters 23-35. Terms not defined in this Section have the meaning given by the CWA.

Administrator—the administrator of the United States Environmental Protection Agency, or an authorized representative.

Animal Feeding Operation—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

b. crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Applicable Standards and Limitations—all state, interstate, and federal standards and limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity is subject under the CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards and standards for sewage sludge use or disposal under Sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of the CWA.

Application—the standard forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in approved states, including any approved modifications or revisions.

Approved Program or Approved State—a state or interstate program which has been approved or authorized by EPA under 40 CFR Part 123.

Aquaculture Project—a defined managed water area that uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

Average Monthly Discharge Limitation—the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation—the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs)—schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

BMPs—best management practices.

Bypass—the intentional diversion of waste streams from any portion of a treatment facility.

Class I Sludge Management Facility—any POTW identified under LAC 33:IX.6115.A as being required to have an approved pretreatment program (including such POTWs located in a state that has elected to assume local program responsibilities pursuant to LAC 33:IX.6119.E) and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the EPA regional administrator, or, in the case of approved state programs, the EPA regional administrator, in conjunction with the state administrative authority, because of the potential for its sludge use or disposal practices to adversely affect public health and the environment.

Concentrated Animal Feeding Operation—an animal feeding operation that meets the criteria in LAC 33:IX.7103.Appendix B, or that the state administrative authority designates under LAC 33:IX.2505.C.

Concentrated Aquatic Animal Production Facility—a hatchery, fish farm, or other facility that meets the criteria in LAC 33:IX.7105.Appendix C, or that the state administrative authority designates under LAC 33:IX.2507.C.

Contiguous Zone—the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

Continuous Discharge—a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

CWA—the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.

CWA and Regulations—the Clean Water Act (CWA) and applicable regulations promulgated thereunder. In the case of an approved state program, it includes state program requirements.

Daily Discharge—the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Direct Discharge—the discharge of a pollutant.

Director—the EPA regional administrator or the state administrative authority, as the context requires, or an authorized representative. When there is no approved state program, and there is an EPA administered program, director means the EPA regional administrator. When there is an approved state program, director normally means the state administrative authority. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved state program. (For example, when EPA has issued an NPDES permit prior to the approval of a state program, EPA may retain jurisdiction over that permit after program approval, see 40 CFR 123.1.) In such cases, the term director means the EPA regional administrator and not the state administrative authority.

Discharge—when used without qualification means the discharge of a pollutant.

Discharge of a Pollutant—any addition of any pollutant or combination of pollutants to waters of the state from any point source, or any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into waters of the state from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

Discharge Monitoring Report (DMR)—the uniform form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved states as well as by EPA. EPA will supply DMRs to any approved state upon request. The forms may be modified to substitute the state agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

DMR—discharge monitoring report.

Draft Permit—a document prepared under LAC 33:IX.3107 indicating the state administrative authority's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in LAC 33:IX.3105, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in LAC 33:IX.3105, is not a draft permit. A proposed permit is not a draft permit.

Effluent Limitation—any restriction imposed by the director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the state, the waters of the contiguous zone, or the ocean.

Effluent Limitations Guidelines—a regulation published by the administrator under Section 304(b) of the CWA to adopt or revise effluent limitations.

Environmental Protection Agency (EPA)—the United States Environmental Protection Agency.

EPA—the United States Environmental Protection Agency.

Facility or Activity—any LPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the LPDES program.

Federal Indian Reservation—all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

General Permit—an LPDES permit issued under LAC 33:IX.2515 authorizing a category of discharges under the Louisiana Environmental Quality Act (LEQA) within a geographical area.

Hazardous Substance—any substance designated under 40 CFR Part 116 pursuant to Section 311 of the CWA.

Indian Country—

a. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

b. all dependent Indian communities within the borders of the United States, whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and

c. all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian Tribe—any Indian tribe, band, group, or community recognized by the secretary of the Interior and exercising governmental authority over a federal Indian reservation.

Indirect Discharger—a nondomestic discharger introducing pollutants to a publicly owned treatment works.

Interstate Agency—an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the CWA and regulations.

Major Facility—any LPDES facility or activity classified as such by the EPA regional administrator, or, in the case of approved state programs, the EPA regional administrator in conjunction with the state administrative authority.

Maximum Daily Discharge Limitation—the highest allowable daily discharge.

Municipal Separate Storm Sewer System—as defined at LAC 33:IX.2511.B.4 and 7.

Municipality—a city, town, borough, county, parish, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA.

National Pollutant Discharge Elimination System (NPDES)—the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA.

New Discharger—any building, structure, facility, or installation:

a. from which there is or may be a discharge of pollutants;

b. that did not commence the discharge of pollutants at a particular site prior to August 13, 1979;

c. which is not a new source; and

d. which has never received a finally effective permit for discharges at that site. This definition includes an indirect discharger which commences discharging into waters of the state after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a site under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the EPA regional administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the state administrative authority shall consider the factors specified in LAC 33:IX.6305.A.1-10. An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a new discharger only for the duration of its discharge in an area of biological concern.

New Source—any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

a. after promulgation of standards of performance under Section 306 of the CWA which are applicable to such source; or

b. after proposal of standards of performance in accordance with Section 306 of the CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal.

NPDES—National Pollutant Discharge Elimination System.

Owner or Operator—the owner or operator of any facility or activity subject to regulation under the LPDES program.

Permit—an authorization, license, or equivalent control document issued by EPA under NPDES or by the state administrative authority under LPDES to implement the requirements of LAC 33:IX.Chapters 23-35 and 40 CFR Part 123. Permit includes an NPDES or LPDES general permit (LAC 33:IX.2515). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person—an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

Point Source—any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff. (See LAC 33:IX.2315).

Pollutant—for the purposes of the Louisiana Pollutant Discharge Elimination System, as defined in the act, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, except those regulated under the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq., as amended, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For the purposes of the Louisiana Pollutant Discharge Elimination System, as defined in the act, *pollutant* does not mean:

a. water, gas, waste, or other material that is injected into a well for disposal in accordance with a permit approved by the Department of Natural Resources or the Department of Environmental Quality; or

b. water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

[NOTE: Radioactive materials covered by the Atomic Energy Act are those encompassed in its definition of source, byproduct, or special nuclear materials. Examples of materials not covered include radium and accelerator-produced isotopes. See Train v. Colorado Public Interest Research Group, Inc., 426 U.S. 1 (1976).]

POTW—publicly owned treatment works.

Primary Industry Category—any industry category listed in the NRDC settlement agreement (Natural Resources Defense Council et al. v. Train, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in LAC 33:IX.7101.Appendix A.

Privately Owned Treatment Works—any device or system which is

a. used to treat wastes from any facility whose operator is not the operator of the treatment works; and

b. not a POTW.

Process Wastewater—any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Proposed Permit—a LPDES permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) which is sent to EPA for review before final issuance by the state. A proposed permit is not a draft permit.

Publicly Owned Treatment Works (POTW)—a treatment works, as defined by Section 212 of the Act, that is owned by a state or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Recommencing Discharger—a source which recommences discharge after terminating operations.

Regional Administrator—the EPA regional administrator of the appropriate regional office of the Environmental Protection Agency or the authorized representative of the EPA regional administrator.

Schedule of Compliance—a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the CWA and regulations.

Secondary Industry Category—any industry category which is not a primary industry category.

Secretary—the Secretary of the Army, acting through the chief of engineers.

Septage—the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

Sewage from Vessels—human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under Section 312 of the CWA.

Sewage Sludge—any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, Type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Sewage Sludge Use or Disposal Practice—the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

Silvicultural Point Source—as defined at LAC 33:IX.2513.B.1.

Site—the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Sludge-Only Facility—any treatment works treating domestic sewage whose methods of sewage sludge use or disposal are subject to regulations promulgated in accordance with Section 405(d) of the CWA, and is required to obtain a permit under LAC 33:IX.2311.A.2.

Standards for Sewage Sludge Use or Disposal—the regulations promulgated pursuant to Section 405(d) of the CWA which govern minimum requirements for sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.

State—any of the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or an Indian tribe as defined in these regulations which meets the requirements of 40 CFR 123.31 and this Chapter.

State Administrative Authority—the chief administrative officer of any state or interstate agency operating an approved program, or the delegated representative of the state administrative authority. If responsibility is divided among two or more state or interstate agencies, state administrative authority means the chief administrative officer of the state or interstate agency authorized to perform the particular procedure or function to which reference is made.

State/EPA Agreement—an agreement between the EPA regional administrator and the state which coordinates EPA and state activities, responsibilities and programs including those under the CWA programs.

Storm Water—storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Discharge Associated with Industrial Activity—as defined at LAC 33:IX.2511.B.14.

Total Dissolved Solids—the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136 (see LAC 33:IX.4901).

Toxic Pollutant—any pollutant listed as toxic under Section 307(a)(1), or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing Section 405(d) of the CWA.

Treatment Works Treating Domestic Sewage (TWTDS)—a POTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, domestic sewage includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works. In states where there is no approved state sludge management program under Section 405(f) of the CWA, the EPA regional administrator may designate any person subject to the standards for sewage sludge use and disposal in 40 CFR Part 503 as a treatment works treating domestic sewage, where he or she finds that there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 CFR Part 503.

Upset—an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Variance—any mechanism or provision under Section 301 or 316 of the CWA or under LAC 33:IX.Chapters 37-47, 51 and 53, or in the applicable effluent limitations guidelines which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on Sections 301(c), 301(g), 301(h), 301(i), or 316(a) of the CWA.

Waters of the State—for purposes of the Louisiana Pollutant Discharge Elimination System, all surface waters within the state of Louisiana and, on the coastline of Louisiana and the Gulf of Mexico, all surface waters extending therefrom 3 miles into the Gulf of Mexico. For purposes of the Louisiana Pollutant Discharge Elimination System, this includes all surface waters that are subject to the ebb and flow of the tide, lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, impoundments of waters within the state of Louisiana otherwise defined as *Waters of the United States* in 40 CFR 122.2, and tributaries of all such waters. *Waters of the State* does not include waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, 33 U.S.C. 1251 et seq.

Wetlands—those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole Effluent Toxicity—the aggregate toxic effect of an effluent measured directly by a toxicity test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:722 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2755 (December 2000), LR 28:464 (March 2002), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2365 (November 2007).

§2315. Exclusions

A. The following activities do not require LPDES permits:

1. any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone or waters of the state for the purpose of mineral or oil exploration or development;

2. discharges of dredged or fill material into waters of the state which are regulated under Section 404 of the CWA;

3. the introduction of sewage, industrial wastes or other pollutants into publicly owned treatment works by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to waters of the state are eliminated. (See also LAC 33:IX.2713.B). This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other party not leading to treatment works;

4. any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances);

5. any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not discharges from *concentrated animal feeding operations* as defined in LAC 33:IX.2313, discharges from *concentrated aquatic animal production facilities* as defined in LAC 33:IX.2313, discharges to *aquaculture projects* as defined in LAC 33:IX.2313, and discharges from *silvicultural point sources* as defined in LAC 33:IX.2513;

6. return flows from irrigated agriculture;

7. discharges into a privately owned treatment works, except as the state administrative authority may otherwise require under LAC 33:IX.2707.M;

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2069 (October 2007), LR 37:589 (February 2011).

§2317. Prohibitions

A. No permit may be issued:

1. when the conditions of the permit do not provide for compliance with the applicable requirements of the CWA and the LEQA, or regulations promulgated under the CWA and the LEQA;

2. when the applicant is required to obtain a state or other appropriate certification under Section 401 of the CWA and 40 CFR 124.53 and that certification has not been obtained or waived;

3. by the state administrative authority where the EPA regional administrator has objected to issuance of the permit under 40 CFR 123.44;

4. when the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states;

5. when, in the judgment of the secretary, anchorage and navigation in or on any of the waters of the state would be substantially impaired by the discharge;

6. for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;

7. for any discharge inconsistent with a plan or plan amendment approved under Section 208(b) of the CWA;

8. for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:

a. before the promulgation of guidelines under Section 403(c) of the CWA (for determining degradation of the waters of the territorial seas, the contiguous zone, and the oceans) unless the director determines permit issuance to be in the public interest; or

b. after promulgation of guidelines under Section 403(c) of the CWA, when insufficient information exists to make a reasonable judgment whether the discharge complies with them;

9. to a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet applicable water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by Sections 301(b)(1)(A) and 301(b)(1)(B) of the CWA, and for which the state or interstate agency has performed a pollutants load allocation for the pollutant to be discharged, must demonstrate, before the close of the public comment period, that:

a. there are sufficient remaining pollutant load allocations to allow for the discharge; and

b. the existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The state administrative authority may waive the submission of information by the new source or new discharger required by this Paragraph if the state administrative authority determines that the state

administrative authority already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this Paragraph is to be included in the fact sheet to the permit under LAC 33:IX.2515.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:465 (March 2002), repromulgated LR 30:230 (February 2004).

§2319. Effect of a Permit

A.1. Except for any toxic effluent standards and prohibitions imposed under Section 307 of the CWA and standards for sewage sludge use or disposal under 405(d) of the CWA, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403, and 405 (a)-(b) of the CWA. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in LAC 33:IX.2903, 2907, and 6509.

2. Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal pursuant to Sections 405(e) and 309 of the CWA.

B. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

C. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§2321. Continuation of Expiring Permits

A. When DEQ is the permit-issuing authority, the conditions of an expired permit continue in force under R.S. 30:2023(C), R.S. 49:961(B), and LAC 33:IX.2301.D.4 until the effective date of a new permit (see LAC 33:IX.3123) if:

1. the permittee has submitted a timely application under LAC 33:IX.2501 which is a complete (under LAC 33:IX.2501.E) application for a new permit; and

2. the state administrative authority, through no fault of the permittee does not issue a new permit with an effective date under LAC 33:IX.3123 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

B. Effect. Permits continued under this Section remain fully effective and enforceable.

C. Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the state administrative authority may choose to do any or all of the following:

1. initiate enforcement action based upon the permit which has been continued;

2. issue a notice of intent to deny the new permit under LAC 33:IX.3107. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

3. issue a new permit under LAC 33:IX.Chapters 31-35 with appropriate conditions; or

4. take other actions authorized by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:1523 (November 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§2323. Confidentiality of Information

A. Claims of confidentiality for the following information will be denied:

1. the name and address of any permit applicant or permittee;

2. permit applications, permits, and effluent data.

B. Information required by LPDES application forms provided by the state administrative authority under LAC 33:IX.2501 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

C. Additional information concerning nondisclosure of confidential information is found in LAC 33:I.Chapter 5 and LAC 33:IX.6503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

Chapter 25. Permit Application and Special LPDES Program Requirements

§2501. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only

facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2515, or discharges excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2707.M, must submit a complete application to the Office of Environmental Services in accordance with this Section and LAC 33:IX.Chapters 31-35. All concentrated animal feeding operations have a duty to seek coverage under an LPDES permit as described in LAC 33:IX.2505.D.

2. Application Forms

a. All applicants for LPDES permits must submit applications on either state- or EPA-approved permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Office of Environmental Services or may be obtained electronically through the department's website.

b. Applications for LPDES permits may be submitted on EPA application forms as follows:

i. all applicants for permits, other than permits for POTWs and TWTDS, must submit Form 1;

ii. applicants for permits for new and existing POTWs must submit the information contained in Subsection J of this Section using Form 2A or other form provided by the state administrative authority;

iii. applicants for permits for concentrated animal feeding operations or aquatic animal production facilities must submit Form 2B;

iv. applicants for permits for existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities) must submit Form 2C;

v. applicants for permits for new industrial facilities that discharge process wastewater must submit Form 2D;

vi. applicants for permits for new and existing industrial facilities that discharge only nonprocess wastewater must submit Form 2E;

vii. applicants for permits for new and existing facilities whose discharge is composed entirely of storm water associated with industrial activity must submit Form 2F, unless exempted by LAC 33:IX:2511.C.1.b. If the discharge is composed of storm water and non-storm water, the applicant must submit Forms 2C, 2D, and/or 2E, as appropriate (in addition to Form 2F); and

viii. applicants for permits for new and existing TWTDS, subject to Subparagraph C.1.b of this Section, must submit the application information required by Subsection Q of this Section, using Form 2S or other form provided by the state administrative authority.

B. Who applies? When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

C. Time to Apply

1. Permits under Section 405(f) of the CWA

a. All TWTDS whose sewage sludge use or disposal practices are regulated by 40 CFR Part 503 must submit permit applications according to the applicable schedule in Subparagraph C.1.b of this Section.

b. A TWTDS with a currently effective LPDES permit must submit a permit application at the time of its next LPDES permit renewal application. Such information must be submitted in accordance with Subsection D of this Section.

c. Any other TWTDS not addressed under Subparagraph C.1.a or b of this Section must submit the information listed in Clauses C.1.c.i-v of this Section, to the Office of Environmental Services within one year after publication of a standard applicable to its sewage sludge use or disposal practice(s), using Form 2S or another form provided by the department. The Office of Environmental Services will determine when such TWTDS must submit a full permit application. The following information must be submitted:

i. the name, mailing address, and location of the TWTDS, and status as federal, state, private, public, or other entity;

ii. the applicant's name, address, telephone number, and ownership status;

iii. a description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of Subparagraph Q.8.d of this Section, the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal and the location of any land application sites;

iv. the annual amount of sewage sludge generated, treated, used, or disposed (dry weight basis); and

v. the most recent data the TWTDS may have on the quality of the sewage sludge.

d. Notwithstanding Subparagraph C.1.a, b, or c of this Section, the state administrative authority may require permit applications for any TWTDS at any time if the state administrative authority determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

e. Any owner or operator of a TWTDS that commences operations after promulgation of an applicable standard for sewage sludge use or disposal shall submit an application to the Office of Environmental Services at least 180 days prior to the date proposed for commencing operations.

D. Duty to Reapply

1. Any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the state administrative authority. (The state administrative authority shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

2. All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that the state administrative authority may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.

E. Completeness

1. The state administrative authority shall not issue a permit before receiving a complete application for a permit except for LPDES general permits. An application for a permit is complete when the state administrative authority receives an application form and any supplemental information that are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. For the department administered LPDES program, an application that is reviewed under LAC 33:IX.3103 is complete when the state administrative authority receives either a complete application or the information listed in a notice of deficiency.

2. A permit application shall not be considered complete if a permitting authority has waived application requirements under Subsections J and Q of this Section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than 210 days prior to permit expiration and EPA has not disapproved the waiver application 181 days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

F. Information Requirements. All applicants for LPDES permits, other than permits for POTWs and other TWTDS, must provide the following information to the Office of Environmental Services using the application form provided by the state administrative authority (additional information required of applicants is set forth in Subsections G-K of this Section and LAC 33:I.1701):

1. the activities conducted by the applicant which require it to obtain an LPDES permit;

2. name, mailing address, and location of the facility for which the application is submitted;

3. up to four SIC codes which best reflect the principal products or services provided by the facility;

4. the operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity;

5. whether the facility is located on Indian lands;

6. a listing of all permits or construction approvals received or applied for under any of the following programs:

a. Hazardous Waste Management program under RCRA;

b. UIC program under SDWA;

c. NPDES program under CWA;

d. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

e. nonattainment program under the Clean Air Act;

f. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

g. ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

h. dredge or fill permits under Section 404 of the CWA; and

i. other relevant environmental permits, including state permits;

7. a topographic map (or other map if a topographic map is unavailable) extending 1 mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

8. a brief description of the nature of the business; and

9. additional application requirements in LAC 33:IX.6505.A and LAC 33:I.1701.

G. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for LPDES permits, except for those facilities subject to the requirements of Subsection H of this Section, shall provide the following information to the Office of Environmental Services using application forms provided by the state administrative authority:

1. Outfall Location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water. Additional outfall location requirements are found in LAC 33:IX.6505.B.

2. Line Drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under LAC 33:IX.2501.G.3. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example,

for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

3. Average Flows and Treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, dye-making reactor, distillation tower). For a privately owned treatment works, this information shall Include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation must be indicated.

4. Intermittent Flows. If any of the discharges described in LAC 33:IX.2501.G.3 are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence (except for storm water runoff, spillage or leaks).

5. Maximum Production. If an effluent guideline promulgated under Section 304 of the CWA applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required by LAC 33:IX.2709.B.2.

6. Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.

7. Effluent Characteristics

a. Information on the discharge of pollutants specified in this Subparagraph (except information on storm water discharges that is to be provided as specified in LAC 33:IX.2511). When quantitative data for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.4901). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the state administrative authority may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfall. The requirements in Subparagraphs G.7.f and g of this Section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the state administrative authority may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four grab samples will be a representative sample of the effluent being discharged.

b. Storm Water Discharges. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes (applicants submitting permit applications for storm water discharges under LAC 33:IX.2511.D may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the state administrative authority). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples, taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in LAC 33:IX.2511.C.1. For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in LAC 33:IX.2511 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The state administrative authority may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136 (see LAC 33:IX.4901), and additional time for submitting data

on a case-by-case basis. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

c. Reporting Requirements. Every applicant must report quantitative data for every outfall for the following pollutants:

i. biochemical oxygen demand (BOD_5);

ii. chemical oxygen demand;

iii. total organic carbon;

iv. total suspended solids;

v. ammonia (as N);

vi. temperature (both winter and summer); and

vii. pH.

d. The state administrative authority may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in Subparagraph G.7.c of this Section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

e. Each applicant with processes in one or more primary industry category (see LAC 33:IX.7101.Appendix A of this Subpart) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

i. the organic toxic pollutants in the fractions designated in LAC 33:IX.7107.Appendix D, Table I of this Subpart for the applicant's industrial category or categories unless the applicant qualifies as a small business under Paragraph G.8 of this Section. LAC 33:IX.7107.Appendix D, Table II of this Subpart lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure that uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes; [See Notes 2 and 3 of this Section.]

ii. the pollutants listed in LAC 33:IX.7017.Appendix D, Table III of this Subpart (the toxic metals, cyanide, and total phenols).

f.i. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in LAC 33:IX.7107.Appendix D, Table IV of this Subpart (certain conventional and nonconventional pollutants) are discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

ii. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in LAC 33:IX.7107.Appendix D, Table II or III of this Subpart (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under Subparagraph G.7.e of this Section, are discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under Paragraph G.8 of this Section is not required to analyze for pollutants listed in LAC 33:IX.7107.Appendix D, Table II of this Subpart (the organic toxic pollutants).

g. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in LAC 33:IX.7107.Appendix D, Table V of this Subpart (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

h. Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

i. uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5 trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

ii. knows or has reason to believe that TCDD is or may be present in an effluent.

8. Small Business Exemption. An applicant that qualifies as a small business under one of the following criteria is exempt from the requirements in Clause G.7.e.i or f.i of this Section to submit quantitative data for the pollutants listed in LAC 33:IX.7107.Appendix D, Table II of this Subpart (the organic toxic pollutants):

a. for coal mines, a probable total annual production of less than 100,000 tons per year;

b. for all other applicants, gross total annual sales averaging less than $100,000 per year (in second quarter 1980 dollars).

9. Used or Manufactured Toxics. A listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The state administrative authority may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the state administrative authority has adequate information to Issue the permit.

10. Reserved.

11. Biological Toxicity Tests. An identification of any biological toxicity tests which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or on a receiving water in relation to a discharge.

12. Contract Analyses. If a contract laboratory or consulting firm performed any of the analyses required by LAC 33:IX.2501.G.7, the identity of each laboratory or firm and the analyses performed.

13. Additional Information. In addition to the information reported on the application form, applicants shall provide to the state administrative authority, at his or her request, such other information as the state administrative authority may reasonably require to assess the discharges of the facility and to determine whether to issue an LPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

H. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities That Discharge Only Nonprocess Wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits that discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Office of Environmental Services using application forms provided by the state administrative authority.

1. Outfall Location. Outfall number, latitude and longitude to the nearest 15 seconds, and the name of the receiving water. Additional outfall location requirements are found in LAC 33:IX.6505.B.

2. Discharge Date (for new dischargers). Date of expected commencement of discharge.

3. Type of Waste. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria, wastes, or noncontact cooling water. An identification of cooling water additives (if any) that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available.

4. Effluent Characteristics

a. Quantitative data for the pollutants or parameters listed below, unless testing is waived by the state administrative authority. The quantitative data may be data collected over the past 365 days, if they remain representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken. The applicant must collect and analyze samples in accordance with 40 CFR Part 136 (see LAC 33:IX.4901). Grab samples must be used for pH, temperature, oil and grease, total residual chlorine. and fecal coliform. For all other pollutants, 24-hour composite samples must be used. New dischargers must include estimates for the pollutants or parameters listed below instead of actual sampling data, along with the source of each estimate. All levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature:

i. biochemical oxygen demand (BOD_5);

ii. total suspended solids (TSS);

iii. fecal coliform (if believed present or if sanitary waste is or will be discharged);

iv. total residual chlorine (if chlorine is used);

v. oil and grease;

vi. chemical oxygen demand (COD) (if non-contact cooling water is or will be discharged);

vii. total organic carbon (TOC) (if non-contact cooling water is or will be discharged);

viii. ammonia (as N);

ix. discharge flow;

x. pH; and

xi. temperature (winter and summer).

b. The state administrative authority may waive the testing and reporting requirements for any of the pollutants or flow listed in Subparagraph H.4.a of this Section if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.

c. If the applicant is a new discharger, he must complete and submit Item IV of Form 2E (see Subparagraph H.4 of this Section) by providing quantitative data in accordance with that Section no later than two years after commencement of discharge. However, the applicant need not complete those portions of Item IV requiring tests which he has already performed and reported under the discharge monitoring requirements of his LPDES permit.

d. The requirements of Subparagraph H.4.a and c of this Section that an applicant must provide quantitative data or estimates of certain pollutants do not apply to pollutants

present in a discharge solely as a result of their presence in intake water. However, an applicant must report such pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements of LAC 33:IX.2709.G are met.

5. Flow. A description of the frequency of flow and duration of any seasonal or intermittent discharge (except for stormwater runoff, leaks, or spills).

6. Treatment System. A brief description of any system used or to be used.

7. Optional Information. Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining net credits pursuant to LAC 33:IX.2709.G.

8. Certification. Signature of certifying official under LAC 33:IX.2503.

I. Application Requirements for New and Existing Concentrated Animal Feeding Operations and Aquatic Animal Production Facilities. New and existing concentrated animal feeding operations (defined in LAC 33:IX.2313) and concentrated aquatic animal production facilities (defined in LAC 33:IX.2313) shall provide the following information to the state administrative authority, using the application form provided by the state administrative authority.

1. For concentrated animal feeding operations (CAFOs):

a. the name of the owner or operator;

b. the facility location and mailing address(es);

c. the latitude and longitude of the production area (entrance to production area);

d. a topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of Paragraph F.7 of this Section;

e. specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

f. the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);

g. the total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;

h. the estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);

i. the estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons); and

j. a nutrient management plan that at a minimum satisfies the requirements specified in LAC 33:IX.2703.E, including, for all CAFOs subject to 40 CFR Part 412, Subpart C or Subpart D, the requirements of 40 CFR 412.4(c), as applicable.

2. For concentrated aquatic animal production facilities:

a. the maximum daily and average monthly flow from each outfall;

b. the number of ponds, raceways, and similar structures;

c. the name of the receiving water and the source of intake water;

d. for each species of aquatic animals, the total yearly and maximum harvestable weight; and

e. the calendar month of maximum feeding and the total mass of food fed during that month.

J. Application Requirements for New and Existing POTWs. Unless otherwise indicated, all owners/operators of POTWs and other dischargers designated by the state administrative authority must provide, at a minimum, the information in this Subsection to the Office of Environmental Services. Permit applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the state administrative authority. The state administrative authority may waive any requirement of this Subsection if he or she has access to substantially identical information. The state administrative authority may also waive any requirement of this Subsection that is not of material concern for a specific permit, if approved by the regional administrator. The waiver request to the regional administrator must include the state's justification for the waiver. A regional administrator's disapproval of a state's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information.

1. Basic Application Information. All applicants must provide the following information.

a. Facility Information. Name, mailing address, and location of the facility for which the application is submitted.

b. Applicant Information. Name, mailing address, and telephone number of the applicant, and indication as to whether the applicant is the facility’s owner, operator, or both.

c. Existing Environmental Permits. Identification of all environmental permits or construction approvals received or applied for (including dates) under any of the following programs:

i. Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), Subpart C;

ii. Underground Injection Control program under the Safe Drinking Water Act (SDWA);

iii. LPDES or NPDES program under the Clean Water Act (CWA);

iv. Prevention of Significant Deterioration (PSD) program under the CWA;

v. nonattainment program under the Clean Air Act;

vi. National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

vii. ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

viii. dredge or fill permits under Section 404 of the CWA; and

ix. other relevant environmental permits, including state permits.

d. Population. The name and population of each municipal entity served by the facility, including unincorporated connector districts. Indicate whether each municipal entity owns or maintains the collection system and whether the collection system is separate sanitary or combined storm and sanitary, if known.

e. Indian Country. Information concerning whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country.

f. Flow Rate. The facility's design flow rate (the wastewater flow rate the plant was built to handle), annual average daily flow rate, and maximum daily flow rate for each of the previous three years.

g. Collection System. Identification of type(s) of collection system(s) used by the treatment works (e.g., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises; and

h. Outfalls and Other Discharge or Disposal Methods. The following information for outfalls to waters of the United States and other discharge or disposal methods:

i. for effluent discharges to waters of the state, the total number and types of outfalls (e.g., treated effluent, bypasses, constructed emergency overflows);

ii. for wastewater discharged to surface impoundments:

(a). the location of each surface impoundment;

(b). the average daily volume discharged to each surface impoundment; and

(c). whether the discharge is continuous or intermittent;

iii. for wastewater applied to the land:

(a). the location of each land application site;

(b). the size of each land application site, in acres;

(c). the average daily volume applied to each land application site, in gallons per day; and

(d). whether land application is continuous or intermittent;

iv. for effluent sent to another facility for treatment prior to discharge:

(a). the means by which the effluent is transported;

(b). the name, mailing address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(c). the name, mailing address, contact person, phone number, and LPDES permit number (if any) of the receiving facility; and

(d). the average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and

v. for wastewater disposed of in a manner not included in Clauses J.1.h.i-iv of this Section (e.g., underground percolation, underground injection):

(a). a description of the disposal method, including the location and size of each disposal site, if applicable;

(b). the annual average daily volume disposed of by this method, in gallons per day; and

(c). whether disposal through this method is continuous or intermittent.

2. Additional Information. All applicants with a design flow greater than or equal to 0.1 mgd must provide the following information.

a. Inflow and Infiltration. The current average daily volume of inflow and infiltration, in gallons per day, and steps the applicant is taking to minimize inflow and infiltration.

b. Topographic Map. A topographic map (or other map if a topographic map is unavailable) extending at least 1 mile beyond property boundaries of the treatment plant, including all process units, and showing:

i. the treatment plant area and process units;

ii. the major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. This includes outfalls from bypass piping, if applicable;

iii. each well where fluids from the treatment plant are injected underground;

iv. wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within 1/4 mile of the treatment works' property boundaries;

v. sewage sludge management facilities (including on-site treatment, storage, and disposal sites); and

vi. location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe.

c. Process Flow Diagram or Schematic. The following information regarding the diagram:

i. a diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. This includes a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and

ii. a narrative description of the diagram; and

d. Scheduled Improvements, Schedules of Implementation. The following information regarding scheduled improvements:

i. the outfall number of each outfall affected;

ii. a narrative description of each required improvement;

iii. scheduled or actual dates of completion for the following:

(a). commencement of construction;

(b). completion of construction;

(c). commencement of discharge; and

(d). attainment of operational level; and

iv. a description of permits and clearances concerning other federal and/or state requirements.

3. Information on Effluent Discharges. Each applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable.

a. Description of Outfall. The following information:

i. the outfall number;

ii. the state, parish, and city or town in which outfall is located;

iii. the latitude and longitude, to the nearest second;

iv. the distance from shore and depth below surface;

v. the average daily flow rate, in million gallons per day;

vi. the following information for each outfall with a seasonal or periodic discharge:

(a). the number of times per year the discharge occurs;

(b). the duration of each discharge;

(c). the flow of each discharge; and

(d). the months in which discharge occurs; and

vii. whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used.

b. Description of Receiving Waters. The following information (if known) for each outfall through which effluent is discharged to waters of the state:

i. the name of receiving water;

ii. the name of watershed/river/stream system and United States Natural Resource Conservation Service 14-digit watershed code;

iii. the name of state management/river basin and United States Geological Survey 8-digit hydrologic cataloging unit code; and

iv. the critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable).

c. Description of Treatment. The following information describing the treatment provided for discharges from each outfall to waters of the state:

i. the highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:

(a). design biochemical oxygen demand (BOD_5 or $CBOD_5$) removal (percent);

(b). design suspended solids (SS) removal (percent);

(c). design phosphorus (P) removal (percent), where applicable;

(d). design nitrogen (N) removal (percent), where applicable; and

(e). any other removals that an advanced treatment system is designed to achieve; and

ii. a description of the type of disinfection used, and whether the treatment plant dechlorinates (if disinfection is accomplished through chlorination).

4. Effluent Monitoring for Specific Parameters

a. As provided in Subparagraphs J.4.b-j of this Section, all applicants must submit to the Office of Environmental Services effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state. The state administrative

authority may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

b. All applicants must sample and analyze for the pollutants listed in LAC 33:IX.7129.Appendix O, Table 1A of this Subpart.

c. All applicants whose facility has a design flow greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in LAC 33:IX.7129.Appendix O, Table 1 of this Subpart. Applicants whose facilities do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent may delete chlorine from LAC 33:IX.7129.Appendix O, Table 1 of this Subpart.

d. Applicants for the following facilities must sample and analyze for the pollutants listed in LAC 33:IX.7129.Appendix O, Table 2 of this Subpart and for any other pollutants for which the state has established water quality standards applicable to the receiving waters:

i. all POTWs with a design flow rate equal to or greater than 1 million gallons per day;

ii. all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and

iii. other POTWs, as required by the state administrative authority.

e. The state administrative authority may require sampling for additional pollutants, as appropriate, on a case-by-case basis.

f. Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The state administrative authority may require additional samples, as appropriate, on a case-by-case basis.

g. All existing data for pollutants specified in Subparagraphs J.4.b-e of this Section that are collected within four and one-half years of the application must be included in the pollutant data summary submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to summarize all data collected within one year of the application.

h. Applicants must collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved under LAC 33:IX.4901 unless an alternative is specified in the existing LPDES permit. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. For a composite sample only one analysis of the composite of aliquots is required.

i. The effluent monitoring data provided must include at least the following information for each parameter:

i. the maximum daily discharge, expressed as concentration or mass, based upon actual sample values;

ii. the average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

iii. the analytical method used; and

iv. the threshold level (e.g., method detection limit, minimum level, or other designated method endpoints) for the analytical method used.

j. Unless otherwise required by the state administrative authority, metals must be reported as total recoverable.

5. Effluent Monitoring for Whole Effluent Toxicity

a. All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharge or on any receiving water near the discharge.

b. As provided in Subparagraphs J.5.c-i of this Section, applicants for the following facilities must submit to the Office of Environmental Services the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters:

i. all POTWs with design flow rates greater than or equal to 1 million gallons per day;

ii. all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and

iii. other POTWs, as required by the state administrative authority, based on consideration of the following factors:

(a). the variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment plant, and types of industrial contributors);

(b). the ratio of effluent flow to receiving stream flow;

(c). the existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;

(d). receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water or a water designated as an outstanding natural resource water; and

(e). other considerations (including, but not limited to, the history of toxic impacts and compliance problems at the POTW) that the state administrative authority determines could cause or contribute to adverse water quality impacts.

c. Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the state administrative authority may allow applicants to submit whole effluent toxicity data for only one outfall on a case-by-case basis. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

d. Each applicant required to perform whole effluent toxicity testing in accordance with Subparagraphs J.5.b of this Section must provide:

i. results of a minimum of four quarterly tests for a year from the year preceding the permit application; or

ii. results from four tests performed at least annually in the four and one-half year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the permitting authority.

e. Applicants must conduct tests with multiple species (no fewer than two taxonomic groups listed in LAC 33:IX.1121.B; e.g., fish, invertebrate, plant), and test for acute or chronic toxicity, depending on the range of receiving water dilution. The department recommends, but does not require, that applicants conduct acute or chronic testing based on the latest recommended protocol for biomonitoring, which uses the following dilutions:

i. acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

ii. acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1); and

iii. chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

f. Each applicant required to perform whole effluent toxicity testing in accordance with Subparagraph J.5.b of this Section must provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

g. Applicants must provide the results using the form provided by the state administrative authority, or test summaries, if available and comprehensive, for each whole effluent toxicity test conducted in accordance with Subparagraph J.5.b of this Section for which such information has not been reported previously to the state administrative authority.

h. Whole effluent toxicity testing conducted in accordance with Subparagraph J.5.b of this Section must be conducted using methods approved under LAC 33:IX.4901.

i. For whole effluent toxicity data submitted to the state administrative authority within four and one-half years prior to the date of the application, applicants must provide the dates on which the data were submitted and a summary of the results.

j. Each applicant required to perform whole effluent toxicity testing in accordance with Subparagraph J.5.b of this Section must provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half years revealed toxicity.

6. Industrial Discharges. Applicants must submit the following information about industrial discharges to the POTW:

a. number of significant industrial users (SIUs) and categorical industrial users (CIUs) discharging to the POTW;

b. *POTWs* with one or more SIUs shall provide the following information for each SIU, as defined in LAC 33:IX.2313, that discharges to the POTW:

i. name and mailing address;

ii. description of all industrial processes that affect or contribute to the SIU's discharge;

iii. principal products and raw materials of the SIU that affect or contribute to the SIU's discharge;

iv. average daily volume of wastewater discharged, indicating the amount attributable to process flow and nonprocess flow;

v. whether the SIU is subject to local limits;

vi. whether the SIU is subject to categorical standards, and if so, under which category(ies) and subcategory(ies); and

vii. whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past four and one-half years; and

c. the information required in Subparagraphs J.6.a and b of this Section may be waived by the state administrative authority for POTWs with pretreatment programs if the applicant has submitted either of the following that contain information substantially identical to that required in Subparagraphs J.6.a and b of this Section:

i. an annual report submitted within one year of the application; or

ii. a pretreatment program.

7. Discharges From Hazardous Waste Generators and From Waste Cleanup or Remediation Sites. POTWs receiving Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or RCRA

Corrective Action wastes or wastes generated at another type of cleanup or remediation site must provide the following information:

a. if the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR Part 261, the applicant must report the following:

i. the receipt of such notice; and

ii. the hazardous waste number and amount received annually of each hazardous waste; and

b. if the POTW receives, or has been notified that it will receive, wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and Sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:

i. the identity and description of the site(s) or facility(ies) at which the wastewater originates;

ii. the identities of the wastewater's hazardous constituents, as listed in Appendix VIII of 40 CFR Part 261, if known; and

iii. the extent of treatment, if any, the wastewater receives or will receive before entering the POTW.

[Note: Applicants are exempt from the requirements of Subparagraph J.7.b of this Section if they receive no more than 15 kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).]

8. Reserved.

9. Contractors. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility.

10. Signature. All applications must be signed by a certifying official in compliance with LAC 33:IX.2503.

K. Application Requirements for New Sources and New Discharges. New manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits (except for new discharges of facilities subject to the requirements of Subsection H of this Section or new discharges of storm water associated with industrial activity which are subject to the requirements of LAC 33:IX.2511.C.1 and this Section [except as provided by LAC 33:IX.2511.C.1.b]) shall provide the following information to the state administrative authority, using the application forms provided by the state administrative authority.

1. Expected Outfall Location. The latitude and longitude to the nearest 15 seconds and the name of the receiving water. Additional outfall location requirements are found in LAC 33:IX.6505.B.

2. Discharge Dates. The expected date of commencement of discharge.

3. Flows, Sources of Pollution, and Treatment Technologies

a. Expected Treatment of Wastewater. Description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wastes not discharged.

b. Line Drawing. A line drawing of the water flow through the facility with a water balance as described in LAC 33:IX.2501.G.2.

c. Intermittent Flows. If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks).

4. Production. If a new source performance standard promulgated under Section 306 of the CWA or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard as required by LAC 33:IX.2709.B.2 for each of the first three years. Alternative estimates may also be submitted if production is likely to vary.

5. Effluent Characteristics. The requirements in LAC 33:IX.2501.H.4.a, b, and c that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water; however, an applicant must report such pollutants as present. Net credits may be provided for the presence of pollutants in intake water if the requirements of LAC 33:IX.2709.G are met. All levels (except for discharge flow, temperature, and pH) must be estimated as concentration and as total mass.

a. Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants or parameters. The state administrative authority may waive the reporting requirements for any of these pollutants and parameters if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements:

i. biochemical oxygen demand (BOD);

ii. chemical oxygen demand (COD);

iii. total organic carbon (TOC);

iv. total suspended solids (TSS);

v. flow;

vi. ammonia (as N);

vii. temperature (winter and summer); and

viii. pH.

b. Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants, if the applicant knows or

has reason to believe they will be present or if they are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant: All pollutants in LAC 33:IX.7107.Appendix D.Table IV (certain conventional and nonconventional pollutants).

c. Each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if he knows or has reason to believe that they will be present in the discharges from any outfall:

i. the pollutants listed in LAC 33:IX.7107.Appendix D.Table III (the toxic metals, in the discharge from any outfall: Total cyanide, and total phenols); and

ii. the organic toxic pollutants in LAC 33:IX.7107.Appendix D.Table II (except bis (chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane). This requirement is waived for applicants with expected gross sales of less than $100,000 per year for the next three years, and for coal mines with expected average production of less than 100,000 tons of coal per year.

d. The applicant is required to report that 2,3,7,8 tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

i. 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93-76-5);

ii. 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #9372-1);

iii. 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

iv. O,O-dimethyl O-(2,4,5 trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3);

v. 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or

vi. hexachlorophene (HCP) (CAS #7030-4).

e. Each applicant must report any pollutants listed in LAC 33:IX.7107.Appendix D.Table V (certain hazardous substances) if he believes they will be present in any outfall (no quantitative estimates are required unless they are already available).

f. No later than two years after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of LPDES application Form 2C (see LAC 33:IX.2501.G). However, the applicant need not complete those portions of Item V requiring tests which he has already performed and reported under the discharge monitoring requirements of his LPDES permit.

6. Engineering Report. Each applicant must report the existence of any technical evaluation concerning his wastewater treatment, along with the name and location of similar plants of which he has knowledge.

7. Other Information. Any optional information the permittee wishes to have considered.

8. Certification. Signature of certifying official under LAC 33:IX.2503.

L. Variance Requests by Non-POTWs. A discharger which is not a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the times specified in this Subsection.

1. Fundamentally Different Factors

a. A request for a variance based on the presence of fundamentally different factors from those on which the effluent limitations guideline was based shall be filed as follows:

i. for a request from best practicable control technology currently available (BPT), by the close of the public comment period under LAC 33:IX.3113;

ii. for a request from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than:

(a). July 3, 1989, for a request based on an effluent limitation guideline promulgated before February 4, 1987, to the extent July 3, 1989 is not later than that provided under previously promulgated regulations; or

(b). 180 days after the date on which an effluent limitation guideline is published in the *Federal Register* for a request based on an effluent limitation guideline promulgated on or after February 4, 1987.

b. The request shall explain how the requirements of the applicable regulatory and/or statutory criteria have been met.

2. Nonconventional Pollutants. A request for a variance from the BAT requirements for CWA Section 301(b)(2)(F) pollutants (commonly called non-conventional pollutants) pursuant to Section 301(c) of the CWA because of the economic capability of the owner or operator, or pursuant to Section 301(g) of the CWA (provided however that a 301(g) variance may only be requested for ammonia; chlorine; color; iron; total phenols (4AAP) (when determined by the administrator to be a pollutant covered by Section 301(b)(2)(F) and any other pollutant which the administrator lists under Section 301(g)(4) of the CWA) must be made as follows:

a. for those requests for a variance from an effluent limitation based upon an effluent limitation guideline by:

i. submitting an initial request to the EPA regional administrator, as well as to the state administrative authority if applicable, stating the name of the discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a

CWA Section 301(c) or Section 301(g) modification or both. This request must have been filed no later than:

(a). September 25, 1978, for a pollutant which is controlled by a BAT effluent limitation guideline promulgated before December 27, 1977; or

(b). 270 days after promulgation of an applicable effluent limitation guideline for guidelines promulgated after December 27, 1977; and

ii. submitting a completed request no later than the close of the public comment period under LAC 33:IX.3113 demonstrating that the requirements of LAC 33:IX.3119 and the applicable requirements of LAC 33:IX.Chapters 37-47 and 51-53 have been met. Notwithstanding this provision, the complete application for a request under Section 301(g) shall be filed 180 days before EPA must make a decision (unless the EPA Regional Division Director establishes a shorter or longer period);

b. for those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with LAC 33:IX.2501.L.2.a.ii and need not be preceded by an initial request under LAC 33:IX.2501.L.2.a.i.

3. Reserved.

4. Reserved.

5. Water Quality Related Effluent Limitations. A modification under CWA Section 302(b)(2) of requirements under CWA Section 302(a) for achieving water quality related effluent limitations may be requested no later than the close of the public comment period under LAC 33:IX.3113 on the permit from which the modification is sought.

6. Thermal Discharges. A variance under CWA Section 316(a) for the thermal component of any discharge must be filed with a timely application for a permit under this Section, except that if thermal effluent limitations are established under CWA Section 402(a)(1) or are based on water quality standards the request for a variance may be filed by the close of the public comment period under LAC 33:IX.3113. A copy of the request as required under LAC 33:IX.Chapter 45, shall be sent simultaneously to the appropriate state or interstate certifying agency as required under LAC 33:IX.Chapters 37-47 and 51-53. (See 40 CFR 124.65 for special procedures for CWA Section 316(a) thermal variances.)

M. Variance Requests by POTWs. A discharger which is a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory provisions as specified in this Subsection.

1. Discharges into Marine Waters. A request for a modification under CWA Section 301(h) of requirements of CWA Section 301(b)(1)(B) for discharges into marine waters must be filed in accordance with the requirements of 40 CFR Part 125, Subpart G.

2. Reserved.

3. Water Quality Based Effluent Limitation. A modification under CWA Section 302(b)(2) of the requirements under CWA Section 302(a) for achieving water quality based effluent limitations shall be requested no later than the close of the public comment period under LAC 33:IX.3113 on the permit from which the modification is sought.

N. Expedited Variance Procedures and Time Extensions

1. Notwithstanding the time requirements in LAC 33:IX.2501.L and M, the state administrative authority may notify a permit applicant before a draft permit is issued under LAC 33:IX.3107 that the draft permit will likely contain limitations which are eligible for variances. In the notice the state administrative authority may require the applicant as a condition of consideration of any potential variance request to submit a request explaining how the requirements of LAC 33:IX.Chapters 37-47 and 51-53 applicable to the variance have been met and may require its submission within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon final grant of the variance.

2. A discharger who cannot file a timely complete request required under LAC 33:IX.2501.L 2.a.ii or 2.b may request an extension. The extension may be granted or denied at the discretion of the state administrative authority. Extensions shall be no more than six months in duration.

O. Recordkeeping. Except for information required by LAC 33:IX.2501.D.3.b, which shall be retained for a period of at least five years from the date the application is signed (or longer as required by 40 CFR Part 503), applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this Section for a period of at least three years from the date the application is signed.

[NOTE 1: At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2501.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to coal mines. This revision continues that suspension.[1]]

[NOTE 2: At 46 FR 22585, Apr. 20, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2501.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

a. testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low Water Use Processing of 40 CFR Part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category;

b. testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (Subpart B of 40 CFR Part 440), and testing and reporting

for all four fractions in all other subcategories of this industrial category;

c. testing and reporting for all four GC/MS fractions in the Porcelain Enameling industry.]

This revision continues that suspension.[1]

[NOTE 3: At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21 (g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2501.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

a. testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (Subpart D) and Rosin-Based Derivatives Subcategory (Subpart F) of the Gum and Wood Chemicals Industry (40 CFR Part 454), and testing and reporting for the pesticide and base-neutral fractions in all other subcategories of this industrial category;

b. testing and reporting for the pesticide fraction in the Leather Tanning and Finishing. Paint and Ink Formulation, and Photographic Supplies industrial categories;

c. testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining Industrial category;

d. testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (Subparts J and U) of the Pulp and Paper Industry (40 CFR Part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (Subpart Q), Dissolving Kraft (Subpart F), and Paperboard from Waste Paper (Subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: DOT Bleached Kraft (Subpart H), Semi-Chemical (Subparts B and C), and Nonintegrated-Fine Papers (Subpart R): and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (Subpart I), Dissolving Sulfite Pulp (Subpart K), Groundwood-Fine Papers (Subpart O), Market Bleached Kraft (Subpart G), Tissue from Wastepaper (Subpart T), and Nonintegrated Tissue Papers (Subpart S);

e. testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.]

This revision continues that suspension.[1]

[1] EDITORIAL NOTE: The words "This revision" refer to the document published at 48 FR 14153, Apr. 1, 1983.

P. Additional Requirements for Privately-Owned Sewage Treatment Facilities Regulated by the Public Service Commission. Privately-owned sewage treatment facilities regulated by the Public Service Commission must also comply with the financial security requirements in LAC 33:IX.Chapter 67. Following receipt of the permit application the administrative authority shall calculate and subsequently notify the applicant of the "waste discharge capacity per day" for the facility. The applicant will use this figure to determine the amount of the financial security required by LAC 33:IX.Chapter 67. The applicant shall subsequently obtain and supply the department with the financial security document in accordance with LAC 33:IX.Chapter 67. No permit shall be issued after July 1, 1999, without the required financial security, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

Q. Sewage Sludge Management. All applicants with TWTDS subject to Subparagraph C.1.b of this Section must provide the information in this Subsection to the state administrative authority, using Form 2S or another application form approved by the state administrative authority. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the state administrative authority. The state administrative authority may waive any requirement of this Subsection if he or she has access to substantially identical information. The state administrative authority may also waive any requirement of this Subsection that is not of material concern for a specific permit, if approved by the regional administrator. The waiver request to the regional administrator must include the state's justification for the waiver. A regional administrator's disapproval of a state's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information.

1. Facility Information. All applicants must submit the following information:

a. the name, mailing address, and location of the TWTDS for which the application is submitted;

b. whether the facility is a Class I sludge management facility;

c. the design flow rate (in million gallons per day);

d. the total population served; and

e. the applicant’s status as federal, state, private, public, or other entity.

2. Applicant Information. All applicants must submit the following information:

a. the name, mailing address, and telephone number of the applicant; and

b. indication whether the applicant is the owner, operator, or both.

3. Permit Information. All applicants must submit the facility's LPDES permit number, if applicable, and a listing of all other federal, state, and local permits or construction approvals received or applied for under any of the following programs:

a. Hazardous Waste Management program under RCRA;

b. UIC program under the Safe Drinking Water Act (SDWA);

c. LPDES program under the CWA;

d. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

e. nonattainment program under the Clean Air Act;

f. National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

g. dredge or fill permits under Section 404 of the CWA; and

h. other relevant environmental permits, including state or local permits.

4. Indian Country. All applicants must identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country.

5. Topographic Map. All applicants must submit a topographic map (or other map if a topographic map is unavailable) extending 1 mile beyond property boundaries of the facility and showing the following information:

a. all sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and

b. wells, springs, and other surface water bodies that are within 1/4 mile of the property boundaries and listed in public records or otherwise known to the applicant.

6. Sewage Sludge Handling. All applicants must submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction.

7. Sewage Sludge Quality. The applicant must submit sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR Part 503 for the applicant's use or disposal practices on the date of permit application.

a. The state administrative authority may require sampling for additional pollutants, as appropriate, on a case-by-case basis.

b. Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the sewage sludge and should be taken at least one month apart. Existing data may be used in lieu of sampling done solely for the purpose of this application.

c. Applicants must collect and analyze samples in accordance with analytical methods approved under *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, unless an alternative has been specified in an existing sewage sludge permit.

d. The monitoring data provided must include at least the following information for each parameter:

i. average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values;

ii. the analytical method used; and

iii. the method detection level.

8. Preparation of Sewage Sludge. If the applicant is a person who prepares sewage sludge, as defined at 40 CFR 503.9(r), the applicant must provide the following information:

a. if the applicant's facility generates sewage sludge, the total dry metric tons per 365-day period generated at the facility;

b. if the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received:

i. the name, mailing address, and location of the other facility;

ii. the total dry metric tons per 365-day period received from the other facility; and

iii. a description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics;

c. if the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information:

i. whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of any treatment processes used to reduce pathogens in sewage sludge;

ii. whether any of the vector attraction reduction options of 40 CFR 503.33(b)(1)-(b)(8) are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and

iii. a description of any other blending, treatment, or other activities that change the quality of sewage sludge;

d. if the sewage sludge from the applicant's facility meets the ceiling concentration in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1)-(b)(8), and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per 365-day period of sewage sludge subject to this Subparagraph that is applied to the land;

e. if sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to Subparagraph Q.8.d of this Section, the applicant must provide the following information:

i. the total dry metric tons per 365-day period of sewage sludge subject to this Clause that is sold or given away in a bag or other container for application to the land; and

ii. a copy of all labels or notices that accompany the sewage sludge being sold or given away;

f. if sewage sludge from the applicant's facility is provided to another person who prepares, as defined at 40 CFR 503.9(r), and the sewage sludge is not subject to Subparagraph Q.8.d of this Section, the applicant must provide the following information for each facility receiving the sewage sludge:

i. the name and mailing address of the receiving facility;

ii. the total dry metric tons per 365-day period of sewage sludge subject to this Clause that the applicant provides to the receiving facility;

iii. a description of any treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic;

iv. a copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and

v. if the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge.

9. Land Application of Bulk Sewage Sludge. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to Subparagraphs Q.8.d, e, or f of this Section, the applicant must provide the following information:

a. the total dry metric tons per 365-day period of sewage sludge subject to this Subparagraph that is applied to the land;

b. if any land application sites are located in states other than the state where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the state(s) where the land application sites are located;

c. the following information for each land application site that has been identified at the time of permit application:

i. the name (if any) and location for the land application site;

ii. the site's latitude and longitude to the nearest second, and the method of determination;

iii. a topographic map (or other map if a topographic map is unavailable) that shows the site's location;

iv. the name, mailing address, and telephone number of the site owner, if different from the applicant;

v. the name, mailing address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant;

vi. whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 40 CFR 503.11;

vii. the type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation;

viii. whether either of the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and

ix. other information that describes how the site will be managed, as specified by the permitting authority;

d. the following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site:

i. whether the applicant has contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name and phone number of a contact person at the permitting authority; and

ii. identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in Clause Q.9.d.i of this Section, bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR 503.13(b)(2) has been applied to the site since July 20, 1993; and

e. if not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum:

i. describes the geographical area covered by the plan;

ii. identifies the site selection criteria;

iii. describes how the site(s) will be managed; and

iv. provides for advance public notice of land application sites in the manner prescribed by state or local law. When state or local law does not require advance public notice, it must be provided in a manner reasonably calculated to apprize the general public of the planned land application.

10. Surface Disposal. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide the following information:

a. the total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per 365-day period;

b. the following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate:

i. the site name or number, contact person, mailing address, and telephone number for the surface disposal site; and

ii. the total dry metric tons from the applicant's facility per 365-day period placed on the surface disposal site; and

c. the following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates:

i. the name or number and the location of the active sewage sludge unit;

ii. the unit's latitude and longitude to the nearest second, and the method of determination;

iii. if not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location;

iv. the total dry metric tons placed on the active sewage sludge unit per 365-day period;

v. the total dry metric tons placed on the active sewage sludge unit over the life of the unit;

vi. a description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec;

vii. a description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal and any federal, state, and local permit number(s) for leachate disposal;

viii. if the active sewage sludge unit is less than 150 meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line;

ix. the remaining capacity (dry metric tons) for the active sewage sludge unit;

x. the date on which the active sewage sludge unit is expected to close, if such a date has been identified;

xi. the following information for any other facility that sends sewage sludge to the active sewage sludge unit:

(a). the name, contact person, and mailing address of the facility; and

(b). available information regarding the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics;

xii. whether any of the vector attraction reduction options of 40 CFR 503.33(b)(9)-(b)(11) is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge;

xiii. the following information, as applicable, to any groundwater monitoring occurring at the active sewage sludge unit:

(a). a description of any groundwater monitoring occurring at the active sewage sludge unit;

(b). any available groundwater monitoring data, with a description of the well locations and approximate depth to groundwater;

(c). a copy of any groundwater monitoring plan that has been prepared for the active sewage sludge unit; and

(d). a copy of any certification that has been obtained from a qualified groundwater scientist that the aquifer has not been contaminated; and

xiv. if site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request.

11. Incineration. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide the following information:

a. the total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per 365-day period;

b. the following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate:

i. the name and/or number, contact person, mailing address, and telephone number of the sewage sludge incinerator; and

ii. the total dry metric tons from the applicant's facility per 365-day period fired in the sewage sludge incinerator; and

c. the following information for each sewage sludge incinerator that the applicant owns or operates:

i. the name and/or number and the location of the sewage sludge incinerator;

ii. the incinerator's latitude and longitude to the nearest second, and the method of determination;

iii. the total dry metric tons per 365-day period fired in the sewage sludge incinerator;

iv. information, test data, and documentation of ongoing operating parameters indicating that compliance with the national emission standard for beryllium in 40 CFR Part 61 will be achieved;

v. information, test data, and documentation of ongoing operating parameters indicating that compliance with the national emission standard for mercury in 40 CFR Part 61 will be achieved;

vi. the dispersion factor for the sewage sludge incinerator, as well as modeling results and supporting documentation;

vii. the control efficiency for parameters regulated in 40 CFR 503.43, as well as performance test results and supporting documentation;

viii. information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value;

ix. whether the applicant monitors total hydrocarbons (THC) or carbon monoxide (CO) in the exit gas for the sewage sludge incinerator;

x. the type of sewage sludge incinerator;

xi. the maximum performance test combustion temperature, as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

xii. the following information on the sewage sludge feed rate used during the performance test:

(a). sewage sludge feed rate in dry metric tons per day;

(b). identification of whether the feed rate submitted is average use or maximum design; and

(c). a description of how the feed rate was calculated;

xiii. the incinerator stack height in meters for each stack, including identification of whether actual or creditable stack height was used;

xiv. the operating parameters for the sewage sludge incinerator air pollution control device(s), as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

xv. identification of the monitoring equipment in place, including, but not limited to, equipment to monitor the following:

(a). total hydrocarbons or carbon monoxide;

(b). percent oxygen;

(c). percent moisture; and

(d). combustion temperature; and

xvi. a list of all air pollution control equipment used with this sewage sludge incinerator.

12. Disposal in a Municipal Solid Waste Landfill. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF to which sewage sludge is sent:

a. the name, contact person, mailing address, location, and all applicable permit numbers of the MSWLF;

b. the total dry metric tons per 365-day period sent from this facility to the MSWLF;

c. a determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and

d. information, if known, indicating whether the MSWLF complies with criteria set forth in 40 CFR Part 258.

13. Contractors. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal.

14. Other Information. At the request of the permitting authority, the applicant must provide any other information necessary to determine the appropriate standards for permitting under 40 CFR Part 503 and must provide any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements.

15. Signature. All applications must be signed by a certifying official in compliance with LAC 33:IX:2503.

R. Applications for Facilities with Cooling Water Intake Structures

1. Application requirements for facilities with cooling water intake structures are as follows.

a. New Facilities with New or Modified Cooling Water Intake Structures. New facilities (other than offshore oil and gas extraction facilities) with cooling water intake structures, as described in LAC 33:IX.Chapter 47.Subchapter A, shall submit to the state administrative authority for review the information required in Paragraphs R.2 (except Subparagraph R.2.d), 3, and 4 of this Section and LAC 33:IX.4713. New offshore oil and gas extraction facilities with cooling water intake structures, as described in LAC 33:IX.Chapter 47.Subchapter C, that are fixed facilities must submit to the Office of Environmental Services for review the information required in Paragraphs R.2 (except Subparagraph R.2.d), 3, and 4 of this Section and LAC 33:IX.4773 as part of their application. New offshore oil and gas extraction facilities that are not fixed facilities must submit to the Office of Environmental Services for review only the information required in Subparagraph R.2.d and Paragraph R.3 (except Subparagraph R.3.b) of this Section and LAC 33:IX.4773 as part of their application. Requests for alternative requirements in accordance with LAC 33:IX.4711 or 4771 shall be submitted with the permit application.

b. Phase II Existing Facilities. Phase II existing facilities, as defined in LAC 33:IX.Chapter 47.Subchapter B, shall submit to the state administrative authority for review information required under Paragraphs R.2, 3, and 5 of this Section and all applicable provisions of LAC 33:IX.4739 as part of their application, except for the proposal for information collection, which shall be provided in accordance with LAC 33:IX.4739.B.1.

2. Source Water Physical Data. These include:

a. a narrative description and scaled drawings showing the physical configuration of all source water bodies used by the facility, including areal dimensions, depths, salinity and temperature regimes, and other documentation that support the determination of the water body type where each cooling water intake structure is located;

b. identification and characterization of the source water body's hydrological and geomorphological features, as well as the methods used to conduct any physical studies to determine the intake's area of influence within the water body and the results of such studies;

c. locational maps; and

d. for new offshore oil and gas facilities that are not fixed facilities, a narrative description and/or locational maps providing information on predicted locations within the water body during the permit term in sufficient detail for the administrative authority to determine the appropriateness of additional impingement requirements in LAC 33:IX.4769.B.5.

3. Cooling Water Intake Structure Data. These include:

a. a narrative description of the configuration of each of the cooling water intake structures and where it is located in the water body and in the water column;

b. latitude and longitude in degrees, minutes, and seconds for each of the cooling water intake structures;

c. a narrative description of the operation of each of the cooling water intake structures, including design intake flows, daily hours of operation, number of days of the year in operation, and seasonal changes, if applicable;

d. a flow distribution and water balance diagram that includes all sources of water to the facility, recirculating flows, and discharges; and

e. engineering drawings of the cooling water intake structure.

4. Source Water Baseline Biological Characterization Data. This information is required to characterize the biological community in the vicinity of the cooling water intake structure and to characterize the operation of the cooling water intake structures. The state administrative authority may also use this information in subsequent permit renewal proceedings to determine if the design and construction technology plan, as required in LAC 33:IX.4713.B.4 or 4773.B.3, should be revised. This supporting information must include existing data (if available). However, the data may be supplemented using newly conducted field studies, if the owner or operator chooses to do so. The information to be submitted must include:

a. a list of the data in Subparagraphs R.4.b-f of this Section that are not available and the efforts made to identify sources of the data;

b. a list of species (or relevant taxa) for all life stages and their relative abundance in the vicinity of the cooling water intake structure;

c. identification of the species and life stages that would be most susceptible to impingement and entrainment. Species evaluated should include the forage base as well as those most important in terms of significance to commercial and recreational fisheries;

d. identification and evaluation of the primary period of reproduction, larval recruitment, and period of peak abundance for relevant taxa;

e. data representative of the seasonal and daily activities (e.g., feeding and water column migration) of biological organisms in the vicinity of the cooling water intake structure;

f. identification of all threatened, endangered, and other protected species that might be susceptible to impingement and entrainment at the cooling water intake structures;

g. documentation of any public participation or consultation with federal or state agencies undertaken in development of the plan; and

h. if the information requested in Subparagraph R.4.a of this Section is supplemented with data collected using field studies, supporting documentation for the source water baseline biological characterization must include a description of all methods and quality assurance procedures for sampling and data analysis, including a description of the study area, taxonomic identification of sampled and evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods. The sampling and/or data analysis methods used must be appropriate for a quantitative survey and based on consideration of methods used in other biological studies performed within the same source water body. The study area should include, at a minimum, the area of influence of the cooling water intake structure.

5. Cooling Water System Data. Phase II existing facilities, as defined in LAC 33:IX.Chapter 47.Subchapter B, shall provide the following information for each cooling water intake structure they use:

a. a narrative description of the operation of the cooling water system, including:

i. its relationship to cooling water intake structures;

ii. the proportion of the design intake flow that is used in the system;

iii. the number of days of the year the cooling water system is in operation; and

iv. seasonal changes in the operation of the system, if applicable; and

b. design and engineering calculations prepared by a qualified professional and supporting data to support the description required by Subparagraph R.5.a of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:229 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 32:819 (May 2006), LR 33:2069, 2165 (October 2007), LR 33:2360 (November 2007), LR 35:648 (April 2009).

§2503. Signatories to Permit Applications and Reports

A. Applications. All permit applications shall be signed as follows:

1. for a corporation by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

a. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

b. the manager of one or more manufacturing, production, or operating facilities, provided: the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

[NOTE: The department does not require specific assignments or delegations of authority to responsible corporate officers identified in Subparagraph A.1.a of this Section. The agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the state administrative authority to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Subparagraph A.1.b of this Section rather than to specific individuals.]

2. for a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3. for a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes:

a. the chief executive officer of the agency; or

b. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

B. All reports required by permits, and other information requested by the state administrative authority shall be signed by a person described in LAC 33:IX.2503.A, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. the authorization is made in writing by a person described in LAC 33:IX.2503.A;

2. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

3. the written authorization is submitted to the state administrative authority.

C. Changes to Authorization. If an authorization under LAC 33:IX.2503.B is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of LAC 33:IX.2503.B must be submitted to the state administrative authority prior to or together with any reports, information, or applications to be signed by an authorized representative.

D. Certification. Any person signing a document under LAC 33:IX.2503.A or B shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), repromulgated LR 30:230 (February 2004).

§2505. Concentrated Animal Feeding Operations (CAFO)

A. Permit Requirement for CAFOs. *Concentrated animal feeding operations (CAFO)*, as defined in Subsection B of this Section or designated in accordance with Subsection C of this Section, are point sources, subject to LPDES

permitting requirements as provided in this Chapter. Once an animal feeding operation is defined as a CAFO for at least one type of animal, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. Definitions Applicable to this Section

Animal Feeding Operation (AFO)—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Concentrated Animal Feeding Operation (CAFO)—an AFO that is defined as a *Large CAFO* or as a *Medium CAFO* by the terms of this Subsection, or that is designated as a CAFO in accordance with Subsection C of this Section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

Land Application Area—land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

Large Concentrated Animal Feeding Operation (Large CAFO)—an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

a. 700 mature dairy cows, whether milked or dry;

b. 1,000 veal calves;

c. 1,000 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);

d. 2,500 swine, each weighing 55 pounds or more;

e. 10,000 swine, each weighing less than 55 pounds;

f. 500 horses;

g. 10,000 sheep or lambs;

h. 55,000 turkeys;

i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;

j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or

m. 5,000 ducks, if the AFO uses a liquid manure handling system.

Manure—includes manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

Medium Concentrated Animal Feeding Operation (Medium CAFO)—includes any AFO with the type and number of animals that fall within any of the ranges listed in this definition and that has been defined or designated as a CAFO. An AFO is a *Medium CAFO* if:

a. the type and number of animals that it stables or confines falls within any of the following ranges:

i. 200 to 699 mature dairy cows, whether milked or dry;

ii. 300 to 999 veal calves;

iii. 300 to 999 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);

iv. 750 to 2,499 swine, each weighing 55 pounds or more;

v. 3,000 to 9,999 swine, each weighing less than 55 pounds;

vi. 150 to 499 horses;

vii. 3,000 to 9,999 sheep or lambs;

viii. 16,500 to 54,999 turkeys;

ix. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

x. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

xi. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

xii. 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or

xiii. 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

b. either one of the following conditions are met:

i. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

ii. pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Process Wastewater—water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering

systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. *Process wastewater* also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production Area—that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of *production area* are any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

Small Concentrated Animal Feeding Operation (Small CAFO)—an AFO that is designated as a CAFO and is not a Medium CAFO.

C. How may an AFO be designated as a CAFO? The appropriate authority (i.e., state administrative authority or regional administrator, or both, as specified in Paragraph C.1 of this Section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the state.

1. Who may designate?

a. Approved States. In states that are approved or authorized by EPA under 40 CFR Part 123, CAFO designations may be made by the state administrative authority. The regional administrator may also designate CAFOs in approved states, but only where the regional administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant.

b. States with No Approved Program. The regional administrator may designate CAFOs in states that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.

2. In making this designation, the state administrative authority or the regional administrator shall consider the following factors:

a. the size of the AFO and the amount of wastes reaching waters of the state;

b. the location of the AFO relative to waters of the state;

c. the means of conveyance of animal wastes and process wastewaters into waters of the state;

d. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process wastewaters into waters of the state; and

e. other relevant factors.

3. No AFO shall be designated under this Subsection unless the state administrative authority or the regional administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in the definition of *Medium CAFO* in Subsection B of this Section may be designated as a CAFO unless:

a. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

b. pollutants are discharged directly into waters of the state that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

D. Who shall seek coverage under an LPDES permit?

1. The owner or operator of a CAFO shall seek coverage under an LPDES permit if the CAFO discharges a regulated wastewater. Specifically, the CAFO owner or operator shall either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made a general permit available to the CAFO, the CAFO owner or operator shall submit an application for an individual permit to the state administrative authority.

2. Information to Submit with Permit Application or Notice of Intent. An application for an individual permit shall include the information specified in LAC 33:IX.2501. A notice of intent for a general permit shall include the information specified in LAC 33:IX.2501 and 2515.

E. Land application discharges from a CAFO are subject to LPDES requirements. The discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to LPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this Subsection, where the manure, litter, or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified under LAC 33:IX.2703.E.1.f-i, a precipitation-related discharge of manure, litter, or process wastewater from land areas under

the control of a CAFO is an agricultural storm water discharge.

1. For unpermitted large CAFOs, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO shall be considered an agricultural storm water discharge only where the manure, litter, or process wastewater has been land applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in LAC 33:IX.2703.E.1.f-i.

2. Unpermitted large CAFOs must maintain documentation specified in LAC 33:IX.2703.E.1.i either on site or at a nearby office, or otherwise make such documentation readily available to the state administrative authority upon request.

F. By when shall the owner or operator of a CAFO have an NPDES permit if it discharges?

1. A CAFO shall be covered by a permit at the time that it discharges.

G. Reserved.

H. Procedures for CAFOs Seeking Coverage under a General Permit

1. CAFO owners or operators must submit a notice of intent when seeking authorization to discharge under a general permit in accordance with LAC 33:IX.2515.B. The state administrative authority must review notices of intent submitted by CAFO owners or operators to ensure that the notice of intent includes the information required by LAC 33:IX.2501.I.1, including a nutrient management plan that meets the requirements of LAC 33:IX.2703.E and applicable effluent limitations and standards, including those specified in 40 CFR Part 412. When additional information is necessary to complete the notice of intent or clarify, modify, or supplement previously submitted material, the state administrative authority may request such information from the owner or operator. If the state administrative authority makes a preliminary determination that the notice of intent meets the requirements of LAC 33:IX.2501.I.1 and 2703.E, the state administrative authority must notify the public of the state administrative authority's proposal to grant coverage under the permit to the CAFO and make available for public review and comment the notice of intent submitted by the CAFO, including the CAFO's nutrient management plan, and the draft terms of the nutrient management plan that will be incorporated into the permit. The process for submitting public comments and hearing requests, and the hearing process if a request for a hearing is granted, must follow the procedures applicable to draft permits set forth in LAC 33:IX.3115, 3117, and 3119. The state administrative authority may establish, either by regulation or in the general permit, an appropriate period of time for the public to comment and/or request a hearing that differs from the time period specified in LAC 33:IX.3113. The state administrative authority must respond to significant comments received during the comment period, as provided in LAC 33:IX.3125, and, if necessary, require the CAFO owner or operator to revise the nutrient management plan in order to be granted permit coverage. When the state administrative authority authorizes coverage for the CAFO owner or operator under the general permit, the terms of the nutrient management plan shall become incorporated as terms and conditions of the permit for the CAFO. The state administrative authority shall notify the CAFO owner or operator and inform the public that coverage has been authorized and of the terms of the nutrient management plan incorporated as terms and conditions of the permit applicable to the CAFO.

2. Nothing in this Subsection shall affect the authority of the state administrative authority to require an individual permit under LAC 33:IX.2515.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:1463 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:819 (May 2006), LR 33:2360 (November 2007), LR 35:648 (April 2009), amended by the Office of the Secretary, Legal Division, LR 39:3269 (December 2013).

§2507. Concentrated Aquatic Animal Production Facilities

A. Permit Requirement. *Concentrated aquatic animal production facilities*, as defined in this Section, are point sources subject to the LPDES permit program.

B. Reserved.

C. Case-by-Case Designation of Concentrated Aquatic Animal Production Facilities

1. The state administrative authority may designate any warm or cold water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the state. In making this designation the state administrative authority shall consider the following factors:

a. the location and quality of the receiving waters of the state;

b. the holding, feeding, and production capacities of the facility;

c. the quantity and nature of the pollutants reaching waters of the state; and

d. other relevant factors.

2. A permit application shall not be required from a concentrated aquatic animal production facility designated under this Section until the state administrative authority has conducted on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), repromulgated LR 30:230 (February 2004).

§2509. Aquaculture Projects

A. Permit Requirement. Discharges into *aquaculture projects*, as defined in this Section, are subject to the LPDES permit program through Section 318 of the CWA, and in accordance with LAC 33:IX.Chapter 39.

B. Definitions

Designated Project Area—the portions of the waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan or operation (including, but not limited to, physical confinement) that, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), repromulgated LR 30:230 (February 2004).

§2511. Storm Water Discharges

A. Permit Requirement

1. Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain an LPDES permit except:

a. a discharge with respect to which a permit has been issued prior to February 4, 1987;

b. a discharge associated with industrial activity (see LAC 33:IX.2511.A.4);

c. a discharge from a large municipal separate storm sewer system;

d. a discharge from a medium municipal separate storm sewer system;

e. a discharge which the director, or in states with approved NPDES programs, either the state administrative authority or the EPA regional administrator, determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state. This designation may include a discharge from any conveyance of system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under LAC 33:IX.2511.A.2 or agricultural storm water runoff which is exempted from the definition of point source at LAC 33:IX.2313. The director may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the director may consider the following factors:

i. the location of the discharge with respect to waters of the state as defined at LAC 33:IX.2313.

ii. the size of the discharge;

iii. the quantity and nature of the pollutants discharged to waters of the state; and

iv. other relevant factors.

2. The state administrative authority may not require a permit for discharges of storm water runoff from the following:

a. mining operations composed entirely of flows that are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and that are not contaminated by contact with, or that have not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations, except in accordance with Subparagraph C.1.d of this Section; and

b. all field activities or operations associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities, except in accordance with Subparagraph C.1.c of this Section. Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are not subject to the provisions of Clause C.1.c.iii of this Section.

[Note to Subparagraph A.2.b: The department encourages operators of oil and gas field activities or operations to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. Appropriate controls would be those suitable to the site conditions and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of BMPs could also be affected by seasonal or climate conditions.]

3. Large and Medium Municipal Separate Storm Sewer Systems

a. Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

b. The state administrative authority may either issue one system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to, all discharges owned or operated by the same municipality; located within the same jurisdiction; all

discharges within a system that discharge to the same watershed; discharges within a system that are similar in nature; or for individual discharges from municipal separate storm sewers within the system.

c. The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must either:

i. participate in a permit application (to be a permittee or a co-permittee) with one or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer systems;

ii. submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible; or

iii. a regional authority may be responsible for submitting a permit application under the following guidelines:

(a). the regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time Part 1 of the application is due;

(b). the permit applicant or co-applicants shall establish their ability to make a timely submission of Part 1 and Part 2 of the municipal application;

(c). each of the operators of municipal separate storm sewers within the systems described in LAC 33:IX.2511.B.4.a, b, and c or B.7.a, b, and c, that are under the purview of the designated regional authority, shall comply with the application requirements of LAC 33:IX.2511.D.

d. One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The state administrative authority may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

e. Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

f. Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

4. Discharges through Large and Medium Municipal Separate Storm Sewer Systems. In addition to meeting the requirements of LAC 33:IX.2511.C, an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or 180 days prior to commencing such discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing LPDES permit number.

5. Other Municipal Separate Storm Sewers. The state administrative authority may issue permits for municipal separate storm sewers that are designated under LAC 33:IX.2511.A.1.e on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

6. Non-Municipal Separate Storm Sewers. For storm water discharges associated with industrial activity from point sources which discharge through a non-municipal or non-publicly owned separate storm sewer system, the state administrative authority, at his discretion, may issue a single LPDES permit, with each discharger a co-permittee to a permit issued to the operator of the portion of the system that discharges into waters of the state; or, individual permits to each discharger of storm water associated with industrial activity through the non-municipal conveyance system.

a. All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the state, with each discharger to the non-municipal conveyance a co-permittee to that permit.

b. Where there is more than one operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.

c. Any permit covering more than one operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

7. Combined Sewer Systems. Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain LPDES permits in accordance with the procedures of LAC 33:IX.2501 and are not subject to the provisions of this Section.

8. Whether a discharge from a municipal separate storm sewer is or is not subject to regulation under this Section shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III or Title IV of the CWA. See 40 CFR Part 35, Subpart I, Appendix A(b)H.2.j.

9. The state administrative authority may not require a permit for discharges of storm water as provided in Paragraph A.2 of this Section or agricultural storm water runoff, which is exempted from the definition of point source at LAC 33:IX.2313 and 2315.

a. On and after October 1, 1994, for discharges composed entirely of storm water for which a permit is not required by Paragraph A.1 of this Section, operators shall be required to obtain an LPDES permit only if:

i. the discharge is from a *small MS4*, as defined in Paragraph B.17 of this Section, required to be regulated in accordance with LAC 33:IX.2519;

ii. the discharge is a storm water discharge associated with small construction activity in accordance with Paragraph B.15 of this Section;

iii. either the state administrative authority or the EPA regional administrator determines that storm water controls are needed for the discharge based on wasteload allocations that are part of *total maximum daily loads* (TMDLs) that address the pollutant(s) of concern; or

iv. either the state administrative authority or the EPA regional administrator determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

b. Operators of small MS4s designated in accordance with Clauses A.9.a.i, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with LAC 33:IX.2521-2525. Operators of nonmunicipal sources designated in accordance with Clauses A.9.a.ii, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with Paragraph C.1 of this Section.

c. Operators of storm water discharges designated in accordance with Clauses A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the department.

B. Definitions

1. *Co-Permittee*—a permittee to a LPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

2. *Illicit Discharge*—any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a LPDES permit (other than the LPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

3. *Incorporated Place*—a city, town, township, or village that is incorporated under the laws of the state in which it is located.

4. *Large Municipal Separate Storm Sewer System*—all municipal separate storm sewers that are either:

a. located in an incorporated place with a population of 250,000 or more as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.7111.Appendix F); or

b. located in the parishes listed in LAC 33:IX.7115.Appendix H, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such parishes; or

c. owned or operated by a municipality other than those described in LAC 33:IX.2511.B.4.a or b and that are designated by the state administrative authority as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under LAC 33:IX.2511.B.4.a or b. In making this determination the state administrative authority may consider the following factors:

i. physical interconnections between the municipal separate storm sewers;

ii. the location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in LAC 33:IX.2511.B.4.a;

iii. the quantity and nature of pollutants discharged to waters of the state;

iv. the nature of the receiving waters; and

v. other relevant factors; or

d. the state administrative authority may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in LAC 33:IX.2511.B.4.a, b and c.

5. *Major Municipal Separate Storm Sewer Outfall (or Major Outfall)*—a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

6. *Major Outfall*—a major municipal separate storm sewer outfall.

7. *Medium Municipal Separate Storm Sewer System*—all municipal separate storm sewers that are either:

a. located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.7113.Appendix G); or

b. located in the parishes listed in LAC 33:IX.7117.Appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such parishes; or

c. owned or operated by a municipality other than those described in Subparagraph B.7.a or b of this Section and that are designated by the state administrative authority as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under Subparagraph B.7.a or b of this Section. In making this determination the state administrative authority may consider the following factors:

i. physical interconnections between the municipal separate storm sewers;

ii. the location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in LAC 33:IX.2511.B.7.a;

iii. the quantity and nature of pollutants discharged to waters of the state;

iv. the nature of the receiving waters; or

v. other relevant factors; or

d. the state administrative authority may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in LAC 33:IX.2511.B.7.a, b, and c.

8. *Municipal Separate Storm Sewer*—a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

a. owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the state;

b. designed or used for collecting or conveying storm water;

c. which is not a combined sewer; and

d. which is not part of a Publicly Owned Treatment Works (POTW) as defined at LAC 33:IX.2313.

9. *Outfall*—a point source as defined by LAC 33:IX.2313 at the point where a municipal separate storm sewer discharges to waters of the state and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the state and are used to convey waters of the state.

10. *Overburden*—any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

11. *Runoff Coefficient*—the fraction of total rainfall that will appear at a conveyance as runoff.

12. *Significant Materials*—includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazard substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

13. Reserved.

14. *Storm Water Discharge Associated with Industrial Activity*—the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the LPDES program under LAC 33:IX.Chapters 23-29. For the categories of industries identified in LAC 33:IX.2511.B.14.a-j, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment, sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in LAC 33:IX.2511.B.14.k, the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts, or industrial machinery are exposed to storm water. For the purposes of this Paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with

storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in LAC 33:IX.2511.B.14.a-k) include those facilities designated under the provisions of LAC 33:IX.2511.A.1.e. The following categories of facilities are considered to be engaging in industrial activity for purposes of this Subsection:

a. facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subpart N (see LAC 33:IX.4903) (except facilities with toxic pollutant effluent standards which are exempted under the category in LAC 33:IX.2511.B.14.k);

b. facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 31, 32 (except 323), 33, 344, 373;

c. facilities classified as Standard Industrial Classifications 10-14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

d. hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

e. landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this Subsection) including those that are subject to regulation under Subtitle D of RCRA;

f. facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

g. steam electric power generating facilities, including coal handling sites;

h. transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under LAC 33:IX.2511.B.14.a-g or i-k are associated with industrial activity;

i. treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under LAC 33:IX.Chapter 61. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the CWA;

j. construction activity including clearing, grading, and excavation activities, except operations that result in the disturbance of less than 5 acres of total land area which are not part of a larger common plan of development or sale. Construction activity also includes the disturbance of less than 5 acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb 5 acres or more; and

k. facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25.

15. *Storm Water Discharge Associated with Small Construction Activity*—

a. the discharge from construction activities, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than 1 acre and less than 5 acres. Small construction activity includes the disturbance of less than 1 acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than 5 acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The state administrative authority may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than 5 acres where:

i. the value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With

the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street, SW, Washington, DC 20460. An operator must certify to the state administrative authority that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

ii. storm water controls are not needed based on a TMDL established by the department or by EPA and approved by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this Clause, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the state administrative authority that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis; or

b. the discharge from any other construction activity designated by the state administrative authority or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the state.

Exhibit 1. Summary of Coverage of "Storm Water Discharge Associated with Small Construction Activity" under the LPDES Storm Water Program	
Automatic Designation: Required Coverage	Construction activities that result in a land disturbance of equal to or greater than 1 acre and less than 5 acres. Construction activities disturbing less than 1 acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than 1 acre and less than 5 acres (see Subparagraph B.15.a of this Section).
Potential Designation: Optional Evaluation and Designation by the State Administrative Authority or EPA Regional Administrator	Construction activities that result in a land disturbance of less than 1 acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants (see Subparagraph B.15.b of this Section).
Potential Waiver: Waiver from Requirements as Determined by the State Administrative Authority	Any automatically designated construction activity where the operator certifies: (1) a rainfall erosivity factor of less than five, or (2) that the activity will occur within an area where controls are not needed based on a TMDL or, for nonimpaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern (see Subparagraph B.15.a of this Section).

16. *Small Municipal Separate Storm Sewer System*—a municipal separate storm sewer system that:

a. is owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or in accordance with state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the state;

b. is not defined as a *large* or *medium* municipal separate storm sewer system in accordance with Paragraph B.4 and 7 of this Section, or designated under Subparagraph A.1.e of this Section; and

c. includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

17. *Small MS4*—a small municipal separate storm sewer system.

18. *Municipal Separate Storm Sewer System*—a separate storm sewer that is defined as a *large*, *medium*, or *small* municipal separate storm sewer system in accordance with Paragraphs B.4, 7, and 16 of this Section, or designated under Subparagraph A.1.e of this Section.

19. *MS4*—a municipal separate storm sewer system.

20. *Uncontrolled Sanitary Landfill*—a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established in accordance with Subtitle D of the Solid Waste Disposal Act.

C. Application Requirements for Storm Water Discharges Associated with Industrial Activity and with Small Construction Activity

1. Individual Application. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the state administrative authority is evaluating for designation (see LAC 33:IX.3303.C) under Subparagraph A.1.e of this Section, and are not a municipal separate storm sewer shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2501 as modified and supplemented by the provisions of this Paragraph.

a. Except as provided in LAC 33:IX.2511.C.1.b-d, the operator of a storm water discharge associated with industrial activity subject to this Section shall provide:

i. a site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including each of its drainage and discharge structures; the drainage area of each storm water outfall;

paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

ii. an estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

iii. a certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges which are not covered by a LPDES permit; tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

iv. existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

v. quantitative data based on samples collected during storm events and collected in accordance with LAC 33:IX.2501 from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

(a). any pollutant limited in an effluent guideline to which the facility is subject;

(b). any pollutant listed in the facility's LPDES permit for its process wastewater (if the facility is operating under an existing LPDES permit);

(c). oil and grease, pH, BOD_5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(d). any information on the discharge required under LAC 33:IX.2501.G.7.f and g;

(e). flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(f). the date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

vi. operators of a discharge that is composed entirely of storm water are exempt from the requirements of LAC 33:IX.2501.G.2, 3, 4, 5, and 7.c, d, e, and h; and

vii. operators of *new sources* or new discharges (as defined in LAC 33:IX.2313) which are composed in part of entirely of storm water must include estimates for the pollutants or parameters listed in LAC 33:IX.2511.C.1.a.v instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in LAC 33:IX.2511.C.1.a.v within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the LPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of LAC 33:IX.2501.K.3.b and c, and K.5.

b. The operator of an existing or new storm water discharge that is associated with industrial activity solely under Subparagraph B.14.j of this Section, or is associated with small construction activity solely under Paragraph B.15 of this Section, is exempt from the requirements of LAC 33:IX.2501.G and Subparagraph C.1.a of this Section. Such operator shall provide a narrative description of:

i. the location (including a map) and the nature of the construction activity;

ii. the total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

iii. proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements;

iv. proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements;

v. an estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

vi. the name of the receiving water.

c. The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with LAC 33:IX.2511.C.1.a, unless the facility:

i. has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

ii. has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

iii. contributes to a violation of a water quality standard.

d. The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

e. Applicants shall provide such other information the state administrative authority may reasonably require under LAC 33:IX.2501.G.13 to determine whether to issue a permit and may require any facility subject to LAC 33:IX.2511.C.1.b to comply with LAC 33:IX.2511.C.1.a.

2. Group Application for Discharges Associated with Industrial Activity. In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants (except facilities that have existing individual LPDES permits for storm water) that are part of the same subcategory (see 40 CFR Subchapter N, Part 405 to 471) or, where such grouping is inapplicable, are sufficiently similar as to be appropriate for general permit coverage under LAC 33:IX.2515. The Part 1 application shall be submitted to the Office of Environmental Services for approval. Once a Part 1 application is approved, group applicants are to submit Part 2 of the group application to the Office of Environmental Services. A group application shall consist of:

a. Part 1—Part 1 of a group application shall:

i. identify the participants in the group application by name and location. Facilities participating in the group application shall be listed in subdivisions, based on the facility location relative to the nine precipitation zones indicated in 40 CFR Part 122, Appendix E (areas east of Longitude 90°W are in Zone 3, areas west of Longitude 90°W are in Zone 4);

ii. include a narrative description summarizing the industrial activities of participants of the group application and explaining why the participants, as a whole, are sufficiently similar to be covered by a general permit;

iii. include a list of significant materials stored exposed to precipitation by participants in the group application and materials management practices employed to diminish contact by these materials with precipitation and storm water runoff;

iv. for groups of more than 1,000 members, identify at least 100 dischargers participating in the group application from which quantitative data will be submitted. For groups of 100 or more members, identify a minimum of 10 percent of the dischargers participating in the group application from which quantitative data will be submitted. For groups of between 21 and 99 members identify a minimum of 10 dischargers participating in the group application from which quantitative data will be submitted. For groups of 4 to 20 members, identify a minimum of 50 percent of the dischargers participating in the group application from which quantitative data will be submitted. For groups with more than 10 members, either a minimum of two dischargers from each precipitation zone indicated in 40 CFR Part 122, Appendix E in which 10 or more members of the group are located, or one discharger from each precipitation zone indicated in 40 CFR Part 122, Appendix E in which nine or fewer members of the group are located, must be identified to submit quantitative data. For groups of 4 to 10 members, at least one facility in each precipitation zone indicated in 40 CFR Part 122, Appendix E in which members of the group are located must be identified to submit quantitative data. A description of why the facilities selected to perform sampling and analysis are representative of the group as a whole in terms of the information provided in LAC 33:IX.2511.C.1.a.ii and iii, shall accompany this Section. Different factors impacting the nature of the storm water discharges, such as the processes used and material management, shall be represented, to the extent feasible, in a manner roughly equivalent to their proportion in the group.

b. Part 2—Part 2 of a group application shall contain quantitative data (LPDES Form 2F), as modified by LAC 33:IX.2511.C.1, so that when Part 1 and Part 2 of the group application are taken together, a complete LPDES application (Form 1, Form 2C, and Form 2F) can be evaluated for each discharger identified in LAC 33:IX.2511.C.2.a.iv.

D. Application Requirements for Large and Medium Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the state administrative authority under Subparagraph A.1.e of this Section may submit a jurisdiction-wide or system-wide permit application to the Office of Environmental Services. Where more than one

public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under Subparagraph A.1.e of this Section shall include:

1. Part 1—Part 1 of the application shall consist of:

a. General Information. The applicant's name, address, telephone number of contact person, ownership status and status as a state or local government entity.

b. Legal Authority. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in LAC 33:IX.2511.D.2.a, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

c. Source Identification

i. A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any POTWs serving the same area as the municipal separate storm sewer system.

ii. A USGS 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending 1 mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(a). the location of known municipal storm sewer system outfalls discharging to waters of the state;

(b). a description of the land use activities (e.g., divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a 10 year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

(c). the location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

(d). the location and the permit number of any known discharge to the municipal storm sewer that has been issued a LPDES permit;

(e). the location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(f). the identification of publicly owned parks, recreational areas, and other open lands.

d. Discharge Characterization

i. Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events.

ii. Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

iii. A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been:

(a). assessed and reported in CWA Section 305(b) reports submitted by the state, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of the CWA goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

(b). listed under Section 304(l)(1)(A)(i), Section 304(l)(1)(A)(ii), or Section 304(l)(1)(B) of the CWA that is not expected to meet water quality standards or water quality goals;

(c). listed in state Nonpoint Source Assessments required by Section 319(a) of the CWA that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

(d). identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under Section 314(a) of the CWA (include the following: A description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

(e). Reserved.

(f). designated estuaries under the National Estuary Program under Section 320 of the CWA;

(g). recognized by the applicant as highly valued or sensitive waters;

(h). defined by the state or U.S. Fish and Wildlife Services's National Wetlands Inventory as wetlands; and

(i). found to have pollutants in bottom sediments, fish tissue or biosurvey data.

iv. Field Screening. Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in

the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall of visual observations made during dry weather periods. If any flow is observed, two grab samples shall be collected during a 24-hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.4901), the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria:

(a). a grid system consisting of perpendicular north-south and east-west lines spaced 1/4 mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

(b). all cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be selected in each cell; major outfalls may be used as field screening points;

(c). field screening points should be located downstream of any sources of suspected illegal or illicit activity;

(d). field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

(e). hydrological conditions; total drainage area of the site; population density of the site traffic density; age of the structures or buildings in the area; history of the area; and land use types;

(f). for medium municipal separate storm sewer systems, no more than 250 cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than 250 cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and

(g). large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in LAC 33:IX.2511.D.1.d.iv.(a)-(f) because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 or 250 major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced 1/4 mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least 500 major outfalls (large municipalities) or 250 major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

v. Characterization Plan. Information and a proposed program to meet the requirements of LAC 33:IX.2511.D.2.c. Such description shall include the location of outfalls or field screening points appropriate for representative data collection under LAC 33:IX.2511.D.2.c.i, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (see LAC 33:IX.2511.D.1.d.iii) to the extent practicable.

e. Management Programs

i. A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may include, but are not limited to: Procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under state law as well as local requirements.

ii. A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

f. Fiscal Resources

i. A description of the financial resources currently available to the municipality to complete Part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and

budget, including overall indebtedness and assets, and sources of funds for storm water programs.

2. Part 2—Part 2 of the application shall consist of:

a. Adequate Legal Authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

i. control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

ii. prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

iii. control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

iv. control through interagency agreements among co-applicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

v. require compliance with conditions in ordinances, permits, contracts or orders; and

vi. carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

b. Source Identification. The location of any major outfall that discharges to waters of the state that was not reported under LAC 33:IX.2511.D.1.c.ii.(a). Provide an inventory, organized by watershed of the name and address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity.

c. Characterization Data. When quantitative data for a pollutant are required under Subclause D.2.c.i.(c) of this Section, the applicant must collect a sample of effluent in accordance with LAC 33:IX.2501.G.7 and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.4901). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

i. quantitative data from representative outfalls designated by the state administrative authority (based on information received in Part 1 of the application, the state administrative authority shall designate between 5 and 10 outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the state administrative authority shall designate all outfalls) developed as follows:

(a). for each outfall or field screening point designated under this Subparagraph, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with the requirements at LAC 33:IX.2501.G.7 (the state administrative authority may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

(b). a narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

(c). for samples collected and described under LAC 33:IX.2511.D.2.c.i.(a) and (b), quantitative data shall be provided for the organic pollutants listed in LAC 33:IX.7107.Appendix D.Table II; the pollutants listed in LAC 33:IX.7107.Appendix D.Table III (toxic metals, cyanide, and total phenols), and for the following pollutants:

(i). total suspended solids (TSS);

(ii). total dissolved solids (TDS);

(iii). COD;

(iv). $BOD_{5;}$

(v). oil and grease;

(vi). fecal coliform;

(vii). fecal streptococcus;

(viii). pH;

(ix). total Kjeldahl nitrogen;

(x). nitrate plus nitrite;

(xi). dissolved phosphorus;

(xii). total ammonia plus organic nitrogen;

(xiii). total phosphorus;

(d). additional limited quantitative data required by the state administrative authority for determining permit conditions (the state administrative authority may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to ensure representativeness);

ii. estimates of the annual pollutant load of the cumulative discharges to waters of the state from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the state from all identified municipal outfalls during a storm

event (as described under LAC 33:IX.2501.C.7) for BOD_5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods;

iii. a proposed schedule to provide estimates for each major outfall identified in either LAC 33:IX.2511.D.2.b or D.1.c.ii.(a), of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under LAC 33:IX.2511.D.2.c.i; and

iv. a proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.

d. Proposed Management Program. A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each co-applicant. Proposed programs may impose controls on a systemwide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the state administrative authority when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

i. a description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(a). a description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

(b). a description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. (Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in LAC 33:IX.2511.D.2.d.iv.);

(c). a description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(d). a description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(e). a description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under LAC 33:IX.2511.D.2.d.iii); and

(f). a description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities;

ii. a description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate LPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(a). a description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the state: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address

discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the state);

(b). a description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

(c). a description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactant (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

(d). a description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

(e). a description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(f). a description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(g). a description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

iii. a description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

(a). identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;

(b). describe a monitoring program for storm water discharges associated with the industrial facilities identified in Clause D.2.d.iii of this Section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing LPDES permit for a facility; oil and grease, COD, pH, BOD_5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under LAC 33:IX.2501.G.7.f and g;

iv. a description of a program to implement and maintain structural and nonstructural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

(a). a description of procedures for site planning which incorporate consideration of potential water quality impacts;

(b). a description of requirements for nonstructural and structural best management practices;

(c). a description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(d). a description of appropriate educational and training measures for construction site operators.

e. Assessment of Controls. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on groundwater.

f. Fiscal Analysis. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under LAC 33:IX.2511.D.2.c and d. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

g. Where more than one legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination.

h. Where requirements under LAC 33:IX.2511.D.1.d.v, and 2.b, c.ii, and d are not practicable or are not applicable, the state administrative authority may exclude any operator of a discharge from a municipal separate storm sewer which is designated under LAC 33:IX.2511.A.1.e, B.4.b and 7.b from such requirements. The state administrative authority shall not exclude the operator of a discharge from a municipal separate storm sewer identified in LAC 33:IX.7111.Appendix F, 7113.Appendix G, 7115.Appendix H, or 7117.Appendix I, from any of the permit application requirements under this Paragraph except where authorized under this Section.

E. Application Deadlines under Paragraph A.1 of This Section

1. Individual Applications

a. Except as provided in LAC 33:IX.2511.E.1.b, for any storm water discharge associated with industrial activity identified in LAC 33:IX.2511.B.14.a-k, that is not part of a group application as described in LAC 33:IX.2511.C.2 or which is not authorized by a storm water general permit, a permit application made pursuant to LAC 33:IX.2511.C shall be submitted to the state administrative authority by October 1, 1992.

b. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power plant, or uncontrolled sanitary landfill, the permit application must be submitted to the state administrative authority by March 10, 2003.

2. For any group application submitted in accordance with LAC 33:IX.2511.C.2:

a. Part 1

i. Except as provided in LAC 33:IX.2511.E.2.a.ii, Part 1 of the application shall be submitted to the department by September 30, 1991.

ii. Any municipality with a population of less than 250,000 shall not be required to submit a Part 1 application before May 18, 1992.

iii. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

b. Based on information in the Part 1 application, the director will approve or deny the members in the group application within 60 days after receiving Part 1 of the group application.

c. Part 2

i. Except as provided in LAC 33:IX.2511.E.2.c.ii, Part 2 of the application shall be submitted to the department by October 1, 1992.

ii. Any municipality with a population of less than 250,000 shall not be required to submit a Part 1 application before May 17, 1993.

iii. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

d. Rejected Facilities

i. Except as provided in LAC 33:IX.2511.E.2.d.ii, facilities that are rejected as members of the group shall submit an individual application (or obtain coverage under an applicable general permit) no later than 12 months after the date of receipt of the notice of rejection or October 1, 1992, whichever comes first.

ii. Facilities that are owned or operated by a municipality and that are rejected as members of Part 1 group application shall submit an individual application to the department no later than 180 days after the date of receipt of the notice of rejection or October 1, 1992, whichever is later.

e. A facility listed under LAC 33:IX.2511.B.14.a-k may add on to a group application submitted in accordance with LAC 33:IX.2511.E.2.a at the discretion of the department, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992; the addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than 10 percent, unless there are over 100 facilities in the group that are submitting quantitative data; approval to become part of group application must be obtained from the group or the trade association representing the individual facilities.

3. For any discharge from a large municipal separate storm sewer system:

a. Part 1 of the application shall be submitted to the state administrative authority by November 18, 1991;

b. based on information received in the Part 1 application the state administrative authority will approve or deny a sampling plan under LAC 33:IX.2511.D.1.d.v within 90 days after receiving the Part 1 application;

c. Part 2 of the application shall be submitted to the state administrative authority by November 16, 1992.

4. For any discharge from a medium municipal separate storm sewer system:

a. Part 1 of the application shall be submitted to the state administrative authority by May 18, 1992;

b. based on information received in the Part 1 application the state administrative authority will approve or deny a sampling plan under LAC 33:IX.2511.D.1.d.v within 90 days after receiving the Part 1 application;

c. Part 2 of the application shall be submitted to the state administrative authority by May 17, 1993.

5. A permit application shall be submitted to the state administrative authority within 180 days of notice, unless permission for a later date is granted by the administrative authority (see LAC 33:IX.3303) for:

a. a storm water discharge that is determined by either the state administrative authority or the EPA regional administrator to contribute to a violation of a water quality standard or is determined to be a significant contributor of pollutants to waters of the state (see Subparagraph A.1.e of this Section);

b. a storm water discharge subject to LAC 33:IX.2511.C.1.e.

6. Facilities with existing LPDES permits for storm water discharges associated with industrial activity shall

maintain existing permits. Facilities with permits for storm water discharges associated with industrial activity which expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of LAC 33:IX.2501 and 2511.C (Form 1, Form 2F, and other applicable Forms) 180 days before the expiration of such permits.

7. The state administrative authority shall issue or deny permits for discharges composed entirely of storm water under this Section in accordance with the following schedule:

a.i. except as provided in LAC 33:IX.2511.E.7.a.ii, the state administrative authority shall issue or deny permits for storm water discharges associated with industrial activity no later than October 1, 1993, or, for new sources or existing sources which fail to submit a complete permit application by October 1, 1992, one year after receipt of a complete permit application;

ii. for any municipality with a population of less than 250,000 which submits a timely Part 1 group application under LAC 33:IX.2511.E.2.a.ii, the state administrative authority shall issue or deny permits for storm water discharges associated with industrial activity no later than May 17, 1994, or, for any such municipality which fails to submit a complete Part 2 group permit application by May 17, 1993, one year after receipt of a complete permit application;

b. the state administrative authority shall issue or deny permits for large municipal separate storm sewer systems no later than November 16, 1993, or, for new sources or existing sources which fail to submit a complete permit application by November 16, 1992, one year after receipt of a complete permit application;

c. the state administrative authority shall issue or deny permits for medium municipal separate storm sewer systems no later than May 17, 1994, or, for new sources or existing sources which fail to submit a complete permit application by May 17, 1993, one year after receipt of a complete permit application.

8. Any storm water discharge associated with small construction activities identified in Subparagraph B.15.a of this Section requires permit authorization by March 10, 2003, unless designated for coverage before then.

9. For any discharge from a regulated small MS4, the permit application made under LAC 33:IX.2521 must be submitted to the state administrative authority:

a. by March 10, 2003, if designated under LAC 33:IX.2519.A.1, unless the MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing schedule (see LAC 33:IX.2521.C.1); or

b. within 180 days of notice, unless the state administrative authority grants a later date, if designated under LAC 33:IX.2519.A.2 (see LAC 33:IX.2521.C.2).

F. Petitions

1. Any operator of a municipal separate storm sewer system may petition the state administrative authority to require a separate LPDES permit (or a permit issued under an approved LPDES state program) for any discharge into the municipal separate storm sewer system.

2. Any person may petition the state administrative authority to require an LPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

3. The owner or operator of a municipal separate storm sewer system may petition the state administrative authority to reduce the census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the LPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

4. Any person may petition the state administrative authority for the designation of a large, medium, or small municipal separate storm sewer system as defined in Subparagraphs B.4.d or 7.d of this Section.

5. The state administrative authority shall make a final determination on any petition received under this Section within 90 days after receiving the petition, with the exception of petitions to designate a small MS4, in which case the state administrative authority shall make a final determination on the petition within 180 days after its receipt.

G. Conditional Exclusion for *No Exposure* of Industrial Activities and Materials to Storm Water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is *no exposure* of industrial materials and activities to rain, snow, snowmelt, and/or runoff and the discharger satisfies the conditions in Paragraphs G.1-4 of this Section. *No exposure* means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

a. provide a storm-resistant shelter to protect industrial materials and activities from exposure to rain, snow, snowmelt, and/or runoff;

b. complete and sign (according to LAC 33:IX.2503) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Paragraph G.2 of this Section;

c. submit the signed certification to the state administrative authority once every five years;

d. allow the state administrative authority to inspect the facility to determine compliance with the no-exposure conditions;

e. allow the state administrative authority to make any no-exposure inspection reports available to the public upon request; and

f. for facilities that discharge through an MS4, upon request, submit a copy of the certification of no exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial Materials and Activities Not Requiring Storm-Resistant Shelter. To qualify for this exclusion, storm-resistant shelter is not required for:

a. drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (s*ealed* means banded or otherwise secured and without operational taps or valves);

b. adequately-maintained vehicles used in material handling; and

c. final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

3. Limitations

a. Storm water discharges from construction activities identified in Subparagraph B.14.j and Paragraph B.15 of this Section are not eligible for this conditional exclusion.

b. This conditional exclusion from the requirement for an LPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be no-exposure discharges, individual permit requirements should be adjusted accordingly.

c. If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for unpermitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

d. Notwithstanding the provisions of this Subparagraph, the state administrative authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

4. Certification. The no-exposure certification must require the submission of the following information, at a minimum, to aid the department in determining if the facility qualifies for the no-exposure exclusion:

a. the legal name, address, and phone number of the discharger (see LAC 33:IX.2501.B);

b. the facility name and address, the parish name, and the latitude and longitude where the facility is located;

c. a statement that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

i. using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing, or cleaning industrial machinery or equipment remain;

ii. materials or residuals on the ground or in storm water inlets from spills/leaks;

iii. materials or products from past industrial activity;

iv. material handling equipment (except adequately maintained vehicles);

v. materials or products during loading/unloading or transporting activities;

vi. materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

vii. materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar containers;

viii. materials or products handled/stored on roads or railways owned or maintained by the discharger;

ix. waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

x. application or disposal of process wastewater (unless otherwise permitted); and

xi. particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow; and

d. the following certification statement, signed in accordance with the signatory requirements of LAC 33:IX.2503:

> "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of no exposure and obtaining an exclusion from LPDES storm water permitting, and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under LAC 33:IX.2511.G.2). I understand that I am obligated to

submit a no-exposure certification form once every five years to the state administrative authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the state administrative authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an LPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), amended LR 28:467 (March 2002), LR 29:701 (May 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1321 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2510 (October 2005), LR 32:1603 (September 2006), LR 33:2166 (October 2007).

§2513. Silvicultural Activities

A. Permit Requirement. *Silvicultural point sources*, as defined in this Section, are point sources subject to the LPDES permit program.

B. Definitions

Log Sorting and Log Storage Facilities—facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR Part 429, Subpart I, including the effluent limitations guidelines).

Rock Crushing and Gravel Washing Facilities—facilities which process crushed and broken stone, gravel, and riprap (see 40 CFR Part 436, Subpart B, including the effluent limitations guidelines).

Silvicultural Point Source—any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the state. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA Section 404 permit (see 33 CFR 209.120 and Part 233).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§2515. General Permits

A. Coverage. The state administrative authority may issue a general permit in accordance with the following.

1. Area. The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under Subparagraph A.2.b of this Section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:

a. designated planning areas under Sections 208 and 303 of the CWA;

b. sewer districts or sewer authorities;

c. city, parish, or state political boundaries;

d. state highway systems;

e. standard metropolitan statistical areas as defined by the U.S. Office of Management and Budget;

f. urbanized areas as designated by the Bureau of the Census according to criteria in 30 FR 15202 (May 1, 1974); or

g. any other appropriate division or combination of boundaries.

2. Sources. The general permit may be written to regulate one or more categories or subcategories of discharges, sludge use, disposal practices, or facilities, within the area described in Paragraph A.1 of this Section, where the sources within a covered subcategory of discharges are either:

a. storm water point sources; or

b. one or more categories or subcategories of point sources other than storm water point sources, or one or more categories or subcategories of treatment works treating domestic sewage, if the sources or treatment works treating domestic sewage within each category or subcategory all:

i. involve the same or substantially similar types of operations;

ii. discharge the same types of wastes or engage in the same types of sludge use or disposal practices;

iii. require the same effluent limitation or operating conditions, or standards for sewage sludge use or disposal;

iv. require the same or similar monitoring; and

v. in the opinion of the state administrative authority, are more appropriately controlled under a general permit than under individual permits.

3. Water Quality-Based Limits. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed in accordance with LAC 33:IX.2707, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

4. Other Requirements

a. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

b. The general permit may exclude specified sources or areas from coverage.

B. Administration

1. In General. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of 40 CFR Part 124 or corresponding state regulations. Special procedures for issuance are found at 40 CFR 123.44 for states.

2. Authorization to Discharge, or Authorization to Engage in Sludge Use and Disposal Practices

a. Except as provided in Subparagraphs B.2.e and f of this Section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Office of Environmental Services a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with Subparagraph B.2.e of this Section, contains a provision that a notice of intent is not required or the state administrative authority notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with Subparagraph B.2.f of this Section. A complete and timely notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of LAC 33:IX.2321, 2501, and 2511.

b. The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with LAC 33:IX.2503. Notices of intent for coverage under a general permit for concentrated animal feeding operations must include the information specified in LAC 33:IX.2501.I.1, including a topographic map.

c. General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit.

d. General permits shall specify whether a discharger (or treatment works treating domestic sewage) that has submitted a complete and timely notice of intent to be covered in accordance with the general permit and that is eligible for coverage under the permit, is authorized to discharge, (or in the case of a sludge disposal permit, to engage in a sludge use or disposal practice), in accordance with the permit either upon receipt of the notice of intent by the state administrative authority, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the state administrative authority. Coverage may be terminated or revoked in accordance with LAC 33:IX.2515.B.3.

e. Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the state administrative authority, be authorized to discharge under a general permit without submitting a notice of intent where the state administrative authority finds that a notice of intent requirement would be inappropriate. In making such a finding, the state administrative authority shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The state administrative authority shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

f. The state administrative authority may notify a discharger (or treatment works treating domestic sewage) that it is covered by a general permit, even if the discharger (or treatment works treating domestic sewage) has not submitted a notice of intent to be covered. A discharger (or treatment works treating domestic sewage) so notified may request an individual permit under LAC 33:IX.2515.B.3.c.

g. A CAFO owner or operator may be authorized to discharge under a general permit only in accordance with the process described in LAC 33:IX.2505.H.

3. Requiring an Individual Permit

a. The state administrative authority may require any discharger authorized by a general permit to apply for and obtain an individual LPDES permit. Any interested

person may petition the state administrative authority to take action under this Paragraph. Cases where an individual LPDES permit may be required include the following:

i. the discharger or treatment works treating domestic sewage is not in compliance with the conditions of the general LPDES permit;

ii. a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;

iii. effluent limitation guidelines are promulgated for point sources covered by the general LPDES permit;

iv. a water quality management plan containing requirements applicable to such point sources is approved;

v. circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

vi. standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general LPDES permit; or

vii. the discharge(s) is a significant contributor of pollutants. In making this determination, the state administrative authority may consider the following factors:

(a). the location of the discharge with respect to waters of the state;

(b). the size of the discharge;

(c). the quantity and nature of the pollutants discharged to waters of the state; and

(d). other relevant factors.

b. For EPA issued general permits only, the EPA regional administrator may require any owner or operator authorized by a general permit to apply for an individual NPDES permit as provided in 40 CFR 122.28(b)(3)(i), only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit the general permit as it applies to the individual permittee shall automatically terminate. The director may grant additional time upon request of the applicant.

c. Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under LAC 33:IX.2501, with reasons supporting the request, to the director no later than 90 days after the publication by EPA of the general permit in the *Federal Register* or the publication by a state in accordance with applicable state law. The request shall be processed under 40 CFR Part 124 or applicable state procedures. The request shall be granted by issuing of any individual permit if the reasons cited by the owner or operator are adequate to support the request.

d. When an individual LPDES permit is issued to an owner or operator otherwise subject to a general LPDES permit, the applicability of the general permit to the individual LPDES permittee is automatically terminated on the effective date of the individual permit.

e. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

C. Offshore Oil and Gas Facilities

1. The EPA regional administrator shall, except as provided below, issue general permits covering discharges from offshore oil and gas exploration and production facilities within the region's jurisdiction. Where the offshore area includes areas, such as areas of biological concern, for which separate permit conditions are required, the EPA regional administrator may issue separate general permits, individual permits, or both. The reason for separate general permits or individual permits shall be set forth in the appropriate fact sheets or statements of basis. Any statement of basis or fact sheet for a draft permit shall include the EPA regional administrator's tentative determination as to whether the permit applies to new sources, new dischargers, or existing sources and the reasons for this determination, and the EPA regional administrator's proposals as to areas of biological concern subject either to separate individual or general permits. For federally leased lands, the general permit area should generally be no less extensive than the lease sale area defined by the Department of the Interior.

2. Any interested person, including any prospective permittee, may petition the EPA regional administrator to issue a general permit. Unless the EPA regional administrator determines under 40 CFR 122.28(c)(1) that no general permit is appropriate, he shall promptly provide a project decision schedule covering the issuance of the general permit or permits for any lease sale area for which the Department of the Interior has published a draft environmental impact statement. The project decision schedule shall meet the requirements of 40 CFR 124.3(g), and shall include a schedule providing for the issuance of the final general permit or permits not later than the date of the final notice of sale projected by the Department of the Interior or six months after the date of the request, whichever is later. The EPA regional administrator may, at his discretion, issue a project decision schedule for offshore oil and gas facilities in the territorial seas.

3. Nothing in 40 CFR 122.28(c) shall affect the authority of the EPA regional administrator to require an individual permit under 40 CFR 122.28 (b)(3)(i)(A)-(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945

(September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007), LR 35:651 (April 2009).

§2517. What are the objectives of the storm water regulations for small MS4s?

A. LAC 33:IX.2517-2529 are written in a *readable regulation* format that includes both department guidance, which is not legally binding, as well as code requirements. This format is used to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For these Sections, *I* and *you* refer to the owner/operator. The department has clearly distinguished its recommended guidance from the code requirements by putting the guidance in a separate paragraph headed by the word *guidance*.

B. Under the statutory mandate in Section 402(p)(6) of the Clean Water Act, the purpose of this portion of the storm water program is to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources. (Because the storm water program is part of the Louisiana Pollutant Discharge Elimination System (LPDES) program, you should also refer to LAC 33:IX.2311, which addresses the broader purpose of the LPDES program.)

C. Storm water runoff continues to harm the nation's waters. Runoff from lands modified by human activities can harm surface water resources in several ways, including by changing natural hydrologic patterns and by elevating pollutant concentrations and loadings. Storm water runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids, nutrients, heavy metals, pathogens, toxins, oxygen-demanding substances, and floatables.

D. The department strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2277 (October 2000), repromulgated LR 30:230 (February 2004).

§2519. As an operator of a small MS4, am I regulated under the LPDES Storm Water Program?

A. Unless you qualify for a waiver under Subsection C of this Section, you are regulated if you operate a small MS4 including, but not limited to, systems operated by federal, state, tribal, and local governments, including state departments of transportation, and:

1. your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

2. you are designated by the state administrative authority, including where the designation is based upon a petition under LAC 33:IX.2511.F.4.

B. You may be the subject of a petition to the state administrative authority to require an LPDES permit for your discharge of storm water. If the state administrative authority determines that you need a permit, you are required to comply with LAC 33:IX.2521-2525.

C. The state administrative authority may waive the requirements otherwise applicable to you if you meet the criteria of Subsection D or E of this Section. If you receive this waiver, you may subsequently be required to seek coverage under an LPDES permit in accordance with LAC 33:IX.2521.A if circumstances change.

D. The state administrative authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

1. your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the LPDES storm water program; and

2. if you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of a department-established *total maximum daily load* (TMDL) that addresses the pollutant(s) of concern.

E. The department may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

1. the department has evaluated all waters of the state, including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

2. for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a TMDL established by the department or by EPA and approved by EPA that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

3. for the purpose of this Subsection, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from your MS4; and

4. the department has determined that future discharges from your MS4 do not have the potential to result in noncompliance with water quality standards, including

impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2277 (October 2000), repromulgated LR 30:230 (February 2004).

§2521. If I am an operator of a regulated small MS4, how do I apply for an LPDES permit and when do I have to apply?

A. If you operate a regulated small MS4 under LAC 33:IX.2519, you must seek coverage under an LPDES permit issued by the Office of Environmental Services.

B. You must seek authorization to discharge under a general or individual LPDES permit, as follows:

1. if the Office of Environmental Services has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2523.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization;

2.a. if you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2523, you must submit an application to the Office of Environmental Services that includes the information required under LAC 33:IX.2501.F and 2523.D, an estimate of square mileage served by your small MS4, and any additional information that the Office of Environmental Services requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2523.B.3.a will satisfy the map requirement in LAC 33:IX.2501.F.7;

b. if you are seeking authorization to discharge under an individual permit and wish to implement a program that is different from the program under LAC 33:IX.2523, you will need to comply with the permit application requirements of LAC 33:IX.2511.D. You must submit both parts of the application requirements in LAC 33:IX.2511.D.1 and 2 by March 10, 2003. You do not need to submit the information required by LAC 33:IX.2511.D.1.b and 2 regarding your legal authority, unless you intend for the permit writer to take such information into account when developing your other permit conditions; and

c. if approved by the Office of Environmental Services, you and another regulated entity may jointly apply under either Subparagraph B.2.a or b of this Section to be co-permittees under an individual permit;

3. if your small MS4 is in the same urbanized area as a medium or large MS4 with an LPDES storm water permit and that other MS4 is willing to have you participate in its storm water program, you and the other MS4 may jointly seek a modification of the other MS4 permit to include you as a limited co-permittee. As a limited co-permittee, you will be responsible for compliance with the permit's conditions applicable to your jurisdiction. If you choose this option you will need to comply with the permit application requirements of LAC 33:IX.2511, rather than the requirements of LAC 33:IX.2523. You do not need to comply with the specific application requirements of LAC 33:IX.2511.D.1.c, d, and 2.c (discharge characterization). You may satisfy the requirements in LAC 33:IX.2511.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program; and

4. guidance—in referencing an MS4's storm water management program, you should briefly describe how the existing plan will address discharges from your small MS4 or would need to be supplemented in order to adequately address your discharges. You should also explain your role in coordinating storm water pollutant control activities in your MS4 and detail the resources available to you to accomplish the plan.

C. If you operate a regulated small MS4:

1. designated under LAC 33:IX.2519.A.1, you must apply for coverage under an LPDES permit or apply for a modification of an existing LPDES permit under Paragraph B.3 of this Section by March 10, 2003, unless your MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing; and

2. designated under LAC 33:IX.2519.A.2, you must apply for coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Paragraph B.3 of this Section within 180 days of notice, unless the state administrative authority grants a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007).

§2523. As an operator of a regulated small MS4, what will my LPDES MS4 storm water permit require?

A. Your LPDES MS4 permit will require, at a minimum, that you develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Your

storm water management program must include the minimum control measures described in Subsection B of this Section unless you apply for a permit under LAC 33:IX.2511.D. For purposes of this Section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program required in accordance with this Section and the provisions of the permit required in accordance with LAC 33:IX.2521 constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Your state administrative authority will specify a time period of up to five years from the date of permit issuance for you to develop and implement your program.

B. Minimum Control Measures

1. Public Education and Outreach on Storm Water Impacts

a. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. Guidance. You may use storm water educational materials provided by your state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. The department recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. The department recommends that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, the department recommends that some of the materials or outreach programs be directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this would include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. You are encouraged to tailor your outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

2. Public Involvement/Participation

a. You must, at a minimum, comply with state, tribal, and local public notice requirements when implementing a public involvement/participation program.

b. Guidance. The department recommends that the public be included in developing, implementing, and reviewing your storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

3. Illicit Discharge Detection and Elimination

a. You must develop, implement, and enforce a program to detect and eliminate illicit discharges (see LAC 33:IX.2511.B.2) into your small MS4.

b. You must:

i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls;

ii. to the extent allowable under state, tribal, or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;

iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and

iv. inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

c. You need to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from

fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. Guidance. The department recommends that the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The department recommends visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

4. Construction Site Storm Water Runoff Control

a. You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to 1 acre. Reduction of storm water discharges from construction activity disturbing less than 1 acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb 1 acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC 33:IX.2511.B.15.a, you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. Your program must include the development and implementation of, at a minimum:

i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;

ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

iii. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

iv. procedures for site plan review that incorporate consideration of potential water quality impacts;

v. procedures for receipt and consideration of information submitted by the public; and

vi. procedures for site inspection and enforcement of control measures.

c. Guidance. Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The department recommends that procedures for site plan review include the review of individual preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. You are encouraged to provide appropriate educational and training measures for construction site operators. You may wish to require a storm water pollution prevention plan for construction sites within your jurisdiction that discharge into your system. See LAC 33:IX.2707.R (LPDES permitting authorities' option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2525.B. (The state administrative authority may recognize that another government entity, including the administrative authority, may be responsible for implementing one or more of the minimum measures on your behalf.)

5. Post-Construction Storm Water Management in New Development and Redevelopment

a. You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to 1 acre, including projects less than 1 acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts.

b. You must:

i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for your community;

ii. use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state, tribal, or local law; and

iii. ensure adequate long-term operation and maintenance of BMPs.

c. Guidance. If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. The department recommends that the BMPs chosen be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, the department encourages you to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, the department recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize

water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The department recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction, or operation and maintenance. Storm water technologies are constantly being improved, and the department recommends that your requirements be responsive to these changes, developments, or improvements in control technologies.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, your state, tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. Guidance. The department recommends that, at a minimum, you consider the following in developing your program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from your separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by you, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

C. If an existing qualifying local program requires you to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in your LPDES permit that direct you to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

D.1.In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services the following information:

a. the BMPs that you or another entity will implement for each of the storm water minimum control measures at Paragraphs B.1-6 of this Section;

b. the measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, interim milestones, and the frequency of the action; and

c. the person or persons responsible for implementing or coordinating your storm water management program.

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Paragraphs B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

3. Guidance. Either EPA or the department will provide a menu of BMPs. You may choose BMPs from the

menu or select others that satisfy the minimum control measures.

E.1. You must comply with any more stringent effluent limitations in your permit, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved TMDL or equivalent analysis. The department may include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.

2. Guidance. EPA has strongly recommended that until the evaluation of the storm water program in LAC 33:IX.2529, no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality.

F. You must comply with other applicable LPDES permit requirements, standards, and conditions established in the individual or general permit, developed consistently with the provisions of LAC 33:IX.2701-2715, as appropriate.

G. Evaluation and Assessment

1. Evaluation. You must evaluate program compliance, the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals.

[NOTE: The state administrative authority may determine monitoring requirements for you in accordance with state/tribal monitoring plans appropriate to your watershed. Participation in a group monitoring program is encouraged.]

2. Recordkeeping. You must keep records required by the LPDES permit for at least three years. You must submit your records to the state administrative authority only when specifically asked to do so. You must make your records, including a description of your storm water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). You may assess a reasonable charge for copying. You may require a member of the public to provide advance notice.

3. Reporting. Unless you are relying on another entity to satisfy your LPDES permit obligations under LAC 33:IX.2525.A, you must submit annual reports to the state administrative authority for your first permit term. For subsequent permit terms, you must submit reports in years two and four unless the state administrative authority requires more frequent reports. Your report must include:

a. the status of compliance with permit conditions, an assessment of the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals for each of the minimum control measures;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities you plan to undertake during the next reporting cycle;

d. a change in any identified best management practices or measurable goals for any of the minimum control measures; and

e. notice that you are relying on another governmental entity to satisfy some of your permit obligations (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005), LR 33:2167 (October 2007).

§2525. As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?

A. You may rely on another entity to satisfy your LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on your behalf. In the reports you must submit under LAC 33:IX.2523.G.3, you must also specify that you rely on another entity to satisfy some of your permit obligations. If you are relying on another governmental entity regulated under LAC 33:IX.Chapters 23-71 to satisfy all of your permit obligations, including your obligation to file periodic reports required by LAC 33:IX.2523.G.3, you must note that fact in your NOI, but you are not required to file the periodic reports. You remain responsible for compliance with your permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages you to enter into a legally binding agreement with that entity if you want to minimize any uncertainty about compliance with your permit.

B. In some cases the Office of Environmental Services may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services does so, you are not required to include such minimum control measure(s) in your storm water management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2523.B.4, you could avoid

responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 33:2167 (October 2007).

§2527. As an operator of a regulated small MS4, what happens if I don't comply with the application or permit requirements in LAC 33:IX.2521-2525?

A. In accordance with LAC 33:IX.2701.A violators of provisions of the LPDES system or permit conditions are subject to enforcement actions and penalties. If you are covered as a co-permittee under an individual permit or under a general permit by means of a joint notice of intent, you remain subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in your jurisdiction, except as set forth in LAC 33:IX.2525.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004).

§2529. Will the small MS4 storm water program regulations at LAC 33:IX.2519-2527 change in the future?

A. EPA will evaluate the small MS4 regulations at LAC 33:IX.2519-2527 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 33:2168 (October 2007).

Chapter 27. LPDES Permit Conditions

§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and the LEQA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

1. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

2. R.S. 30:2025 provides for civil penalties for violations of these regulations and the LEQA. R.S. 30:2076.2 provides for criminal penalties for violation of any provisions of the Louisiana Pollutant Discharge Elimination System or any order or any permit condition or limitation issued under or implementing any provisions of the LPDES program.

3. Any person may be assessed an administrative penalty by the state administrative authority under R.S. 30:2025 for violating any permit condition or limitation implementing any of requirement of the LPDES Program in a permit issued under these regulations or the LEQA.

B. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

C. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. Additional requirements are found in LAC 33:IX.6511.

E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related

appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

G. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

H. Duty to Provide Information. The permittee shall furnish to the state administrative authority, within a reasonable time, any information which the state administrative authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the state administrative authority upon request, copies of records required to be kept by this permit.

I. Inspection and Entry. The permittee shall allow the state administrative authority, or an authorized representative (including an authorized contractor acting as a representative of the administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

4. sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or the LEQA, any substances or parameters at any location; and

5. perform such additional requirements for inspection and entry as are found in LAC 33:IX.6513.

J. Monitoring and Records

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the state administrative authority at any time.

3. Records of monitoring information shall include:

a. the date, exact place, and time of sampling or measurements;

b. the individual(s) who performed the sampling or measurements;

c. the date(s) analyses were performed;

d. the individual(s) who performed the analyses;

e. the analytical techniques or methods used;

f. the results of such analyses; and

g. additional information found in LAC 33:IX.6515.

4. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 (see LAC 33:IX.4901) or, in the case of sludge use or disposal, approved under 40 CFR Part 136 (see LAC 33:IX.4901) unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in this permit.

5. R.S. 30:2025 provides for the punishment of any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit.

K. Signatory Requirement

1. All applications, reports, or information submitted to the state administrative authority shall be signed and certified. (See LAC 33:IX.2503.)

2. R.S. 30:2076.2 provides penalties for any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance.

L. Reporting Requirements

1. Planned Changes. The permittee shall give notice to the state administrative authority as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. the alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

b. the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under LAC 33:IX.2703.A.1;

c. the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. Anticipated Noncompliance. The permittee shall give advance notice to the state administrative authority of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers. This permit is not transferable to any person except after notice to the state administrative authority in accordance with LAC 33:I.Chapter 19. The state administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA or the LEQA. (See LAC 33:IX.2901; in some cases, modification or revocation and reissuance is mandatory.)

4. Monitoring Reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be submitted in paper format or through a department-approved electronic document receiving system in accordance with LAC 33:I.Chapter 21.

a. Results of wastewater or effluent monitoring must be reported on a discharge monitoring report (DMR) EPA Form 3320-1, or an approved substitute. The results of monitoring of sludge use or disposal practices shall be reported on forms specified or approved by the administrative authority.

b. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 (see LAC 33:IX.4901) or, in the case of sludge use or disposal, approved under 40 CFR Part 136 (see LAC 33:IX.4901) unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the state administrative authority.

c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the state administrative authority in the permit.

d. Discharge monitoring reports shall be completed in accordance with the instructions on EPA Form 3320-1.

5. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

6. Twenty-Four Hour Reporting

a. The permittee shall report any noncompliance that may endanger health or the environment in the manner provided in LAC 33:I.3923. Any information shall be provided promptly within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall be done in accordance with LAC 33:I.3925.B and C and shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

b. The following shall be included as information which must be reported within 24 hours under this Paragraph:

i. any unanticipated bypass which exceeds any effluent limitation in the permit (see Subparagraph M.3.b of this Section);

ii. any upset which exceeds any effluent limitation in the permit; and

iii. violation of a maximum daily discharge limitation for any of the pollutants listed by the state administrative authority in the permit to be reported within 24 hours (LAC 33:IX.2707.G).

c. The state administrative authority may waive the written report on a case-by-case basis for reports under LAC 33:IX.2701.L.6.b if a prompt report under LAC 33:I.3923 has been received within 24 hours.

7. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under LAC 33:IX.2701.L.4, 5, and 6, at the time monitoring reports are submitted. The reports shall contain the information listed in LAC 33:IX.2701.L.6.

8. Other Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the state administrative authority, it shall promptly submit such facts or information.

M. Bypass

1. Definitions

Severe Property Damage—substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses

are not subject to the provisions of LAC 33:IX.2701.M.3 and 4.

3. Notice

a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Office of Environmental Services, if possible at least 10 days before the date of the bypass.

b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required in LAC 33:IX.2701.L.6 (24-hour notice). Additional reporting requirements are found in LAC 33:IX.6517.A.

4. Prohibition of Bypass

a. Bypass is prohibited, and the state administrative authority may take enforcement action against a permittee for bypass, unless:

i. bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

ii. there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

iii. the permittee submitted notices as required under LAC 33:IX.2701.M.3.

b. The state administrative authority may approve an anticipated bypass, after considering its adverse effects, if the state administrative authority determines that it will meet the three conditions listed in LAC 33:IX.2701.M.4.a.

N. Upset

1. Definition. *Upset*—an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of LAC 33:IX.2701.N.3 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

3. Conditions Necessary for a Demonstration of Upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. an upset occurred and that the permittee can identify the cause(s) of the upset;

b. the permitted facility was at the time being properly operated; and

c. the permittee submitted notice of the upset as required in LAC 33:IX.2701.L.6.b.ii (24-hour notice). (Additional reporting requirements are found in LAC 33:IX.6517.B); and

d. the permittee complied with any remedial measures required under LAC 33:IX.2701.D.

4. Burden of Proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431, 2512 (October 2005), LR 32:1220 (July 2006), LR 33:2168 (October 2007), LR 34:1887 (September 2008).

§2703. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2701, apply to all LPDES permits within the categories specified below.

A. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under LAC 33:IX.2701.L, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Office of Environmental Services as soon as they know or have reason to believe:

1. that any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

a. 100 micrograms per liter (100 µg/L);

b. 200 micrograms per liter (200 µg/L) for acrolein and acrylonitrile; 500 micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and 1 milligram per liter (1 mg/L) for antimony;

c. five times the maximum concentration value reported for that pollutant in the permit application in accordance with LAC 33:IX.2501.G.7; or

d. the level established by the state administrative authority in accordance with LAC 33:IX.2707.F;

2. that any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent

basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

a. 500 micrograms per liter (500 µg/L);

b. 1 milligram per liter (1 mg/L) for antimony;

c. 10 times the maximum concentration value reported for that pollutant in the permit application in accordance with LAC 33:IX.2501.G.7;

d. the level established by the state administrative authority in accordance with LAC 33:IX.2707.F.

B. Publicly Owned Treatment Works. All POTWs must provide adequate notice to the state administrative authority of the following:

1. any new introduction of pollutants into the POTW from an indirect discharger which would be subject to Section 301 or 306 of the CWA if it were directly discharging those pollutants; and

2. any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit;

3. for purposes of this Subsection, adequate notice shall include information on:

a. the quality and quantity of effluent introduced into the POTW; and

b. any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

C. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the state administrative authority under LAC 33:IX.2511.A.1.e must submit an annual report to the Office of Environmental Services by the anniversary of the date of the issuance of the permit for such system. The report shall include:

1. the status of implementing the components of the storm water management program that are established as permit conditions;

2. proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with LAC 33:IX.2511.D.2.c; and

3. revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under LAC 33:IX.2511.D.2.d and e;

4. a summary of data, including monitoring data, that is accumulated throughout the reporting year;

5. annual expenditures and budget for year following each annual report;

6. a summary describing the number and nature of enforcement actions, inspections, and public education programs; and

7. identification of water quality improvements or degradation.

D. Storm Water Discharges. The initial permits for discharges composed entirely of storm water issued pursuant to LAC 33:IX.2511.E.7 shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

E. Concentrated Animal Feeding Operations (CAFOs). Any permit issued to a CAFO must include the requirements in Paragraphs E.1-6 of this Section.

1. Requirement to Implement a Nutrient Management Plan. Any permit issued to a CAFO must include a requirement to implement a nutrient management plan that, at a minimum, contains best management practices necessary to meet the requirements of this Paragraph and applicable effluent limitations and standards, including those specified in 40 CFR Part 412. The nutrient management plan must, to the extent applicable:

a. ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

b. ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

c. ensure that clean water is diverted, as appropriate, from the production area;

d. prevent direct contact of confined animals with waters of the state;

e. ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system that is not specifically designed to treat such chemicals and other contaminants;

f. identify appropriate site-specific conservation practices to be implemented, including as appropriate, buffers or equivalent practices, to control runoff of pollutants to waters of the state;

g. identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

h. establish protocols to land-apply manure, litter, or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and

i. identify specific records that will be maintained to document the implementation and management of the

minimum elements described in Subparagraphs E.1.a-h of this Section.

2. Recordkeeping Requirements

a. The permittee must create, maintain for five years, and make available to the state administrative authority, upon request, the following records:

i. all applicable records identified in accordance with Subparagraph E.1.i of this Section; and

ii. in addition, all CAFOs subject to 40 CFR Part 412 must comply with recordkeeping requirements as specified in LAC 33:IX.4903.

b. A copy of the CAFO's site-specific nutrient management plan must be maintained on-site and made available to the state administrative authority upon request.

3. Requirements Relating to Transfer of Manure or Process Wastewater to Other Persons. Prior to transferring manure, litter, or process wastewater to other persons, Large CAFOs must provide the recipient of the manure, litter, or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR Part 412. Large CAFOs must retain for five years records of the date, the recipient's name and address, and the approximate amount of manure, litter, or process wastewater transferred to another person.

4. Annual Reporting Requirements for CAFOs. The permittee must submit an annual report to the state administrative authority. The annual report must include:

a. the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

b. the estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

c. the estimated amount of total manure, litter, and process wastewater transferred to other persons by the CAFO in the previous 12 months (tons/gallons);

d. the total number of acres for land application covered by the nutrient management plan developed in accordance with Paragraph E.1 of this Section;

e. the total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

f. a summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

g. a statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a Natural Resource Conservation Service (NRCS) certified nutrient management planner; and

h. the actual crop(s) planted and actual yield(s) for each field; the actual nitrogen and phosphorus content of the manure, litter, and process wastewater; the results of calculations conducted in accordance with Clauses E.5.a.ii and 5.b.iv of this Section; and the amount of manure, litter, and process wastewater applied to each field during the previous 12 months, and, for any CAFO that implements a nutrient management plan that addresses rates of application in accordance with Subparagraph E.5.b of this Section, the results of any soil testing for nitrogen and phosphorus taken during the preceding 12 months, the data used in calculations conducted in accordance with Clause E.5.b.iv of this Section, and the amount of any supplemental fertilizer applied during the previous 12 months.

5. Terms of the Nutrient Management Plan. Any permit issued to a CAFO must require compliance with the terms of the CAFO's site-specific nutrient management plan. The terms of the nutrient management plan are the information, protocols, best management practices, and other conditions in the nutrient management plan determined by the state administrative authority to be necessary to meet the requirements of Paragraph E.1 of this Section. The terms of the nutrient management plan, with respect to protocols for land application of manure, litter, or process wastewater required by Subparagraph E.1.h of this Section and, as applicable, 40 CFR 412.4(c), must include the fields available for land application; field-specific rates of application properly developed, as specified in Subparagraphs E.5.a and b of this Section, to ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and any timing limitations identified in the nutrient management plan concerning land application on the fields available for land application. The terms must address rates of application using one of the following two approaches, unless the state administrative authority specifies a particular one of the approaches that shall be used.

a. Linear Approach. A linear approach is an approach that expresses rates of application as pounds of nitrogen and phosphorus, according to the following specifications.

i. The terms must include maximum application rates from manure, litter, and process wastewater for each year of permit coverage, for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the state administrative authority, in pounds per acre, per year, for each field to be used for land application, and certain factors necessary to determine such rates. At a minimum, the factors used in the terms must include: the outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses of a field, such as a pasture or fallow field; the realistic yield goal for each crop or use identified for each field; the nitrogen and phosphorus recommendations from sources specified by the state administrative authority for each crop or use identified for each field; credits for all nitrogen in the field that will be plant-available; consideration of multi-year

phosphorus application; and accounting for all other additions of plant-available nitrogen and phosphorus to the field. In addition, the terms must include the form and source of manure, litter, and process wastewater to be land-applied; the timing and method of land application; and the methodology by which the nutrient management plan accounts for the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

ii. Large CAFOs that use this approach must calculate the maximum amount of manure, litter, and process wastewater to be land applied at least once each year using the results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application.

b. Narrative Rate Approach. A narrative rate approach is an approach that expresses rates of application as a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied, according to the following specifications.

i. The terms must include maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the nutrient management plan, in chemical forms determined to be acceptable to the state administrative authority, in pounds per acre, for each field, and certain factors necessary to determine such amounts. At a minimum, the factors used in the terms must include: the outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses, such as pasture or fallow fields (including alternative crops identified in accordance with Clause E.5.b.ii of this Section); the realistic yield goal for each crop or use identified for each field; and the nitrogen and phosphorus recommendations from sources specified by the state administrative authority for each crop or use identified for each field. In addition, the terms must include the methodology by which the nutrient management plan accounts for the following factors when calculating the amounts of manure, litter, and process wastewater to be land applied: results of soil tests conducted in accordance with protocols identified in the nutrient management plan, as required by Subparagraph E.1.g of this Section; credits for all nitrogen in the field that will be plant-available; the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied; consideration of multi-year phosphorus application; accounting for all other additions of plant-available nitrogen and phosphorus to the field; the form and source of manure, litter, and process wastewater; the timing and method of land application; and volatilization of nitrogen and mineralization of organic nitrogen.

ii. The terms of the nutrient management plan may include alternative crops identified in the CAFO's nutrient management plan that are not in the planned crop rotation. Where a CAFO includes alternative crops in its nutrient management plan, the crops must be listed by field, in addition to the crops identified in the planned crop rotation for that field, and the nutrient management plan must include realistic crop yield goals and the nitrogen and phosphorus recommendations from sources specified by the state administrative authority for each crop. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure, litter, and process wastewater to be applied must be determined in accordance with the methodology described in Clause E.5.b.i of this Section.

iii. For CAFOs using this approach, the following projections must be included in the nutrient management plan submitted to the state administrative authority, but are not terms of the nutrient management plan: the CAFO's planned crop rotations for each field for the period of permit coverage; the projected amount of manure, litter, or process wastewater to be applied; projected credits for all nitrogen in the field that will be plant-available; consideration of multi-year phosphorus application; accounting for all other additions of plant-available nitrogen and phosphorus to the field; and the predicted form, source, and method of application of manure, litter, and process wastewater for each crop. Timing of application for each field, insofar as it concerns the calculation of rates of application, is not a term of the nutrient management plan.

iv. CAFOs that use this approach must calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology required in Clause E.5.b.i of this Section before land applying manure, litter, and process wastewater, and must rely on the following data:

(a). a field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required by Clause E.5.b.i of this Section, and for phosphorus, the results of the most recent soil test conducted in accordance with soil testing requirements approved by the state administrative authority; and

(b). the results of most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

6. Changes to a Nutrient Management Plan. Any permit issued to a CAFO must require the following procedures to apply when a CAFO owner or operator makes changes to the CAFO's nutrient management plan that was previously submitted to the state administrative authority.

a. The CAFO owner or operator must provide the state administrative authority with the most current version of the CAFO's nutrient management plan and identify changes from the previous version, except that the results of calculations made in accordance with the requirements of Clauses E.5.a.ii and 5.b.iv of this Section are not subject to the requirements of this Paragraph.

b. The state administrative authority must review the revised nutrient management plan to ensure that it meets the requirements of this Section and applicable effluent limitations and standards, including those specified in 40 CFR Part 412, and must determine whether the changes to the nutrient management plan necessitate revision to the terms of the nutrient management plan incorporated into the permit issued to the CAFO. If revision to the terms of the nutrient management plan is not necessary, the state administrative authority must notify the CAFO owner or operator, and, upon such notification, the CAFO may implement the revised nutrient management plan. If revision to the terms of the nutrient management plan is necessary, the state administrative authority must determine whether such changes are substantial changes as described in Subparagraph E.6.c of this Section.

i. If the state administrative authority determines that the changes to the terms of the nutrient management plan are not substantial, the state administrative authority must make the revised nutrient management plan publicly available and include it in the permit record, revise the terms of the nutrient management plan incorporated into the permit, and notify the owner or operator and inform the public of any changes to the terms of the nutrient management plan that are incorporated into the permit.

ii. If the state administrative authority determines that the changes to the terms of the nutrient management plan are substantial, the state administrative authority must notify the public and make the proposed changes and the information submitted by the CAFO owner or operator available for public review and comment. The process for public comments and hearing requests, and the hearing process, if a hearing is held, must follow the procedures applicable to draft permits set forth in LAC 33:IX.3115, 3117, and 3119. The state administrative authority may establish, either by regulation or in the CAFO's permit, an appropriate period of time for the public to comment and request a hearing on the proposed changes that differs from the time period specified in LAC 33:IX.3113. The state administrative authority must respond to all significant comments received during the comment period as provided in LAC 33:IX.3125, and require the CAFO owner or operator to further revise the nutrient management plan, if necessary, in order to approve the revision to the terms of the nutrient management plan incorporated into the CAFO's permit. Once the state administrative authority incorporates the revised terms of the nutrient management plan into the permit, the state administrative authority must notify the owner or operator and inform the public of the final decision concerning revisions to the terms and conditions of the permit.

c. Substantial changes to the terms of a nutrient management plan incorporated as terms and conditions of a permit include, but are not limited to:

i. addition of new land application areas not previously included in the CAFO's nutrient management plan, except that if the land application area that is being added to the nutrient management plan is covered by terms of a nutrient management plan incorporated into an existing LPDES permit in accordance with the requirements of Paragraph E.5 of this Section, and the CAFO owner or operator applies manure, litter, or process wastewater on the newly added land application area in accordance with the existing field-specific permit terms applicable to the newly added land application area, such addition of new land would be a change to the CAFO owner or operator's nutrient management plan, but not a substantial change for purposes of this Section;

ii. any changes to the field-specific maximum annual rates for land application, as set forth in Subparagraph E.5.a of this Section, and to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop, as set forth in Subparagraph E.5.b of this Section;

iii. addition of any crop or other uses not included in the terms of the CAFO's nutrient management plan and corresponding field-specific rates of application expressed in accordance with Paragraph E.5 of this Section; and

iv. changes to site-specific components of the CAFO's nutrient management plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005), LR 32:819 (May 2006), LR 33:2168 (October 2007), LR 33:2360 (November 2007), LR 35:651 (April 2009).

§2705. Establishing Permit Conditions

A. In addition to conditions required in all permits (LAC 33:IX., 2701, and 2703), the state administrative authority shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the CWA and regulations. These shall include conditions under LAC 33:IX.2711 (duration of permits), LAC 33:IX.2713.A (schedules of compliance), LAC 33:IX.2715 (monitoring), LAC 33:IX.2713.B (alternate schedules of compliance) and for EPA permits only 40 CFR 122.49 (considerations under federal law).

B.1. For a state issued permit, an applicable requirement is a state statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) that takes effect prior to the issuance of the permit. LAC 33:IX.3121 for the state and 40 CFR 124.14 for EPA (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the state administrative authority when new requirements become effective during the permitting process and are of sufficient

magnitude to make additional proceedings desirable. For state-administered and EPA-administered programs, an applicable requirement is also any requirement that takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in LAC 33:IX.2903.

2. New or reissued permits, and to the extent allowed under LAC 33:IX.2903 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in LAC 33:IX.2707 and 2709.

C. Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:469 (March 2002), repromulgated LR 30:230 (February 2004).

§2707. Establishing Limitations, Standards, and Other Permit Conditions

A.1. Technology-based effluent limitations and standards based on effluent limitations and standards promulgated under Section 301 of the CWA or new source performance standards promulgated under Section 306 of the CWA, on case-by-case effluent limitations determined under Section 402(a)(1) of the CWA, or on a combination of the three, in accordance with LAC 33:IX.3705. For new sources or new dischargers, these technology-based limitations and standards are subject to the provisions of 40 CFR 122.29(d) (protection period).

2. Monitoring Waivers for Certain Guideline-Listed Pollutants

a. The state administrative authority may authorize a discharger subject to technology-based effluent limitations guidelines and standards in a LPDES permit to forego sampling of a pollutant found in LAC 33:IX.4903 if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

b. This waiver is good only for the term of the permit and is not available during the term of the first permit issued to a discharger.

c. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term, that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

d. Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet or statement of basis.

e. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards.

B.1. Other effluent limitations and standards under Sections 301, 302, 303, 307, 318, and 405 of the CWA. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the state administrative authority shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. (See also LAC 33:IX.2701.A.)

2. Standards for sewage sludge use or disposal under Section 405(d) of the CWA unless those standards have been included in a permit issued under the appropriate provisions of Subtitle C of the Solid Waste Disposal Act, Part C of Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under state permit programs approved by the Administrator. When there are no applicable standards for sewage sludge use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge. If any applicable standard for sewage sludge use or disposal is promulgated under Section 405(d) of the CWA and that standard is more stringent than any limitation on the pollutant or practice in the permit, the state administrative authority may initiate proceedings under these regulations to modify or revoke and reissue the permit to conform to the standard for sewage sludge use or disposal.

3. Requirements applicable to cooling water intake structures in Section 316(b) of the CWA, in accordance with LAC 33:IX.Chapter 47.Subchapters A, B, and C.

C. Reopener Clause. For any permit issued to a treatment works treating domestic sewage (including sludge-only facilities), the state administrative authority shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the CWA. The state administrative authority may promptly modify or revoke and reissue any permit containing the reopener clause required by this Subsection if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit or controls a pollutant or practice not limited in the permit.

D. Water Quality Standards and State Requirements. Any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards under Sections 301, 304, 306, 307, 318 and 405 of the CWA necessary to:

1. achieve water quality standards established under Section 303 of the CWA, including state narrative criteria for water quality:

a. limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the state administrative authority determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard, including state narrative criteria for watering quality;

b. when determining whether a discharge causes or has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a state water quality standard, the permitting authority shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water;

c. when the permitting authority determines, using the procedures in LAC 33:IX.2707.D.1.b, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a state numeric criteria within a state water quality for an individual pollutant, the permit must contain effluent limits for that pollutant;

d. when the permitting authority determines, using the procedures in LAC 33:IX.2707.D.1.b, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for whole effluent toxicity, the permit must contain effluent limits for whole effluent toxicity;

e. except as provided in this Subparagraph, when the permitting authority determines, using the procedures in LAC 33:IX.2707.D.1.b, toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative criterion within an applicable state water quality standard, the permit must contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the permitting authority demonstrates in the fact sheet or statement of basis of the LPDES permit, using the procedures in LAC 33:IX.2707.D.1.b, that chemical-specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative state water quality standards;

f. where a state has not established a water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable state water quality standard, the permitting authority must establish effluent limits using one or more of the following options:

i. establish effluent limits using a calculated numeric water quality criterion for the pollutant which the permitting authority demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a criterion may be derived using a proposed state criterion, or an explicit state policy or regulation interpreting its narrative water quality criterion, supplemented with other relevant information which may include: EPA's Water Quality Standards Handbook, October 1983, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents; or

ii. establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under Section 304(a) of the CWA, supplemented where necessary by other relevant information; or

iii. establish effluent limitations on an indicator parameter for the pollutant of concern, provided:

(a). the permit identifies which pollutants are intended to be controlled by the use of the effluent limitations;

(b). the fact sheet required by LAC 33:IX.2515 sets forth the basis for the limit, including and finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable water quality standards;

(c). the permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and

(d). the permit contains a reopener clause allowing the permitting authority to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards;

g. when developing water quality-based effluent limits under this Paragraph the permitting authority shall ensure that:

i. the level of water quality to be achieved by limits on point sources established under this Paragraph is derived from, and complies with all applicable water quality standards; and

ii. effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the state and approved by EPA pursuant to 40 CFR 130.7;

2. attain or maintain a specified water quality through water quality related effluent limits established under Section 302 of the CWA;

3. conform to the conditions to a state certification under Section 401 of the CWA that meets the requirements of 40 CFR 124.53 when EPA is the permitting authority. If a state certification is stayed by a court of competent

jurisdiction or an appropriate state board or agency, EPA shall notify the state that the agency will deem certification waived unless a finally effective state certification is received within 60 days from the date of the notice. If the state does not forward a finally effective certification within the 60-day period, EPA shall include conditions in the permit that may be necessary to meet EPA's obligation under Section 301(b)(1)(C) of the CWA;

4. conform to applicable water quality requirements under Section 401(a)(2) of the CWA when the discharge affects a state other than the certifying state;

5. incorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under federal or state law or regulations in accordance with Section 301(b)(1) (C) of the CWA;

6. ensure consistency with the requirements of a Water Quality Management plan approved by EPA under Section 208(b) of the CWA;

7. incorporate CWA Section 403(c) criteria under LAC 33:IX.Chapter 63, for ocean discharges;

8. incorporate alternative effluent limitations or standards where warranted by fundamentally different factors, under LAC 33:IX.Chapter 43;

9. incorporate any other appropriate requirements, conditions, or limitations (other than effluent limitations) into a new source permit to the extent allowed by the National Environmental Policy Act, 42 U.S.C. 4321 et seq. and Section 511 of the CWA, when EPA is the permit issuing authority. (See 40 CFR 122.29(c)).

E. Technology-Based Controls for Toxic Pollutants. Limitations established under Subsection A, B, or D of this Section, to control pollutants meeting the criteria listed in Paragraph E.1 of this Section. Limitations will be established in accordance with Paragraph E.2 of this Section. An explanation of the development of these limitations shall be included in the fact sheet under LAC 33:IX.2515.A.2.a.i.

1. Limitations must control all toxic pollutants that the state administrative authority determines (based on information reported in a permit application under LAC 33:IX.2501.G.7 or in a notification under LAC 33:IX.2703.A.1 or on other information) are or may be discharged at a level greater than the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.3705.C; or

2. the requirement that the limitations control the pollutants meeting the criteria of LAC 33:IX.2707.E.1 will be satisfied by:

a. limitations on those pollutants; or

b. limitations on other pollutants which, in the judgment of the state administrative authority, will provide treatment of the pollutants under LAC 33:IX.2707.E.1 to the levels required by LAC 33:IX.3705.C.

F. Notification Level. A notification level which exceeds the notification level of LAC 33:IX.2703.A.1.a, b, or c, upon a petition from the permittee or on the state administrative authority's initiative. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.3705.C.

G. Twenty-Four Hour Reporting. Pollutants for which the permittee must report violations of maximum daily discharge limitations under LAC 33:IX.2701.L.6.b.iii (24-hour reporting) shall be listed in the permit. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

H. Durations for Permits, as Set Forth in LAC 33:IX.2711.

I. Monitoring Requirements. In addition to LAC 33:IX.2715, the following monitoring requirements:

1. to assure compliance with permit limitations, requirements to monitor:

a. the mass (or other measurement specified in the permit) for each pollutant limited in the permit;

b. the volume of effluent discharged from each outfall;

c. other measurements as appropriate including pollutants in internal waste streams under LAC 33:IX.2709.H; pollutants in intake water for net limitations under LAC 33:IX.2709.G; frequency, rate of discharge, etc., for noncontinuous discharges under LAC 33:IX.2709.E; pollutants subject to notification requirements under LAC 33:IX.2703.A; and pollutants in sewage sludge or other monitoring as specified in 40 CFR Part 503; or as determined to be necessary on a case-by-case basis pursuant to Section 405(d) of the CWA;

d. according to test procedures approved under 40 CFR Part 136 (see LAC 33:IX.4901) for the analyses of pollutants having approved methods under that part, and according to a test procedure specified in the permit for pollutants with no approved methods;

2. except as provided in LAC 33:IX.2707.I.4 and 5, requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. For sewage sludge use or disposal practices, requirements to monitor and report results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be as specified in 40 CFR Part 503 (where applicable), but in no case less than once a year;

3. requirements to report monitoring results for storm water discharges associated with industrial activity which are subject to an effluent limitation guideline shall be established on a case-by-case basis with a frequency

dependent on the nature and effect of the discharge, but in no case less than once a year;

4. requirements to report monitoring results for storm water discharges associated with industrial activity (other than those addressed in LAC 33:IX.2707.I.3) shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge must require:

a. the discharger to conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

b. the discharger to maintain for a period of three years a record summarizing the results of the inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of noncompliance;

c. such report and certification be signed in accordance with LAC 33:IX.2503; and

d. permits for storm water discharges associated with industrial activity from inactive mining operations may, where annual inspections are impracticable, require certification once every three years by a registered professional engineer that the facility is in compliance with the permit, or alternative requirements;

5. permits which do not require the submittal of monitoring result reports at least annually shall require that the permittee report all instances of noncompliance not reported under LAC 33:IX.2701.L.1, 4, 5, and 6 at least annually.

J. Pretreatment Program for POTWs. Requirements for POTWs to:

1. identify, in terms of character and volume of pollutants, any significant indirect dischargers into the POTW subject to pretreatment standards under Section 307(b) of the CWA and LAC 33:IX.Chapter 61;

2.a. submit a local program when required by and in accordance with LAC 33:IX.Chapter 61 to assure compliance with pretreatment standards to the extent applicable under Section 307(b) of the CWA. The local program shall be incorporated into the permit as described in LAC 33:IX.Chapter 61. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of LAC 33:IX.Chapter 61;

b. provide a written technical evaluation of the need to revise local limits under LAC 33:IX.6109.C.1, following permit issuance or reissuance;

3. for POTWs which are sludge-only facilities, a requirement to develop a pretreatment program under LAC 33:IX.Chapter 61 when the state administrative authority determines that a pretreatment program is necessary to assure compliance with Section 405(d) of the CWA.

K. Best management practices (BMPs) to control or abate the discharge of pollutants when:

1. authorized under Section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities;

2. authorized under Section 402(p) of the CWA for the control of storm water discharges;

3. numeric effluent limitations are infeasible; or

4. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA.

[NOTE: Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498; Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482; Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550, ERIC No.W139; Storm Water Management for Industrial Activities; Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA No. 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-002, NTIS No. PB 94-133782, ERIC No. W492. Copies of these documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 566-1729 or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 538-3742. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the Office of Water Management Home Page at http://www.epa.gov/owm. In addition, states may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory regulatory effect by virtue of their listing in this note.]

L. Reissued Permits

1. Except as provided in LAC 33:IX.2707.L.2 when a permit is renewed or reissued, interim limitations, standards or conditions must be at least as stringent as the final limitations, standards, or conditions in the previous permit (unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under LAC 33:IX.2903).

2. In the case of effluent limitations established on the basis of Section 402(a)(1)(B) of the CWA, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under CWA Section 304(b)

subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent that the comparable effluent limitations in the previous permit.

a. Exceptions. A permit with respect to which LAC 33:IX.2707.L applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant, if:

i. material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

ii.(a). information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(b). the administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under CWA Section 402(a)(1)(b);

iii. less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

iv. the permittee has received a permit modification under Section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a) of the CWA; or

v. the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

b. Limitations. In no event may a permit with respect to which LAC 33:IX.2707.L.2 applies to be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under Section 303 of the CWA applicable to such waters.

M. Privately Owned Treatment Works. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under LAC 33:IX.33.Chapters 23-29. Alternatively, the state administrative authority may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The state administrative authority's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

N. Grants. Any conditions imposed in grants made by the administrator to POTWs under Sections 201 and 204 of the CWA which are reasonably necessary for the achievement of effluent limitations under Section 301 of the CWA.

O. Sewage Sludge. Requirements under Section 405 of the CWA governing the disposal of sewage sludge from publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established, in accordance with any applicable regulations.

P. Coast Guard. When a permit is issued to a facility that may operate at certain times as a means of transportation over water, a condition that the discharge shall comply with any applicable regulations promulgated by the secretary of the department in which the Coast Guard is operating, that establish specifications for safe transportation, handling, carriage, and storage of pollutants.

Q. Navigation. Any conditions that the secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with 40 CFR 124.59.

R. Qualifying State, Tribal, or Local Programs

1. For storm water discharges associated with small construction activity identified in LAC 33:IX.2511.B.15, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. When a qualifying state, tribal, or local program does not include one or more of the elements in this Subsection, the state administrative authority must include those elements as conditions in the permit. A qualifying state, tribal, or local erosion and sediment control program is one that includes:

a. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

b. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

c. requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal, or local requirements, maintenance procedures, inspection procedures, and identification of non-storm water discharges); and

d. requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

2. For storm water discharges from construction activity identified in LAC 33:IX.2511.B.14.j, the state

administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. A qualifying state, tribal, or local erosion and sediment control program is one that includes the elements listed in Paragraph R.1 of this Section and any additional requirements necessary to achieve the applicable technology-based standards of *best available technology* and *best conventional technology* based on the best professional judgment of the permit writer.

S. In addition to the conditions established under LAC 33:IX.2705.A, each LPDES permit shall include conditions meeting the requirements in Subsections A-R of this Section, when applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:469 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007), LR 34:74 (January 2008).

§2709. Calculating LPDES Permit Conditions

A. Outfalls and Discharge Points. All permit effluent limitations, standards and prohibitions shall be established for each outfall or discharge point of the permitted facility, except as otherwise provided under LAC 33:IX.2707.K (BMPs where limitations are infeasible) and LAC 33:IX.2709.H (limitations on internal waste streams).

B. Production-Based Limitations

1. In the case of POTWs, permit effluent limitations, standards, or prohibitions shall be calculated based on design flow.

2.a. Except in the case of POTWs or as provided in LAC 33:IX.2709.B.2.b, calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example, monthly production shall be used to calculate average monthly discharge limitations.

b.i.(a). The state administrative authority may include a condition establishing alternate permit limitations, standards, or prohibitions based upon anticipated increased (not to exceed maximum production capability) or decreased production levels.

(b). For the automotive manufacturing industry only, the EPA regional administrator shall, and the state administrative authority may establish a condition under LAC 33:IX.2709.B.2.b.i.(a) if the applicant satisfactorily demonstrates to the state administrative authority at the time the application is submitted that its actual production, as indicated in LAC 33:IX.2709.B.2.a, is substantially below maximum production capability and that there is a reasonable potential for an increase above actual production during the duration of the permit.

ii. If the state administrative authority establishes permit conditions under LAC 33:IX.2709.B.2.b.i:

(a). the permit shall require the permittee to notify the Office of Environmental Services at least two business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify the anticipated level and the period during which the permittee expects to operate at the alternate level. If the notice covers more than one month, the notice shall specify the reasons for the anticipated production level increase. New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice;

(b). the permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Office of Environmental Services under Subclause B.2.b.ii.(a) of this Section, in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice;

(c). the permittee shall submit to the Office of Environmental Compliance with the DMR the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production.

C. Metals. All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms of total recoverable metal as defined in 40 CFR Part 136 (see LAC 33:IX.4901) unless:

1. an applicable effluent standard or limitation has been promulgated under the CWA or the LEQA and specifies the limitation for the metal in the dissolved or valent or total form; or

2. in establishing permit limitations on a case-by-case basis under LAC 33:IX.3705, it is necessary to express the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the CWA and the LEQA; or

3. all approved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium).

D. Continuous Discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall unless impracticable be stated as:

1. maximum daily and average monthly discharge limitations for all dischargers other than publicly owned treatment works; and

2. average weekly and average monthly discharge limitations for POTWs.

E. Noncontinuous Discharges. Discharges which are not continuous, as defined in LAC 33:IX.2313, shall be particularly described and limited, considering the following factors, as appropriate:

1. frequency (for example, a batch discharge shall not occur more than once every three weeks);

2. total mass (for example, not to exceed 100 kilograms of zinc and 200 kilograms of chromium per batch discharge);

3. maximum rate of discharge of pollutants during the discharge (for example, not to exceed 2 kilograms of zinc per minute); and

4. prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than 0.1 mg/L zinc or more than 250 grams (1/4 kilogram) of zinc in any discharge).

F. Mass Limitations

1. All pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass except:

a. for pH, temperature, radiation, or other pollutants which cannot appropriately be expressed by mass;

b. when applicable standards and limitations are expressed in terms of other units of measurement; or

c. if in establishing permit limitations on a case-by-case basis under LAC 33:IX.3705, limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (for example, discharges of TSS from certain mining operations), and permit conditions ensure that dilution will not be used as a substitute for treatment.

2. Pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations.

G. Pollutants in Intake Water

1. Upon request of the discharger, technology-based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if:

a. the applicable effluent limitations and standards contained in 40 CFR Subchapter N (see LAC 33:IX.4903) specifically provide that they shall be applied on a net basis; or

b. the discharger demonstrates that the control system it proposes or uses to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters.

2. Credit for generic pollutants such as biochemical oxygen demand (BOD) or total suspended solids (TSS) should not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

3. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with permit limits.

4. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. The state administrative authority may waive this requirement if he finds that no environmental degradation will result.

5. This Section does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water.

H. Internal Waste Streams

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by LAC 33:IX.2707.I shall also be applied to the internal waste streams.

2. Limits on internal waste streams will be imposed only when the fact sheet under LAC 33:IX.3305 sets forth the exceptional circumstances which make such limitations necessary, such as when the final discharge point is inaccessible (for example, under 10 meters of water), the wastes at the point of discharge are so diluted as to make monitoring impracticable, or the interferences among pollutants at the point of discharge would make detection or analysis impracticable.

I. Disposal of Pollutants into Wells, into POTWs or by Land Application. Permit limitations and standards shall be calculated as provided in LAC 33:IX.2717.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554

(November 2000), LR 28:470 (March 2002), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:2168 (October 2007).

§2711. Duration of Permits

A. LPDES permits shall be effective for a fixed term not to exceed five years.

B. Except as provided in LAC 33:IX.2321, the term of a permit shall not be extended by modification beyond the maximum duration specified in this Section.

C. The state administrative authority may issue any permit for a duration that is less than the full allowable term under this Section.

D. A permit may be issued to expire on or after the statutory deadline set forth in CWA Section 301(b)(2)(A), (C), and (E) (July 1, 1984), if the permit includes effluent limitations to meet the requirements of Section 301(b)(2)(A), (C), (D), (E) and (F) of the CWA, whether or not applicable effluent limitations guidelines have been promulgated or approved.

E. A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under LAC 33:IX.2711.D is not conclusive as to the discharger's inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§2713. Schedules of Compliance

A. General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the CWA and regulations.

1. Time for Compliance. Any schedules of compliance under this Section shall require compliance as soon as possible, but not later than the applicable statutory deadline under the CWA.

2. The first LPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommencing dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.

3. Interim Dates. Except as provided in LAC 33:IX.2713.B.1.b, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

b. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

[NOTE: Examples of interim requirements include:

(a). Submit a complete Step 1 construction grant (for POTWs);
(b). let a contract for construction of required facilities;
(c). commence construction of required facilities;
(d). complete construction of required facilities.]

4. Reporting. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the state administrative authority in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if LAC 33:IX.2713.A.3.b is applicable.

B. Alternative Schedules of Compliance. An LPDES permit applicant or permittee may cease conducting regulated activities (by terminating of direct discharge for LPDES sources) rather than continuing to operate and meet permit requirements as follows.

1. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

a. the permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

b. the permittee shall cease conducting permitted activities before non-compliance with any interim or final compliance schedule requirement already specified in the permit.

2. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.

3. If the permittee is undecided whether to cease conducting regulated activities, the state administrative authority may issue or modify a permit to contain two schedules as follows:

a. both schedules shall contain an identical interim deadline requiring a final decision on whether to cease

conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

b. one schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline;

c. the second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline;

d. each permit containing two schedules shall include a requirement that after the permittee has made a final decision under LAC 33:IX.2713.B.3.a, it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

4. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the state administrative authority, such as a resolution of the board of directors of a corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004).

§2715. Requirements for Recording and Reporting of Monitoring Results

A. All permits shall specify:

1. requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

2. required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

3. applicable reporting requirements based upon the impact of the regulated activity and as specified in LAC 33:IX.2707. Reporting shall be no less frequent than specified in the above regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§2717. Disposal of Pollutants into Wells, Publicly Owned Treatment Works or by Land Application

A. When part of a discharger's process wastewater is not being discharged into waters of the state or contiguous zone because it is disposed into a well, into a POTW, or by land application thereby reducing the flow or level of pollutants being discharged into waters of the state, applicable effluent standards and limitations for the discharge in an LPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one of the following methods.

1. If none of the waste from a particular process is discharged into waters of the state, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards.

2. In all cases other than those described in LAC 33:IX.2717.A.1, effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into waters of the state, and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under LAC 33:IX.Chapter 43 to make them more or less stringent if discharges to wells, publicly owned treatment works, or by land application change the character or treatability of the pollutants being discharged to receiving waters. This method may be algebraically expressed as:

$$P = \frac{E \times N}{T}$$

where:

P = the permit effluent limitation,

E = the limitation derived by applying effluent guidelines to the total wastestream,

N = the wastewater flow to be treated and discharged to waters of the state, and

T = the total wastewater flow.

B. LAC 33:IX.2717.A does not apply to the extent that promulgated effluent limitations guidelines:

1. control concentrations of pollutants discharged but not mass; or

2. specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into POTWs.

C. LAC 33:IX.2717.A does not alter a discharger's obligation to meet any more stringent requirements established under LAC 33:IX.2701, 2703, 2705, and 2707.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945

(September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

Chapter 29. Transfer, Modification, Revocation and Reissuance, and Termination of LPDES Permits

§2901. Transfer of Permits

A. Transfers by Modification. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under LAC 33:IX.2903.A.2.b), or a minor modification has been made (under LAC 33:IX.2905 and in accordance with LAC 33:I.Chapter 19) to identify the new permittee and incorporate such other requirements as may be necessary under the CWA and the LEQA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:45 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005).

§2903. Modification or Revocation and Reissuance of Permits

A. When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2701), receives a request for modification or revocation and reissuance under LAC 33:IX.3105, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.3105.B, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.3105.B.2). If cause does not exist under this Section or LAC 33:IX.2905, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2905 for minor modifications, the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapters 31 and 33 followed.

1. Causes for Modification. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) that occurred after permit issuance that justify the application of permit conditions that are different or absent in the existing permit.

[NOTE: Certain reconstruction activities may cause the new source provisions of 40 CFR 122.29 to be applicable.]

b. Information. The state administrative authority has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For LPDES general permits (LAC 33:IX.2515) this cause includes any information indicating that cumulative effects on the environment are unacceptable. For new source or new discharger LPDES permits (LAC 33:IX.2501, 40 CFR 122.29), this cause shall include any significant information derived from effluent testing required under LAC 33:IX.2501.K.5.f or H.4.c after issuance of the permit.

c. New Regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

i. for promulgation of amended standards or regulations, when:

(a). the permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the secondary treatment regulations under LAC 33:IX.Chapter 59; and

(b). EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and

(c). a permittee requests modification in accordance with LAC 33:IX.3105 within 90 days after *Federal Register* notice of the action on which the request is based;

ii. for judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with LAC 33:IX.3105 within 90 days of judicial remand;

iii. for changes based upon modified state certifications of NPDES permits, see 40 CFR 124.55(b).

d. Compliance Schedules. The state administrative authority determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably

available remedy. However, in no case may an LPDES compliance schedule be modified to extend beyond an applicable CWA statutory deadline. See also LAC 33:IX.2905 (minor modifications) and Subparagraph A.1.n of this Section (LPDES innovative technology).

e. When the permittee has filed a request for a variance under CWA Section 301(c), 301(g), 301(h), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in LAC 33:IX.2501 or 40 CFR 125.72(a).

f. 307(a) Toxics. When required to incorporate an applicable CWA Section 307(a) toxic effluent standard or prohibition (see LAC 33:IX.2707.B).

g. Reopener. When required by the reopener conditions in a permit, which are established in the permit under LAC 33:IX.2707.C (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also LAC 33:IX.2707.B) or LAC 33:IX.6135.E (pretreatment program).

h.i. Net Limits. Upon request of a permittee who qualifies for effluent limitations on a net basis under LAC 33:IX.2709.G.

ii. When a discharger is no longer eligible for net limitations, as provided in LAC 33:IX.2709.G.1.b.

i. Pretreatment. As necessary under LAC 33:IX.6115.E (compliance schedule for development of pretreatment program).

j. Failure to Notify. Upon failure of an approved state to notify, as required by the CWA Section 402(b)(3), another state whose waters may be affected by a discharge from the approved state.

k. Non-Limited Pollutants. When the level of discharge of any pollutant that is not limited in the permit exceeds the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.3705.C.

l. Notification Levels. To establish a notification level as provided in LAC 33:IX.2707.F.

m. Compliance Schedules. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW that has received a grant under Section 202(a)(3) of the CWA for 100 percent of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the CWA. In no case shall the compliance schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.

n. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2523.B when:

i. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and

ii. the other entity fails to implement measure(s) that satisfy the requirement(s).

o. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

p. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under Section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline).

q. Nutrient Management Plans. The incorporation of the terms of a CAFO's nutrient management plan into the terms and conditions of a general permit when a CAFO obtains coverage under a general permit in accordance with LAC 33:IX.2505.H and 2515 is not a cause for modification pursuant to the requirements of this Section.

r. Land Application Plans. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

2. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

a. cause exists for termination under LAC 33:IX.2907 or 6509, and the state administrative authority determines that modification or revocation and reissuance is appropriate;

b. the state administrative authority has received notification in accordance with LAC 33:I.Chapter 19 (as required in the permit, see LAC 33:IX.2701.L.3) of a proposed transfer of the permit.

3. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 67, unless a waiver or exemption has been granted under R.S. 30:2075.2(A)(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:470 (March 2002), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 32:1033 (June 2006), LR 35:653 (April 2009).

§2905. Minor Modifications of Permits

A. Upon the consent of the permittee, the state administrative authority may modify a permit to make the corrections or allowances for changes in the permitted

activity listed in this Section, without following the procedures of LAC 33:IX.Chapters 31-35. Any permit modification not processed as a minor modification under this Section must be made for cause and with LAC 33:IX.Chapters 31-35 draft permit and public notice as required in LAC 33:IX.2903. Minor modifications may only:

1. correct typographical errors;

2. require more frequent monitoring or reporting by the permittee;

3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

4. allow for a change in ownership or operational control of a facility, in accordance with LAC 33:I.Chapter 19, where the state administrative authority determines that no other change in the permit is necessary;

5.a. change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under 40 CFR 122.29;

b. delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits;

6. Reserved.

7. incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in LAC 33:IX.6121 (or a modification thereto that has been approved in accordance with the procedures in LAC 33:IX.6135) as enforceable conditions of the POTW's permit; and

8. incorporate changes to the terms of a CAFO's nutrient management plan that have been revised in accordance with the requirements of LAC 33:IX.2703.E.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 35:654 (April 2009).

§2907. Termination of Permits

A. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

1. noncompliance by the permittee with any condition of the permit;

2. the permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

3. a determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

4. a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW); or

5. additional causes of termination contained in LAC 33:IX.6509.

B. The state administrative authority shall follow the applicable procedures in 40 CFR Part 124 or state procedures in terminating any LPDES permit under this Section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the state administrative authority may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the state administrative authority shall follow 40 CFR Part 124 or applicable state procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending state and/or federal enforcement actions, including citizen suits brought under state or federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002), repromulgated LR 30:231 (February 2004).

Chapter 31. General LPDES Program Requirements

§3101. Definitions

A. In addition to the definitions given in LAC 33:IX.2313 and 40 CFR 123.2 (LPDES) and 501.2 (sludge management), the definitions below apply to LAC 33:IX.Chapters 31-35.

Administrator—the administrator of the U.S. Environmental Protection Agency, or an authorized representative.

Application—the standard forms for applying for a permit, including any additions, revisions, or modifications to the forms or forms approved by EPA for use in approved states, including any approved modifications or revisions.

Appropriate Act and Regulations—the Clean Water Act (CWA) and applicable regulations promulgated under those statutes. In the case of an approved state program, appropriate Act and regulations includes program requirements.

CWA—the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.

Director—the EPA regional administrator, the state administrative authority or the tribal director as the context requires, or an authorized representative. When there is no approved state or tribal program, and there is an EPA administered program, Director means the EPA regional administrator. When there is an approved state or tribal program, director normally means the state administrative authority or tribal director. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved state or tribal program. (For example, when EPA has issued an NPDES permit prior to the approval of a state program, EPA may retain jurisdiction over that permit after program approval; see 40 CFR 123.1) In such cases, the term director means the EPA regional administrator and not the state administrative authority or tribal director.

Draft Permit—a document prepared under LAC 33:IX.3107 indicating the director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in LAC 33:IX.3105, are types of draft permits. A denial of a request for modification, revocation and reissuance or termination, as discussed in LAC 33:IX.3105, is not a draft permit. A proposed permit is not a draft permit.

EPA—the United States Environmental Protection Agency.

EPA Regional Administrator—the regional administrator of the appropriate regional office of the Environmental Protection Agency or the authorized representative of the EPA regional administrator.

Facility or Activity—any LPDES point source, or treatment works treating domestic sewage, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the LPDES program.

Federal Indian Reservation (in the case of NPDES)—all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

General Permit (LPDES)—an LPDES permit authorizing a category of discharges or activities under the LEQA within a geographical area.

Indian Tribe—for the NPDES program, the term Indian tribe means any Indian tribe, band, group, or community recognized by the secretary of the Interior and exercising governmental authority over a federal Indian reservation.

Interstate Agency—an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the appropriate Act and regulations.

Major Facility—any, LPDES facility or activity classified as such by the EPA regional administrator, or, in the case of approved state programs, the EPA regional administrator in conjunction with the state administrative authority.

NPDES—National Pollutant Discharge Elimination System.

Owner or Operator—owner or operator of any facility or activity subject to regulation under the LPDES program.

Permit—an authorization, license, or equivalent control document issued by EPA under NPDES or by the state under LPDES to implement the requirements of LAC 33:IX.Chapters 31 and 33 and LAC 33:IX.Chapters 23-29, 40 CFR 123. Permit includes NPDES or LPDES general permit. Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person—an individual, association, partnership, corporation, municipality, state, federal, or tribal agency, or an agency or employee thereof.

Schedule of Compliance—a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the appropriate Act and regulations.

Site—the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

State—any of the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth Northern Mariana Islands, or an Indian tribe that meets the statutory criteria which authorize EPA to treat the tribe in a manner similar to that in which it treats a state.

State Administrative Authority—the chief administrative officer of any state, interstate, or tribal agency operating an approved program, or the delegated representative of the state administrative authority.

B. For the purposes of LAC 33:IX.Chapters 31 and 33 the term:

*Director**—the state administrative authority or EPA regional administrator and is used when the accompanying provision is required of EPA-administered programs and of state programs under 40 CFR 123.25 (NPDES). The term *EPA regional administrator* is used when the accompanying

provision applies exclusively to EPA-issued permits and is not applicable to state programs under these Sections. While states are not required to implement these latter provisions, they are not precluded from doing so, notwithstanding use of the term EPA regional administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002), repromulgated LR 30:231 (February 2004).

§3103. Application for a Permit

A.1. Any person who requires a permit under the LPDES, program shall complete, sign, and submit to the *director** an application for each permit required under LAC 33:IX.2311. Applications are not required for LPDES general permits (LAC 33:IX.2515).

2. The *director** shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit (see LAC 33:IX.2501).

3. Permit applications must comply with the signature and certification requirements of LAC 33:IX.2503.

B. Reserved.

C. The state administrative authority shall review for completeness every application for a DEQ-issued permit. Each application for an DEQ-issued permit submitted by an existing LPDES source or sludge-only facility should be reviewed for completeness within 60 days of receipt. Upon completing the review, the state administrative authority shall notify the applicant in writing whether the application is complete. If the application is incomplete, the state administrative authority shall list the information necessary to make the application complete. When the application is for an existing LPDES source or sludge-only facility the state administrative authority shall specify in the notice of deficiency a date for submitting the necessary information. The state administrative authority shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the state administrative authority may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

D. If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision including CWA Sections 308, 309, 402(h), and 402(k).

E. If the state administrative authority decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date shall be scheduled.

F. The effective date of an application is the date on which the state administrative authority notifies the applicant that the application is complete as provided in LAC 33:IX.3103.C.

G. For each application from a major LPDES new source, major LPDES new discharger, or a permit to be issued under provisions of LAC 33:IX.2515.C, the state administrative authority shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the state administrative authority intends to:

1. prepare a draft permit;

2. give public notice;

3. complete the public comment period, including any public hearing; and

4. issue a final permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division LR 30:231 (February 2004).

§3105. Modification, Revocation and Reissuance, or Termination of Permits

A. Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the state administrative authority's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in LAC 33:IX.2903, 2907, or 6509. All requests shall be in writing and shall contain facts or reasons supporting the request.

B.1. If the state administrative authority tentatively decides to modify or revoke and reissue a permit under LAC 33:IX.2903, he or she shall prepare a draft permit under LAC 33:IX.3107 incorporating the proposed changes. The state administrative authority may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the state administrative authority shall require the submission of a new application.

2. In a permit modification under this Section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this Section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

3. Minor modifications as defined in LAC 33:IX.2905, are not subject to the requirements of this Section.

C.1. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2907.A or 6509 (for EPA-issued NPDES permits, only at the request of the permittee) or a permit under LAC 33:IX.2907.B (where the permittee objects), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit that follows the same procedures as any draft permit prepared under LAC 33:IX.3107.

2. In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the regional administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved state under 40 CFR 123.24(b)(1) (NPDES) or 40 CFR 501.14(b)(1) (*sludge*). In addition, termination of an NPDES permit for cause in accordance with LAC 33:IX.2907.B may be accomplished by providing written notice to the permittee, unless the permittee objects.

D. Any request by the permittee for modification to an existing 404 permit (other than a request for a minor modification as defined in 40 CFR 233.16 (404)) shall be treated as a permit application and shall be processed in accordance with all requirements of 40 CFR 124.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), LR 23:1524 (November 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002), repromulgated LR 30:231 (February 2004).

§3107. Draft Permits

A. Once an application is complete, the state administrative authority shall tentatively decide whether to prepare a draft permit or to deny the application.

B. If the state administrative authority tentatively decides to issue an LPDES general permit, he or she shall prepare a draft general permit under LAC 33:IX.3107.C.

C. If the state administrative authority decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:

1. all conditions under LAC 33:IX.2701 and 2705;

2. all compliance schedules under LAC 33:IX.2713;

3. all monitoring requirements under LAC 33:IX.2715; and

4. for LPDES permits, effluent limitations, standards, prohibitions, standards for sewage sludge use or disposal, and conditions under LAC 33:IX.2701, 2703, and 2707, including when applicable any conditions certified by a state agency under 40 CFR 124.55, and all variances that are to be included under 40 CFR 124.63.

D. All draft permits prepared by EPA under this Section shall be accompanied by a statement of basis (40 CFR 124.7) or fact sheet (40 CFR 124.8), and shall be based on the administrative record (40 CFR 124.9), publicly noticed (40 CFR 124.10) and made available for public comment (40 CFR 124.11). The EPA regional administrator shall give notice of opportunity for a public hearing (40 CFR 124.12), issue a final decision (40 CFR 124.15) and respond to comments (40 CFR 124.17). For NPDES permits, an appeal may be taken under 40 CFR 124.74. Draft permits prepared by a state shall be accompanied by a fact sheet if required under LAC 33:IX.3111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3109. Statement of Basis

A. The DEQ shall prepare a statement of basis for every draft permit for which a fact sheet under LAC 33:IX.3111 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3111. Fact Sheet

A. A fact sheet shall be prepared for every draft permit for a major LPDES facility or activity, for every LPDES general permit (LAC 33:IX.2515), for every LPDES draft permit that incorporates a variance or requires an explanation under LAC 33:IX.3305.C, for every draft permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), and for every draft permit which the state administrative authority finds is the subject of wide-spread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The state administrative authority shall send this fact sheet to the applicant and, on request, to any other person.

B. The fact sheet shall include, when applicable:

1. a brief description of the type of facility or activity which is the subject of the draft permit;

2. the type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

3. Reserved.

4. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references

to the administrative record required by 40 CFR 124.9 (for EPA-issued permits);

5. reasons why any requested variances or alternatives to required standards do or do not appear justified;

6. a description of the procedures for reaching a final decision on the draft permit including:

a. the beginning and ending dates of the comment period under LAC 33:IX.3113 and the address where comments will be received;

b. procedures for requesting a hearing and the nature of that hearing; and

c. any other procedures by which the public may participate in the final decision;

7. name and telephone number of a person to contact for additional information;

8. provisions satisfying the requirements of LAC 33:IX.3305;

9. additional requirements found in LAC 33:IX.6519; and

10. justification for waiver of any application requirements under LAC 33:IX:2501.J or Q.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2764 (December 2000), repromulgated LR 30:231 (February 2004).

§3113. Public Notice of Permit Actions and Public Comment Period

A. Scope

1. The state administrative authority shall give public notice that the following actions have occurred:

a. a draft permit has been prepared under LAC 33:IX.3107.C; or

b. a hearing has been scheduled under LAC 33:IX.3117.

2. No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. Written notice of that denial shall be given to the requester and to the permittee.

3. Public notices may describe more than one permit or permit actions.

B. Timing

1. Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under LAC 33:IX.3113.A shall allow at least 30 days for public comment. For EPA-issued permits, if the EPA regional administrator determines under 40 CFR Part 6, Subpart F that an Environmental Impact Statement (EIS) shall be prepared for an NPDES new source, public notice of the draft permit shall not be given until after a draft EIS is issued.

2. Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

C. Methods. Public notice of activities described in LAC 33:IX.3113.A.1 shall be given by the following methods:

1. by mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this Subsection may waive his or her rights to receive notice for any classes and categories of permits):

a. the applicant (except for LPDES general permits when there is no applicant);

b. any other agency which the state administrative authority knows has issued or is required to issue a RCRA, UIC, PSD (or other permit under the Clean Air Act), NPDES, 404, sludge management permit, or ocean dumping permit under the Marine Research Protection and Sanctuaries Act for the same facility or activity (including EPA when the draft permit is prepared by the state);

c. federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, including any affected states (Indian tribes);

d. for LPDES permits only, any state agency responsible for plan development under CWA Section 208(b)(2), 208(b)(4) or 303(e) and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;

e. for LPDES permits only, any user identified in the permit application of a privately owned treatment works;

f. Reserved.

g. Reserved.

h. Reserved.

i. persons on a mailing list developed by:

i. including those who request in writing to be on the list;

ii. soliciting persons for area lists from participants in past permit proceedings in that area; and

iii. notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals (The state administrative authority may update the mailing list from time to time by requesting written indication of continued interest from those listed. The state

administrative authority may delete from the list the name of any person who fails to respond to such a request.);

j.i. any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

ii. each state agency having any authority under state law with respect to the construction or operation of such facility;

2. for major permits, LPDES general permits, and permits that include sewage sludge land application plans under 40 CFR 501.15(a)(2)(ix), publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity; and for EPA-issued NPDES general permits, in the *Federal Register*;

[NOTE: The state administrative authority is encouraged to provide as much notice as possible of the LPDES draft general permit to the facilities or activities to be covered by the general permit.]

3. when the program is being administered by an approved state, in a manner constituting legal notice to the public under state law; and

4. any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

D. Contents

1. All Public Notices. All public notices issued under LAC 33:IX.Chapters 31-35 shall contain the following minimum information:

a. name and address of the DEQ division processing the permit action for which a notice is being given;

b. name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of LPDES draft general permits under LAC 33:IX.2515;

c. a brief description of the business conducted at the facility or activity described in the permit application or the draft permit, for LPDES general permits when there is no application;

d. name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application; and

e. a brief description of the comment procedures required by LAC 33:IX.3115 and 3117 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

f. for EPA-issued permits, the location of the administrative record required by 40 CFR 124.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record;

g. for LPDES permits only (including those for sludge-only facilities), a general description of the location of each existing or proposed discharge point, the name of the receiving water, the sludge use and disposal practice(s), the location of each sludge treatment works treating domestic sewage, and use or disposal sites known at the time of permit application. For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or has been prepared;

h. requirements applicable to cooling water intake structures in Section 316(b) of the CWA, in accordance with LAC 33:IX.Chapter 47.Subchapters A, B, and C; and

i. any additional information considered necessary or proper.

2. Public Notices for Hearings. In addition to the general public notice described in LAC 33:IX.3113.D.1, the public notice of a hearing under LAC 33:IX.3117 shall contain the following information:

a. reference to the date of previous public notices relating to the permit;

b. date, time, and place of the hearing; and

c. a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

E. In addition to the general public notice described in LAC 33:IX.3113.D.1, all persons identified in LAC 33:IX.3113.C.1.a-d shall be mailed a copy of the fact sheet or statement of basis (for EPA-issued permits), the permit application (if any) and the draft permit (if any).

F. Additional public notice requirements are found at LAC 33:IX.6521.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:473 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007).

§3115. Public Comments and Requests for Public Hearings

A. During the public comment period provided under LAC 33:IX.3113, any interested person may submit written comments to the Office of Environmental Services on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be

considered in making the final decision and shall be answered as provided in LAC 33:IX.3125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:2169 (October 2007).

§3117. Public Hearings

A.1. The state administrative authority shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s).

2. The state administrative authority may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

3. Reserved.

4. Public notice of the hearing shall be given as specified in LAC 33:IX.3113.

B. Any person may submit to the Office of Environmental Services oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under LAC 33:IX.3113 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:2169 (October 2007).

§3119. Obligation to Raise Issues and Provide Information during the Public Comment Period

A. All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the state administrative authority's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under LAC 33:IX.3113. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to DEQ as directed by the state administrative authority. (A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this Section. Additional time shall be granted under LAC 33:IX.3113 to the extent that a commenter who requests additional time demonstrates the need for such time.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3121. Reopening of the Public Comment Period

A.1. The state administrative authority may order the public comment period reopened if the procedures of this Subsection could expedite the decision making process. When the public comment period is reopened under this Paragraph, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the state administrative authority’s tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than 60 days after public notice under LAC 33:IX.3121.A.2, set by the state administrative authority. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than 20 days after the date set for filing of the material, set by the state administrative authority.

2. Public notice of any comment period under this Subsection shall identify the issues to which the requirements of LAC 33:IX.3121.A shall apply.

3. On his own motion or on the request of any person, the state administrative authority may direct that the requirements of LAC 33:IX.3121.A.1 shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of LAC 33:IX.3121.A.1 will substantially expedite the decisionmaking process. The notice of the draft permit shall state whenever this has been done.

4. A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this Section. Commenters may request longer comment periods and they shall be granted under LAC 33:IX.3113 to the extent they appear necessary.

B. If any data information or arguments submitted during the public comment period, including information or arguments required under LAC 33:IX.3119, appear to raise substantial new questions concerning a permit, the state administrative authority may take one or more of the following actions:

1. prepare a new draft permit, appropriately modified, under LAC 33:IX.3107;

2. prepare a revised statement of basis under LAC 33:IX.3109, a fact sheet or revised fact sheet under LAC 33:IX.3111 and reopen the comment period under LAC 33:IX.3121; or

3. reopen or extend the comment period under LAC 33:IX.3113 to give interested persons an opportunity to comment on the information or arguments submitted.

C. Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under LAC 33:IX.3113 shall define the scope of the reopening.

D. Public notice of any of the above actions shall be issued under LAC 33:IX.3113.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002), repromulgated LR 30:231 (February 2004).

§3123. Issuance and Effective Date of Permit

A. After the close of the public comment period under LAC 33:IX.3113 on a draft permit, the state administrative authority shall issue a final permit decision. The state administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on an LPDES permit. For the purposes of this Section a final permit decision means a final decision to issue, deny, modify, or revoke and reissue, or terminate a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002), repromulgated LR 30:231 (February 2004).

§3125. Response to Comments

A. At the time that any final permit decision is issued under LAC 33:IX.3123, the state administrative authority shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:

1. specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

2. briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

B. The response to comments shall be available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

Chapter 33. Specific Decisionmaking Procedures Applicable to LPDES Permits

§3301. Purpose and Scope

A. LAC 33:IX.Chapters 31-35 sets forth additional requirements and procedures for decision making for the LPDES program.

B. Decisions on LPDES variance requests ordinarily will be made during the permit issuance process. Variances and other changes in permit conditions ordinarily will be decided through the same notice-and-comment and hearing procedures as the basic permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3303. Permits Required on a Case-by-Case Basis

A. Various sections of LAC 33:IX.Chapter 25 allow the state administrative authority to determine, on a case-by-case basis, that certain concentrated animal feeding operations (LAC 33:IX.2505), concentrated aquatic animal production facilities (LAC 33:IX.2507), storm water discharges (LAC 33:IX.2511), and certain other facilities covered by general permits (LAC 33:IX.2515) that do not generally require an individual permit may be required to obtain an individual permit because of their contributions to water pollution.

B. Whenever the state administrative authority decides that an individual permit is required under this Section, except as provided in LAC 33:IX.3303.C, the state administrative authority shall notify the discharger in writing of that decision and the reasons for it, and shall send an application form with the notice. The discharger must apply for a permit under LAC 33:IX.2501 within 60 days of notice, unless permission for a later date is granted by the state administrative authority. The question whether the designation was proper will remain open for consideration during the public comment period under LAC 33:IX.3115 and in any subsequent hearing.

C. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this Section (see LAC 33:IX.2511.A.1.e, C.1.e, and G.1.a), the state administrative authority may require the discharger to submit a permit application or other information regarding the discharge under Section 308 of the CWA. In requiring such information, the state administrative

authority shall notify the discharger in writing and shall send an application form with the notice. The discharger must apply for a permit within 180 days of notice, unless permission for a later date is granted by the state administrative authority. The question whether the initial designation was proper will remain open for consideration during the public comment period under LAC 33:IX.3115 and in any subsequent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), repromulgated LR 30:231 (February 2004).

§3305. Fact Sheets

A. In addition to meeting the requirements of LAC 33:IX.3111, LPDES fact sheets shall contain:

1. any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions or standards for sewage sludge use or disposal, including a citation to the applicable effluent limitation guideline, performance standard, or standard for sewage sludge use or disposal as required by LAC 33:IX.3115 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;

2.a. when the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

i. limitations to control toxic pollutants under LAC 33:IX.2707.E;

ii. limitations on internal waste streams under LAC 33:IX.2709.I;

iii. limitations on indicator pollutants under LAC 33:IX.3705.G;

iv. limitations set on a case-by-case basis under LAC 33:IX.3705.C.2 or 3, or in accordance with Section 405(d)(4) of the CWA;

v. limitations to meet the criteria for permit issuance under LAC 33:IX.2317.A.9; or

vi. waivers from monitoring requirements granted under LAC 33:IX.2707.A;

b. for every permit to be issued to a treatment works owned by a person other than a state or municipality, an explanation of the state administrative authority's decision on regulation of users under LAC 33:IX.2707.M;

3. when appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application;

4. for EPA-issued NPDES permits, the requirements of any state certification under 40 CFR 124.53; and

5. for permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002), repromulgated LR 30:231 (February 2004).

§3307. Public Notice

A. CWA Section 316(a) Requests. In addition to the information required under LAC 33:IX.3113.D.1, public notice of an LPDES draft permit for a discharge where a CWA Section 316(a) request has been filed shall include:

1. a statement that the thermal component of the discharge is subject to effluent limitations under CWA Section 301 or 306 and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under CWA Section 301 or 306;

2. a statement that a CWA Section 316(a) request has been filed and that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under CWA Section 316(a) and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and

3. if the applicant has filed an early screening request under LAC 33:IX.4505 for a CWA Section 316(a) variance, a statement that the applicant has submitted such a plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3309. Conditions Requested by the Corps of Engineers and Other Government Agencies

A. If during the comment period for an LPDES draft permit, the district engineer advises the state administrative authority in writing that anchorage and navigation of any of the waters of the United States (see 40 CFR 122.2) would be substantially impaired by the granting of a permit, the permit shall be denied and the applicant so notified. If the District Engineer advised the state administrative authority that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the state administrative authority shall include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the District Engineer shall be made through the applicable procedures of the Corps of Engineers, and may not be made through the procedures provided in this LAC 33:IX.Chapters 31-35. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of

Engineers, those conditions shall be considered stayed in the LPDES permit for the duration of that stay.

B. If during the comment period the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any other state or federal agency with jurisdiction over fish, wildlife, or public health advises the state administrative authority in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the state administrative authority may include the specified conditions in the permit to the extent they are determined necessary to carry out the provisions of 40 CFR 122.49 and of the CWA and the LEQA.

C. In appropriate cases the state administrative authority may consult with one or more of the agencies referred to in this Section before issuing a draft permit and may reflect their views in the statement of basis, the fact sheet, or the draft permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3311. Decision on Variances

A. The state administrative authority may grant or deny requests for the following variances (subject to EPA objection under 40 CFR 123.44 for state permits):

1. extensions under CWA Section 301(i) based on delay in completion of a publicly owned treatment works;

2. after consultation with the EPA regional administrator, extensions under CWA Section 301(k) based on the use of innovative technology; or

3. variances under CWA Section 316(a) for thermal pollution.

B. The state administrative authority may deny, or forward to the EPA regional administrator with a written concurrence, or submit to EPA without recommendation a completed request for:

1. a variance based on the economic capability of the applicant under CWA Section 301(c);

2. a variance based on water quality related effluent limitations under CWA Section 302(b)(2).

C. The EPA regional administrator may deny, forward, or submit to the EPA office director for Water Enforcement and Permits with a recommendation for approval, a request for a variance listed in LAC 33:IX.3311.B that is forwarded by the state administrative authority, or that is submitted to the EPA regional administrator by the requester where EPA is the permitting authority.

D. The EPA office director for Water Enforcement and Permits may approve or deny any variance request submitted under LAC 33:IX.3311.C. If the office director approves the variance, the state administrative authority may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under 40 CFR 124.164.

E. The state administrative authority may deny or forward to the administrator (or his delegate) with a written concurrence a completed request for:

1. a variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline was based;

2. a variance based upon certain water quality factors under CWA Section 301(g).

F. The administrator (or his delegate) may grant or deny a request for a variance listed in LAC 33:IX.3311.E that is forwarded by the state administrative authority, or that is submitted to EPA by the requester where EPA is the permitting authority. If the Administrator (or his delegate) approves the variance, the state administrative authority or EPA regional administrator may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under 40 CFR 124.64.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3313. Special Procedures for Decisions on Thermal Variances under Section 316(a) of the CWA

A. The only issues connected with issuance of a particular permit on which DEQ will make a final agency decision before the final permit is issued under LAC 33:IX.3123 are whether alternative effluent limitations would be justified under CWA Section 316(a) and whether cooling water intake structures will use the best available technology under CWA Section 316(b). Permit applicants who wish an early decision on these issues should request it and furnish supporting reasons at the time their permit applications are filed under LAC 33:IX.2501. The state administrative authority will then decide whether or not to make an early decision. If it is granted, both the early decision on CWA Section 316 (a) or (b) issues and the grant of the balance of the permit shall be considered permit issuance under these regulations, and shall be subject to the same requirements of public notice and comment and the same opportunity for a hearing.

B. If the state administrative authority, on review of the administrative record, determines that the information necessary to decide whether or not the CWA Section 316(a) issue is not likely to be available in time for a decision on permit issuance, the state administrative authority may issue a permit under LAC 33:IX.3123 for a term up to five years. This permit shall require achievement of the effluent

limitations initially proposed for the thermal component of the discharge no later than the date otherwise required by law. However, the permit shall also afford the permittee an opportunity to file a demonstration under CWA Section 316(a) after conducting such studies as are required under LAC 33:IX.Chapter 45. A new discharger may not exceed the thermal effluent limitation which is initially proposed unless and until its CWA Section 316(a) variance request is finally approved.

C. Any proceeding held under LAC 33:IX.3313.A shall be publicly noticed as required by LAC 33:IX.3113 and shall be conducted at a time allowing the permittee to take necessary measures to meet the final compliance date in the event its request for modification of thermal limits is denied.

D. Whenever the state administrative authority defers the decision under CWA Section 316(a), any decision under Section CWA 316(b) may be deferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

Chapter 35. Evidentiary Hearings for LPDES Permits—Reserved

Chapter 37. Criteria and Standards for Technology-Based Treatment Requirements under Sections 301(b) and 402 of the Act

§3701. Purpose and Scope

A. This Chapter establishes criteria and standards for the imposition of technology-based treatment requirements in permits under Section 301(b) of the Act and/or the LEQA, including the application of promulgated effluent limitations and case-by-case determinations of effluent limitations under Section 402(a)(1) of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3703. Definitions

A. For the purposes of LAC 33:IX.Chapters 37-63, any reference to "the Act" shall mean the Clean Water Act (*CWA*) as defined in LAC 33:IX.2313 and the appropriate provisions of the LEQA and regulations. Unless otherwise noted, the definitions in LAC 33:IX.Chapters 23-35, and 40 CFR Part 123 apply to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3705. Technology-Based Treatment Requirements in Permits

A. General. Technology-based treatment requirements under Section 301(b) of the Act represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Act. (See LAC 33:IX.2701, 2703, and 2707 for a discussion of additional or more stringent effluent limitations and conditions.) Permits shall contain the following technology-based treatment requirements in accordance with the following statutory deadlines:

1. for POTWs, effluent limitations based upon:

a. secondary treatment—from date of permit issuance; and

b. the best practicable waste treatment technology—not later than July 1, 1983; and

2. for dischargers other than POTWs except as provided in 40 CFR 122.29(d), effluent limitations requiring:

a. the best practicable control technology currently available (BPT):

i. for effluent limitations promulgated under Section 304(b) of the Act after January 1, 1982 and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under Section 304(b) of the Act and in no case later than March 21, 1989;

ii. for effluent limitations established on a case-by-case basis based on best professional judgment (BPJ) under Section 402(a)(1)(B) of the Act in a permit issued after February 4, 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established and in no case later than March 31, 1989;

iii. for all other BPT effluent limitations compliance is required from the date of permit issuance;

b. for conventional pollutants, the best conventional pollutant control technology (BCT):

i. for effluent limitations promulgated under Section 304(b) of the Act, as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under Section 304(b) of the Act, and in no case later than March 31, 1989;

ii. for effluent limitations established on a case-by-case (BPJ) basis under Section 402(a)(1)(B) of the Act in a permit issued after February 4, 1987, compliance as expeditiously as practicable but in no case later than three

years after the date such limitations are established and in no case later than March 31, 1989;

c. for all toxic pollutants referred to in Committee Print No. 95-30, House Committee on Public Works and Transportation, the best available technology economically achievable (BAT):

i. for effluent limitations established under Section 304(b) of the Act, as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under Section 304(b) of the Act, and in no case later than March 31, 1989;

ii. for permits issued on a case-by-case (BPJ) basis under Section 402(a)(1)(B) of the Act after February 4, 1987 establishing BAT effluent limitations, compliance is required as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under Section 304(b) of the Act, and in no case later than March 31, 1989;

d. for all toxic pollutants other than those listed in Committee Print No. 95-30, effluent limitations based on BAT:

i. for effluent limitations promulgated under Section 304(b) of the Act compliance is required as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under Section 304(b) of the Act and in no case later than March 31, 1989;

ii. for permits issued on a case-by-case (BPJ) basis under Section 402(a)(1)(B) of the Act after February 4, 1987 establishing BAT effluent limitations, compliance is required as expeditiously as practicable but in no case later than 3 years after the date such limitations are established and in no case later than March 31, 1989;

e. for all pollutants which are neither toxic nor conventional pollutants, effluent limitations based on BAT:

i. for effluent limitations promulgated under Section 304(b) of the Act, compliance is required as expeditiously as practicable but in no case later than three years after the date such limitations are established and in no case later than March 31, 1989;

ii. for permits issued on a case-by-case (BPJ) basis under Section 402(a)(1)(B) of the Act after February 4, 1987 establishing BAT effluent limitations compliance is required as expeditiously as practicable but in no case later than three years after the date such limitations are established and in no case later than March 31, 1989.

B. Statutory Variances and Extensions

1. The following variances from technology-based treatment requirements are authorized by the Act and may be applied for under LAC 33:IX.2501:

a. for POTWs, a Section 301(h) of the Act marine discharge variance from secondary treatment (40 CFR 125, Subpart G);

b. for dischargers other than POTWs:

i. a Section 301(c) of the Act economic variance from BAT (40 CFR Part 125, Subpart E);

ii. a Section 301(g) of the Act water quality related variance from BAT (40 CFR Part 125, Subpart F); and

iii. a Section 316(a) of the Act thermal variance from BPT, BCT and BAT (LAC 33:IX.Chapter 51—Reserved).

2. The following extensions of deadlines for compliance with technology-based treatment requirements are authorized by the Act and may be applied for under 40 CFR 124.53:

a. for POTWs a Section 301(i) of the Act extension of the secondary treatment deadline (LAC 33:IX.Chapter 51—Reserved);

b. for dischargers other than POTWs:

i. a Section 301(i) of the Act extension of the BPT deadline (LAC 33:IX.Chapter 51—Reserved); and

ii. a Section 301(k) of the Act extension of the BAT deadline (LAC 33:IX.Chapter 41—Reserved).

C. Methods of Imposing Technology-Based Treatment Requirements in Permits. Technology-based treatment requirements may be imposed through one of the following three methods.

1. Application of promulgated effluent limitations developed under Section 304 of the Act to dischargers by category or subcategory. These effluent limitations are not applicable to the extent that they have been remanded or withdrawn. However, in the case of a court remand, determinations underlying effluent limitations shall be binding in permit issuance proceedings where those determinations are not required to be reexamined by a court remanding the regulations. In addition, dischargers may seek fundamentally different factors variances from these effluent limitations under LAC 33:IX.2501 and Chapter 43.

2. On a case-by-case basis under Section 402(a)(1) of the Act, to the extent that promulgated effluent limitations are inapplicable. The permit writer shall apply the appropriate factors listed in LAC 33:IX.3705.D and shall consider:

a. the appropriate technology for the category or class of point sources of which the applicant is a member, based upon all available information; and

b. any unique factors relating to the applicant.

[Comment: These factors must be considered in all cases, regardless of whether the permit is being issued by EPA or an approved state.]

3. Through a combination of the methods in LAC 33:IX.3705.D.1 and 2. Where promulgated effluent limitations guidelines only apply to certain aspects of the discharger's operation, or to certain pollutants, other aspects

or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of the Act.

4. Limitations developed under LAC 33:IX.3705.D.2 may be expressed, where appropriate, in terms of toxicity (e.g., "the LC50 for fat head minnow of the effluent from outfall 001 shall be greater than 25 percent") provided that it is shown that the limits reflect the appropriate requirements (for example, technology-based or water-quality-based standards) of the Act.

D. In setting case-by-case limitations pursuant to LAC 33:IX.3705.C, the permit writer must consider the following factors:

1. for BPT requirements:

a. the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application;

b. the age of equipment and facilities involved;

c. the process employed;

d. the engineering aspects of the application of various types of control techniques;

e. process changes; and

f. non-water quality environmental impact (including energy requirements);

2. for BCT requirements:

a. the reasonableness of the relationship between the costs of attaining a reduction in effluent and the effluent reduction benefits derived;

b. the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources;

c. the age of equipment and facilities involved;

d. the process employed;

e. the engineering aspects of the application of various types of control techniques;

f. process changes; and

g. non-water quality environmental impact (including energy requirements);

3. for BAT requirements:

a. the age of equipment and facilities involved;

b. the process employed;

c. the engineering aspects of the application of various types of control techniques;

d. process changes;

e. the cost of achieving such effluent reduction; and

f. non-water quality environmental impact (including energy requirements).

E. Technology-based treatment requirements are applied prior to or at the point of discharge.

F. Technology-based treatment requirements cannot be satisfied through the use of non-treatment techniques such as flow augmentation and in-stream mechanical aerators. However, these techniques may be considered as a method of achieving water quality standards on a case-by-case basis when:

1. the technology-based treatment requirements applicable to the discharge are not sufficient to achieve the standards;

2. the discharger agrees to waive any opportunity to request a variance under Section 301(c), (g) or (h) of the Act; and

3. the discharger demonstrates that such a technique is the preferred environmental and economic method to achieve the standards after consideration of alternatives such as advanced waste treatment, recycle and reuse, land disposal, changes in operating methods, and other available methods.

G. Technology-based effluent limitations shall be established under this Chapter for solids, sludges, filter backwash, and other pollutants removed in the course of treatment or control of wastewaters in the same manner as for other pollutants.

H.1. The state administrative authority may set a permit limit for a conventional pollutant at a level more stringent than the best conventional pollution control technology (BCT), or a limit for a nonconventional pollutant which shall not be subject to modification under Section 301(c) or (g) of the Act where:

a. effluent limitations guidelines specify the pollutant as an indicator for a toxic pollutant; or

b.i. the limitation reflects BAT-level control of discharges of one or more toxic pollutants which are present in the waste stream, and a specific BAT limitation upon the toxic pollutant(s) is not feasible for economic or technical reasons;

ii. the permit identifies which toxic pollutants are intended to be controlled by use of the limitation; and

iii. the fact sheet required by LAC 33:IX.3305 sets forth the basis for the limitation, including a finding that compliance with the limitation will result in BAT-level control of the toxic pollutant discharges identified in LAC 33:IX.3705.G.1.b.ii, and a finding that it would be economically or technically infeasible to directly limit the toxic pollutant(s).

2. The state administrative authority may set a permit limit for a conventional pollutant at a level more stringent than BCT when:

a. effluent limitations guidelines specify the pollutant as an indicator for a hazardous substance; or

b.i. the limitation reflects BAT-level control of discharges (or an appropriate level determined under Section 301(c) or (g) of the Act) of one or more hazardous substance(s) which are present in the waste stream, and a specific BAT (or other appropriate) limitation upon the hazardous substance(s) is not feasible for economic or technical reasons;

ii. the permit identifies which hazardous substances are intended to be controlled by use of the limitation; and

iii. the fact sheet required by LAC 33:IX.3305 sets forth the basis for the limitation, including a finding that compliance with the limitations will result in BAT-level (or other appropriate level) control of the hazardous substances discharges identified in LAC 33:IX.3705.H.2.b.ii, and a finding that it would be economically or technically infeasible to directly limit the hazardous substance(s).

c. Hazardous substances which are also toxic pollutants are subject to LAC 33:IX.3305.H.1.

3. The state administrative authority may not set a more stringent limit under the preceding paragraphs if the method of treatment required to comply with the limit differs from that which would be required if the toxic pollutant(s) or hazardous substance(s) controlled by the limit were limited directly.

4. Toxic pollutants identified under LAC 33:IX.3305.H.1 remain subject to the requirements of LAC 33:IX.2703.A.1 (notification of increased discharges of toxic pollutants above levels reported in the application form).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

Chapter 39. Criteria for Issuance of LPDES Permits to Aquaculture Projects

§3901. Purpose and Scope

A. These regulations establish guidelines under Sections 318 and 402 of the Act for approval of any discharge of pollutants associated with an aquaculture project.

B. The regulations authorize, on a selective basis, controlled discharges which would otherwise be unlawful under the Act in order to determine the feasibility of using pollutants to grow aquatic organisms which can be harvested and used beneficially. DEQ policy is to encourage such projects, while at the same time protecting other beneficial uses of the waters.

C. Permits issued for discharges into aquaculture projects under this Chapter are LPDES permits and are subject to the applicable requirements of LAC 33:IX.Chapters 23-35 and 40 CFR 123. Any permit shall include such conditions (including monitoring and reporting requirements) as are necessary to comply with those parts. Technology-based effluent limitations need not be applied to discharges into the approved project except with respect to toxic pollutants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§3903. Criteria

A. No LPDES permit shall be issued to an aquaculture project unless:

1. the state administrative authority determines that the aquaculture project:

a. is intended by the project operator to produce a crop which has significant direct or indirect commercial value (or is intended to be operated for research into possible production of such a crop); and

b. does not occupy a designated project area which is larger than can be economically operated for the crop under cultivation or than is necessary for research purposes;

2. the applicant has demonstrated, to the satisfaction of the state administrative authority, that the use of the pollutant to be discharged to the aquaculture project will result in an increased harvest of organisms under culture over what would naturally occur in the area;

3. the applicant has demonstrated, to the satisfaction of the state administrative authority, that if the species to be cultivated in the aquaculture project is not indigenous to the immediate geographical area, there will be minimal adverse effects on the flora and fauna indigenous to the area, and the total commercial value of the introduced species is at least equal to that of the displaced or affected indigenous flora and fauna;

4. the state administrative authority determines that the crop will not have a significant potential for human health hazards resulting from its consumption;

5. the state administrative authority determines that migration of pollutants from the designated project area to water outside of the aquaculture project will not cause or contribute to a violation of water quality standards or a violation of the applicable standards and limitations applicable to the supplier of the pollutant that would govern if the aquaculture project were itself a point source. The approval of an aquaculture project shall not result in the enlargement of a pre-existing mixing zone area beyond what had been designated by the State for the original discharge.

B. No permit shall be issued for any aquaculture project in conflict with a plan or an amendment to a plan approved under Section 208(b) of the Act.

C. No permit shall be issued for any aquaculture project located in the territorial sea, the waters of the contiguous zone, or the oceans, except in conformity with guidelines issued under Section 403(c) of the Act.

D. Designated project areas shall not include a portion of a body of water large enough to expose a substantial portion of the indigenous biota to the conditions within the designated project area. For example, the designated project area shall not include the entire width of a watercourse, since all organisms indigenous to that watercourse might be subjected to discharges of pollutants that would, except for the provisions of Section 318 of the Act, violate Section 301 of the Act.

E. Any modifications caused by the construction or creation of a reef, barrier or containment structure shall not unduly alter the tidal regimen of an estuary or interfere with migrations of unconfined aquatic species.

[Comment: Any modifications described in this paragraph which result in the discharge of dredged or fill material into navigable waters may be subject to the permit requirements of Section 404 of the Act.]

F. Any pollutants not required by or beneficial to the aquaculture crop shall not exceed applicable standards and limitations when entering the designated project area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

Chapter 41. Criteria for Extending Compliance Dates for Facilities Installing Innovative Technology under Section 301(k) of the Act—Reserved

Chapter 43. Criteria and Standards for Determining Fundamentally Different Factors under Sections 301(b)(1)(A) 301(b)(2)(A) and (E) of the Act

§4301. Purpose and Scope

A. This Chapter establishes the criteria and standards to be used in determining whether effluent limitations alternative to those required by promulgated EPA effluent limitations guidelines under Sections 301 and 304 of the Act (hereinafter referred to as "national limits") should be imposed on a discharger because factors relating to the discharger's facilities, equipment, processes or other factors related to the discharger are fundamentally different from the factors considered by EPA in development of the national limits. This Chapter applies to all national limitations promulgated under Sections 301 and 304 of the Act, except for the BPT limits contained in 40 CFR 423.12 (steam electric generating point source category).

B. In establishing national limits, EPA takes into account all the information it can collect, develop and solicit regarding the factors listed in Sections 304(b) and 304(g) of the Act. In some cases, however, data which could affect these national limits as they apply to a particular discharge may not be available or may not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the national limits, and make them either more or less stringent as they apply to certain dischargers within an industrial category or subcategory. This will only be done if data specific to that discharger indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to a discharger's facilities, equipment, processes or other facilities related to the discharger are fundamentally different from the factors considered during development of the national limits may request a fundamentally different factors variance under 40 CFR 122.21(l)(1). In addition, such a variance may be proposed by the Director in the draft permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§4303. Criteria

A. A request for the establishment of effluent limitations under this Chapter (fundamentally different factors variance) shall be approved only if:

1. there is an applicable national limit which is applied in the permit and specifically controls the pollutant for which alternative effluent limitations or standards have been requested; and

2. factors relating to the discharge controlled by the permit are fundamentally different from those considered by EPA in establishing the national limits; and

3. the request for alternative effluent limitations or standards is made in accordance with the procedural requirements of LAC 33:IX.Chapters 31-35.

B. A request for the establishment of effluent limitations less stringent than those required by national limits guidelines shall be approved only if:

1. the alternative effluent limitation or standard requested is no less stringent than justified by the fundamental difference; and

2. the alternative effluent limitation or standard will ensure compliance with Sections 208(e) and 301(b)(1)(C) of the Act; and

3. compliance with the national limits (either by using the technologies upon which the national limits are based or by other control alternatives) would result in:

a. a removal cost wholly out of proportion to the removal cost considered during development of the national limits; or

b. a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits.

C. A request for alternative limits more stringent than required by national limits shall be approved only if:

1. the alternative effluent limitation or standard requested is no more stringent than justified by the fundamental difference; and

2. compliance with the alternative effluent limitation or standard would not result in:

a. a removal cost wholly out of proportion to the removal cost considered during development of the national limits; or

b. a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits.

D. Factors which may be considered fundamentally different are:

1. the nature or quality of pollutants contained in the raw waste load of the applicant's process wastewater;

[Comment:

(1). In determining whether factors concerning the discharger are fundamentally different, EPA will consider, where relevant, the applicable development document for the national limits, associated technical and economic data collected for use in developing each respective national limit, records of legal proceedings, and written and printed documentation including records of communication, etc., relevant to the development of respective national limits which are kept on public file by EPA.

(2). Waste stream(s) associated with a discharger's process wastewater which were not considered in the development of the national limits will not ordinarily be treated as fundamentally different under LAC 33:IX.4303.A. Instead, national limits should be applied to the other streams, and the unique stream(s) should be subject to limitations based on Section 402(a)(1) of the Act. See LAC 33:IX.3705.C.2.]

2. the volume of the discharger's process wastewater and effluent discharged;

3. non-water quality environmental impact of control and treatment of the discharger's raw waste load;

4. energy requirements of the application of control and treatment technology;

5. age, size, land availability, and configuration as they relate to the discharger's equipment or facilities; processes employed; process changes; and engineering aspects of the application of control technology;

6. cost of compliance with required control technology.

E. A variance request or portion of such a request under this Section shall not be granted on any of the following grounds:

1. the infeasibility of installing the required waste treatment equipment within the time the Act allows;

[Comment: Under this Section a variance request may be approved if it is based on factors which relate to the discharger's ability ultimately to achieve national limits but not if it is based on factors which merely affect the discharger's ability to meet the statutory deadlines of Sections 301 and 307 of the Act such as labor difficulties, construction schedules, or unavailability of equipment.]

2. the assertion that the national limits cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factor(s) listed in LAC 33:IX.4303.D;

[Comment: Review of the administrator's action in promulgating national limits is available only through the judicial review procedures set forth in Section 509(b) of the Act.]

3. the discharger's ability to pay for the required waste treatment; or

4. the impact of a discharge on local receiving water quality.

F. Nothing in this Section shall be construed to impair the right of the state or any locality under Section 510 of the Act to impose more stringent limitations than those required by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:1524 (November 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§4305. Method of Application

A. Written request for a variance under this Chapter shall be submitted in duplicate to the state administrative authority in accordance with LAC 33:IX.2501.L.1 and LAC 33:IX.3103.

B. The burden is on the person requesting the variance to explain that:

1. factor(s) listed in LAC 33:IX.4303.B regarding the discharger's facility are fundamentally different from the factors EPA considered in establishing the national limits. The requester should refer to all relevant material and information, such as the published guideline regulations development document, all associated technical and economic data collected for use in developing each national limit, all records of legal proceedings, and all written and printed documentation including records of communication, etc., relevant to the regulations which are kept on public file by the EPA;

2. the alternative limitations requested are justified by the fundamental difference alleged in LAC 33:IX.4303; and

3. the appropriate requirements of LAC 33:IX.4301.B have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002), repromulgated LR 30:231 (February 2004).

Chapter 45. Criteria for Determining Alternative Effluent Limitations under Section 316(a) of the Act

§4501. Purpose and Scope

A. Section 316(a) of the Act provides that:

> "With respect to any point source otherwise subject to the provisions of Section 301 or Section 306 of this Act, whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the projection [sic] and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose an effluent limitation under such sections on such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on that body of water."

B. This Chapter describes the factors, criteria and standards for the establishment of alternative thermal effluent limitations under Section 316(a) of the Act in permits issued under Section 402(a) of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§4503. Definitions

A. For the purpose of this Chapter:

Alternative Effluent Limitations—all effluent limitations or standards of performance for the control of the thermal component of any discharge which are established under Section 316(a) of the Act and this Chapter.

Balanced, Indigenous Community—is synonymous with the term *balanced, indigenous population* in the Act and means a biotic community typically characterized by diversity, the capacity to sustain itself through cyclic seasonal changes, presence of necessary food chain species and by a lack of domination by pollution tolerant species. Such a community may include historically non-native species introduced in connection with a program of wildlife management and species whose presence or abundance results from substantial, irreversible environmental modifications. Normally, however, such a community will not include species whose presence or abundance is attributable to the introduction of pollutants that will be eliminated by compliance by all sources with Section 301(b)(2) of the Act; and may not include species whose presence or abundance is attributable to alternative effluent limitations imposed pursuant to Section 316(a) of the Act.

Representative Important Species—species which are representative, in terms of their biological needs, of a balanced, indigenous community of shellfish, fish and wildlife in the body of water into which a discharge of heat is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

§4505. Early Screening of Applications for Section 316(a) of the Act Variances

A. Any initial application for a Section 316(a) of the Act variance shall include the following early screening information:

1. a description of the alternative effluent limitation requested;

2. a general description of the method by which the discharger proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are more stringent than necessary;

3. a general description of the type of data, studies, experiments and other information which the discharger intends to submit for the demonstration; and

4. such data and information as may be available to assist the state administrative authority in selecting the appropriate representative important species.

B. After submitting the early screening information under Subsection A of this Section, the discharger shall consult with the state administrative authority at the earliest practicable time (but not later than 30 days after the application is filed) to discuss the discharger's early screening information. Within 60 days after the application is filed, the discharger shall submit to the Office of Environmental Services, for approval, a detailed plan of study that the discharger will undertake to support its Section 316(a) of the Act demonstration. The discharger shall specify the nature and extent of the following type of information to be included in the plan of study: biological, hydrographical and meteorological data; physical monitoring data; engineering or diffusion models; laboratory studies; representative important species; and other relevant information. In selecting representative important species, special consideration shall be given to species mentioned in

applicable water quality standards. After the discharger submits its detailed plan of study, the state administrative authority shall either approve the plan or specify any necessary revisions to the plan. The discharger shall provide any additional information or studies that the state administrative authority subsequently determines necessary to support the demonstration, including such studies or inspections as may be necessary to select representative important species. The discharger may provide any additional information or studies that the discharger feels are appropriate to support the demonstration.

C. Any application for the renewal of a Section 316(a) of the Act variance shall include only such information described in LAC 33:IX.4505.A and B as the state administrative authority requests within 60 days after receipt of the permit application.

D. The state administrative authority shall promptly notify the secretary of commerce and the secretary of the interior, and any affected state of the filing of the request and shall consider any timely recommendations they submit.

E. In making the demonstration the discharger shall consider any information or guidance published by EPA or DEQ to assist in making such demonstrations.

F. If an applicant desires a ruling on a Section 316(a) of the Act application before the ruling on any other necessary permit terms and conditions, it shall so request upon filing its application under LAC 33:IX.4505.A. This request shall be granted or denied at the discretion of the state administrative authority.

[NOTE: At the expiration of the permit, any discharger holding a Section 316(a) of the Act variance should be prepared to support the continuation of the variance with studies based on the discharger's actual operation experience.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005), LR 33:2169 (October 2007).

§4507. Criteria and Standards for the Determination of Alternative Effluent Limitations under Section 316(a) of the Act

A. Thermal discharge effluent limitations or standards established in permits may be less stringent than those required by applicable standards and limitations if the discharger demonstrates to the satisfaction of the state administrative authority that such effluent limitations are more stringent than necessary to assure the protection and propagation of a balanced, indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge is made. This demonstration must show that the alternative effluent limitation desired by the discharger, considering the cumulative impact of its thermal discharge together with all other significant impacts on the species affected, will assure the protection and propagation of a balanced indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made.

B. In determining whether or not the protection and propagation of the affected species will be assured, the state administrative authority may consider any information contained or referenced in any applicable thermal water quality criteria and thermal water quality information published by the administrator under Section 304(a) of the Act, or any other information he deems relevant.

C.1. Existing dischargers may base their demonstration upon the absence of prior appreciable harm in lieu of predictive studies. Any such demonstrations shall show:

a. that no appreciable harm has resulted from the normal component of the discharge taking into account the interaction of such thermal component with other pollutants and the additive effect of other thermal sources to a balanced, indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge has been made; or

b. that despite the occurrence of such previous harm, the desired alternative effluent limitations (or appropriate modifications thereof) will nevertheless assure the protection and propagation of a balanced, indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge is made.

2. In determining whether or not prior appreciable harm has occurred, the state administrative authority shall consider the length of time in which the applicant has been discharging and the nature of the discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:231 (February 2004).

Chapter 47. Criteria Applicable to Cooling Water Intake Structures under Section 316(b) of the Clean Water Act

[NOTE: This Chapter is written in a special format to make it easier to understand the regulatory requirements. Like other department and USEPA regulations, this establishes enforceable legal requirements. For this Chapter, *I* and *you* refer to the owner/operator.]

Subchapter A. Requirements Applicable to Cooling Water Intake Structures for New Facilities under Section 316(b) of the Act

§4701. What are the purpose and scope of this Subchapter?

A. This Subchapter establishes requirements that apply to the location, design, construction, and capacity of cooling water intake structures at new facilities. The purpose of these requirements is to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structures. These requirements are implemented through LPDES permits issued in accordance with Section 402 of the CWA, under the assumption of the NPDES program.

B. This Subchapter implements Section 316(b) of the CWA for new facilities. Section 316(b) of the CWA provides that any standard established in accordance with Section 301 or 306 of the CWA and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

C. New facilities that do not meet the threshold requirements regarding amount of water withdrawn or percentage of water withdrawn for cooling water purposes in LAC 33:IX.4703.A must meet requirements determined on a case-by-case, best professional judgment (BPJ) basis.

D. Nothing in this Subchapter shall be construed to preclude or deny the right of any state or political subdivision of a state or any interstate agency under Section 510 of the CWA to adopt or enforce any requirement with respect to control or abatement of pollution that is more stringent than those required by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1767 (August 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005).

§4703. Who is subject to this Subchapter?

A. This Subchapter applies to a new facility if it:

1. is a point source that uses or proposes to use a cooling water intake structure;

2. has at least one cooling water intake structure that uses at least 25 percent of the water it withdraws for cooling purposes as specified in Subsection C of this Section; and

3. has a design intake flow greater than 2 million gallons per day (MGD).

B. Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with an independent supplier (or multiple suppliers) of cooling water if the supplier or suppliers withdraw(s) water from waters of the state. Use of cooling water does not include obtaining cooling water from a public water system or the use of treated effluent that otherwise would be discharged to a water of the state. This provision is intended to prevent circumvention of these requirements by creating arrangements to receive cooling water from an entity that is not itself a point source.

C. The threshold requirement that at least 25 percent of water withdrawn be used for cooling purposes must be measured on an average monthly basis. A new facility meets the 25 percent cooling water threshold if, based on the new facility's design, any monthly average over a year for the percentage of cooling water withdrawn is expected to equal or exceed 25 percent of the total water withdrawn.

D. This Subchapter does not apply to facilities that employ cooling water intake structures in the offshore and coastal subcategories of the oil and gas extraction point source category, as defined under 40 CFR 435.10 and 40 CFR 435.40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1767 (August 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:427 (February 2005).

§4705. When must I comply with this Subchapter?

A. You must comply with this Subchapter when an LPDES permit containing requirements consistent with this Subchapter is issued to you.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1768 (August 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:427 (February 2005).

§4707. What special definitions apply to this Subchapter?

Annual Mean Flow—the average of daily flows over a calendar year. Historical data (up to 10 years) must be used where available.

Closed-Cycle Recirculating System—a system designed, using minimized makeup and blowdown flows, to withdraw water from a natural or other water source to support contact and/or noncontact cooling uses within a facility. The water is usually sent to a cooling canal or channel, lake, pond, or tower to allow waste heat to be dissipated to the atmosphere and then is returned to the system. (Some facilities divert the waste heat to other process operations.) New source water (makeup water) is added to the system to replenish losses that have occurred due to blowdown, drift, and evaporation.

Cooling Water—water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to

absorb waste heat rejected from the process or processes used or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process, either before or after it is used for cooling, is considered process water for the purposes of calculating the percentage of a new facility's intake flow that is used for cooling purposes in LAC 33:IX.4713.C.

Cooling Water Intake Structure—the total physical structure and any associated constructed waterways used to withdraw cooling water from waters of the state. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.

Design Intake Flow—the value assigned (during the facility's design) to the total volume of water withdrawn from a source water body over a specific time period.

Design Intake Velocity—the value assigned (during the design of a cooling water intake structure) to the average speed at which intake water passes through the open area of the intake screen (or other device) against which organisms might be impinged or through which they might be entrained.

Entrainment—the incorporation of all life stages of fish and shellfish with intake water flow entering and passing through a cooling water intake structure and into a cooling water system.

Estuary—a semi-enclosed body of water that has a free connection with open seas and within which the seawater is measurably diluted with fresh water derived from land drainage. The salinity of an estuary exceeds 0.5 parts per thousand (by mass), but is typically less than 30 parts per thousand (by mass).

Existing Facility—any facility that is not a new facility.

Freshwater River or Stream—a lotic (free-flowing) system that does not receive significant inflows of water from oceans or bays due to tidal action. For the purposes of these regulations, a flow-through reservoir with a retention time of seven days or less will be considered a freshwater river or stream.

Hydraulic Zone of Influence—that portion of the source water body hydraulically affected by the cooling water intake structure withdrawal of water.

Impingement—the entrapment of all life stages of fish and shellfish on the outer part of an intake structure or against a screening device during periods of intake water withdrawal.

Lake or *Reservoir*—any inland body of open water with some minimum surface area free of rooted vegetation and with an average hydraulic retention time of more than seven days. Lakes or reservoirs might be natural water bodies or impounded streams, usually fresh, surrounded by land or by land and a manmade retainer (e.g., a dam). Lakes or reservoirs might be fed by rivers, streams, springs, and/or local precipitation. Flow-through reservoirs with an average hydraulic retention time of seven days or less should be considered a freshwater river or stream.

Maximize—to increase to the greatest amount, extent, or degree reasonably possible.

Minimize—to reduce to the smallest amount, extent, or degree reasonably possible.

Natural Thermal Stratification—the naturally-occurring division of a water body into horizontal layers of differing densities as a result of variations in temperature at different depths.

New Facility—any building, structure, facility, or installation that meets the definition of a *new source* or *new discharger* in 40 CFR 122.29(b)(1), (2), and (4) and LAC 33:IX.2313 and is a *greenfield* or *stand-alone facility* (as defined below), commences construction after January 17, 2002, and uses either a newly constructed cooling water intake structure or an existing cooling water intake structure whose design capacity is increased to accommodate the intake of additional cooling water. New facilities include only greenfield and stand-alone facilities. A *greenfield facility* is a facility that is constructed at a site at which no other source is located or that totally replaces the process or production equipment at an existing facility [see 40 CFR 122.29(b)(1)(i) and (ii)]. A *stand-alone facility* is a new, separate facility that is constructed on property where an existing facility is located and whose processes are substantially independent of the existing facility at the same site [see 40 CFR 122.29(b)(1)(iii)]. New facility does not include new units that are added to a facility for purposes of the same general industrial operation (e.g., a new peaking unit at an electrical generating station).

1. Examples of *new facilities* include, but are not limited to, the following scenarios.

a. A new facility is constructed on a site that has never been used for industrial or commercial activity. It has a new cooling water intake structure for its own use.

b. A facility is demolished and another facility is constructed in its place. The newly-constructed facility uses the original facility's cooling water intake structure, but modifies it to increase the design capacity to accommodate the intake of additional cooling water.

c. A facility is constructed on the same property as an existing facility, but is a separate and independent industrial operation. The cooling water intake structure used by the original facility is modified by constructing a new intake bay for the use of the newly constructed facility or is otherwise modified to increase the intake capacity for the new facility.

2. Examples of facilities that would not be considered *new facilities* include, but are not limited to, the following scenarios.

a. A facility in commercial or industrial operation is modified and either continues to use its original cooling water intake structure or uses a new or modified cooling water intake structure.

b. A facility has an existing intake structure. Another facility (a separate and independent industrial

operation) is constructed on the same property and connects to the facility's cooling water intake structure behind the intake pumps and the design capacity of the cooling water intake structure has not been increased. This facility would not be considered a *new facility* even if routine maintenance or repairs that do not increase the design capacity were performed on the intake structure.

Ocean—marine open coastal waters with a salinity greater than or equal to 30 parts per thousand (by mass).

Source Water—the water body (waters of the state) from which the cooling water is withdrawn.

Thermocline—the middle layer of a thermally stratified lake or reservoir. In this layer there is a rapid decrease in temperatures.

Tidal Excursion—the horizontal distance along the estuary or tidal river that a particle moves during one tidal cycle of ebb and flow.

Tidal River—the most seaward reach of a river or stream where the salinity is typically less than or equal to 0.5 parts per thousand (by mass) at a time of annual low flow and whose surface elevation responds to the effects of coastal lunar tides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

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§4709. As an owner or operator of a new facility, what must I do to comply with this Subchapter?

A. The owner or operator of a new facility may be required to comply with Subsection E of this Section, and must comply with the requirements of either:

1. Track I in Subsection B or C of this Section; or

2. Track II in Subsection D of this Section.

B. Track I Requirements for New Facilities That Withdraw Equal to or Greater than 10 MGD. For these facilities, you must comply with all of the following requirements.

1. You must reduce your intake flow, at a minimum, to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system.

2. You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s.

3. You must design and construct your cooling water intake structure so that the total design intake flow from all cooling water intake structures at your facility meets the following requirements.

a. For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than 5 percent of the source water annual mean flow.

b. For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water, except in cases when the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies).

c. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

4. You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure;

b. based on information submitted by any fishery management agency(ies) or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the state administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. it is determined by the state administrative authority, based on information submitted by any fishery management agency(ies) or other relevant information, that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

5. You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish if:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

b. based on information submitted by any fishery management agency(ies) or other relevant information, there are, or would be, undesirable cumulative stressors affecting entrainable life stages of species of concern to the state administrative authority, and it is determined by the state administrative authority that the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.1, 2, and 3 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

6. You must submit the application information required in LAC 33:IX.2501.R and 4713.B.

7. You must implement the monitoring requirements specified in LAC 33:IX.4715.

8. You must implement the recordkeeping requirements specified in LAC 33:IX.4717.

C. Track I Requirements for New Facilities That Withdraw Equal to or Greater than 2 MGD and Less than 10 MGD and That Choose Not to Comply With Subsection B of This Section. For these facilities you must comply with all the following requirements.

1. You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s.

2. You must design and construct your cooling water intake structure so that the total design intake flow from all cooling water intake structures at your facility meets the following requirements.

a. For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than 5 percent of the source water annual mean flow.

b. For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water, except in cases when the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies).

c. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

3. You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure;

b. based on information submitted by any fishery management agency(ies) or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the state administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. it is determined by the state administrative authority, based on information submitted by any fishery management agency(ies) or other relevant information, that the proposed facility, after meeting the technology-based performance requirements in Paragraphs C.1 and 2 of this Section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern.

4. You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish.

5. You must submit the application information required in LAC 33:IX.2501.R and 4713.B.2, 3, and 4.

6. You must implement the monitoring requirements specified in LAC 33:IX.4715.

7. You must implement the recordkeeping requirements specified in LAC 33:IX.4717.

D. Track II. The owner or operator of a new facility that chooses to comply under Track II must comply with the following requirements.

1. You must demonstrate to the state administrative authority that the technologies employed will reduce the level of adverse environmental impact from your cooling water intake structures to a comparable level to that which you would achieve were you to implement the requirements of Paragraphs B.1 and 2 of this Section.

a. Except as specified in Subparagraph D.1.b of this Section, this demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, within the watershed will be comparable to those that would result if you were to implement the requirements of Paragraphs B.1 and 2 of this Section. This showing may include consideration of impacts other than impingement mortality and entrainment, including measures that will result in increases in fish and shellfish, but it must demonstrate comparable performance for species that the state administrative authority, in consultation with national, state, or tribal fishery management agencies with responsibility for fisheries potentially affected by your cooling water intake structure, identifies as species of concern. In identifying such species, the state administrative authority may consider information provided by any fishery management agency(ies) along with data and information from other sources.

b. In cases where air emissions and/or energy impacts that would result from meeting the requirements of Paragraphs B.1 and 2 of this Section would result in significant adverse impacts on local air quality, significant adverse impact on local water resources not addressed under Subparagraph D.1.a of this Section, or significant adverse impact on local energy markets, you may request alternative requirements under LAC 33:IX.4711.

2. You must design and construct your cooling water intake structure so that the total design intake flow from all cooling water intake structures at your facility meet the following requirements.

a. For cooling water intake structures located in a freshwater river or stream, the total design intake flow must

be no greater than 5 percent of the source water annual mean flow.

b. For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water, except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies).

c. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

3. You must submit the application information required in LAC 33:IX.2501.R and 4713.C.

4. You must implement the monitoring requirements specified in LAC 33:IX.4715.

5. You must implement the recordkeeping requirements specified in LAC 33:IX.4717.

E. You must comply with any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure or monitoring requirements at a new facility that the state administrative authority deems reasonably necessary to comply with any provision of state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

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§4711. May alternative requirements be authorized?

A. Any interested person may request that alternative requirements less stringent than those specified in LAC 33:IX.4709.A-E be imposed in the permit. The state administrative authority may establish alternative requirements less stringent than the requirements of LAC 33:IX.4709.A-E only if:

1. there is an applicable requirement under LAC 33:IX.4709.A-E;

2. the state administrative authority determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to those EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets;

3. the alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets; and

4. the alternative requirement will ensure compliance with other applicable provisions of the CWA and any applicable requirement of state law.

B. The burden is on the person requesting the alternative requirement to demonstrate that the alternative requirements should be authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

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§4713. As an owner or operator of a new facility, what must I collect and submit when I apply for my new or reissued LPDES permit?

A. As an owner or operator of a new facility, you must submit the application information required by LAC 33:IX.2501.R and the information required in either Subsection B of this Section for Track I or Subsection C of this Section for Track II when you apply for a new or reissued LPDES permit in accordance with LAC 33:IX.2501. You must also submit to the state administrative authority a statement that you intend to comply with either:

1. the Track I requirements for new facilities that withdraw equal to or greater than 10 MGD in LAC 33:IX.4709.B;

2. the Track I requirements for new facilities that withdraw equal to or greater than 2 MGD and less than 10 MGD in LAC 33:IX.4709.C; or

3. the requirements for Track II in LAC 33:IX.4709.D.

B. Track I Application Requirements. To demonstrate compliance with Track I requirements in LAC 33:IX.4709.B or C, you must collect and submit to the state administrative authority the information in Paragraphs B.1-4 of this Section.

1. Flow Reduction Information. If you must comply with the flow reduction requirements in LAC 33:IX.4709.B.1, you must submit the following information to the state administrative authority to demonstrate that you have reduced your flow to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system:

a. a narrative description of your system that has been designed to reduce your intake flow to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system and any engineering calculations, including documentation demonstrating that your makeup and blowdown flows have been minimized; and

b. if the flow reduction requirement is met entirely or in part by reusing or recycling water withdrawn for cooling purposes in subsequent industrial processes, you must provide documentation that the amount of cooling water that is not reused or recycled has been minimized.

2. Velocity Information. You must submit the following information to the state administrative authority to demonstrate that you are complying with the requirement to meet a maximum through-screen design intake velocity of no more than 0.5 ft/s at each cooling water intake structure as required in LAC 33:IX.4709.B.2 and C.1:

a. a narrative description of the design, structure, equipment, and operation used to meet the velocity requirement; and

b. design calculations showing that the velocity requirement will be met at minimum ambient source water surface elevations (based on best professional judgment using available hydrological data) and maximum head loss across the screens or other device.

3. Source Water Body Flow Information. You must submit to the state administrative authority the following information to demonstrate that your cooling water intake structure meets the flow requirements in LAC 33:IX.4709.B.3 and C.2.

a. If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the flow requirements.

b. If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements.

c. If your cooling water intake structure is located in a lake or reservoir, you must provide a narrative description of the water body thermal stratification and any supporting documentation and engineering calculations to show that the natural thermal stratification and turnover pattern will not be disrupted by the total design intake flow. In cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish, you must provide supporting documentation and include a written concurrence from any fisheries management agency(ies) with responsibility for fisheries potentially affected by your cooling water intake structure(s).

4. Design and Construction Technology Plan. To comply with LAC 33:IX.4709.B.4 and 5 or C.3 and 4, you must submit to the state administrative authority the following information in a design and construction technology plan:

a. information to demonstrate whether or not you meet the criteria in LAC 33:IX.4709.B.4 and 5 or C.3 and 4;

b. delineation of the hydraulic zone of influence for your cooling water intake structure; and

c. for new facilities required to install design and construction technologies and/or operational measures, a plan explaining the technologies and measures you have selected based on information collected for the source water biological baseline characterization required by LAC 33:IX.2501.R.4. (Examples of appropriate technologies include, but are not limited to, wedgewire screens, fine mesh screens, fish-handling and return systems, barrier nets, and aquatic filter barrier systems. Examples of appropriate operational measures include, but are not limited to, seasonal shutdowns or reductions in flow and continuous operations of screens.) The plan must contain the following information:

i. a narrative description of the design and operation of the design and construction technologies, including fish-handling and return systems, that you will use to maximize the survival of those species expected to be most susceptible to impingement. You must provide species-specific information that demonstrates the efficacy of the technology;

ii. a narrative description of the design and operation of the design and construction technologies that you will use to minimize entrainment of those species expected to be the most susceptible to entrainment. You must provide species-specific information that demonstrates the efficacy of the technology; and

iii. design calculations, drawings, and estimates to support the descriptions provided in Clauses B.4.c.i and ii of this Section.

C. Application Requirements for Track II. If you have chosen to comply with the requirements of Track II in LAC 33:IX.4709.D, you must collect and submit the following information.

1. Source Water Body Flow Information. You must submit to the state administrative authority the following information to demonstrate that your cooling water intake structure meets the source water body requirements in LAC 33:IX.4709.D.2.

a. If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the flow requirements.

b. If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting

documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements.

c. If your cooling water intake structure is located in a lake or reservoir, you must provide a narrative description of the water body thermal stratification and any supporting documentation and engineering calculations to show that the natural thermal stratification and thermal or turnover pattern will not be disrupted by the total design intake flow. In cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish, you must provide supporting documentation and include a written concurrence from any fisheries management agency(ies) with responsibility for fisheries potentially affected by your cooling water intake structure(s).

2. Track II Comprehensive Demonstration Study. You must perform and submit the results of a comprehensive demonstration study (study). This information is required to characterize the source water baseline in the vicinity of the cooling water intake structure(s), characterize operation of the cooling water intake(s), and to confirm that the technology(ies) proposed and/or implemented at your cooling water intake structure reduce the impacts to fish and shellfish to levels comparable to those you would achieve were you to implement the requirements in LAC 33:IX.4709.B.1 and 2 of Track I. To meet the "comparable level" requirement, you must demonstrate that:

a. you have reduced both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that would be achieved through LAC 33:IX.4709.B.1 and 2; or

b. if your demonstration includes consideration of impacts other than impingement mortality and entrainment, that the measures taken will maintain the fish and shellfish in the water body at a substantially similar level to that which would be achieved through LAC 33:IX.4709.B.1 and 2; and

c. you must develop and submit a plan to the state administrative authority containing a proposal for how information will be collected to support the study. The plan must include:

i. a description of the proposed and/or implemented technology(ies) to be evaluated in the study;

ii. a list and description of any historical studies characterizing the physical and biological conditions in the vicinity of the proposed or actual intakes and their relevancy to the proposed study. If you propose to rely on existing source water body data, it must be no more than five years old, you must demonstrate that the existing data are sufficient to develop a scientifically valid estimate of potential impingement and entrainment impacts, and you must provide documentation showing that the data were collected using appropriate quality assurance/quality control procedures;

iii. any public participation or consultation with federal or state agencies undertaken in developing the plan; and

iv. a sampling plan for data that will be collected using actual field studies in the source water body. The sampling plan must document all methods and quality assurance procedures for sampling and data analysis. The sampling and data analysis methods you propose must be appropriate for a quantitative survey and based on consideration of methods used in other studies performed in the source water body. The sampling plan must include a description of the study area (including the area of influence of the cooling water intake structure and at least 100 meters beyond), taxonomic identification of the sampled or evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods; and

d. you must submit documentation of the results of the study to the state administrative authority. Documentation of the results of the study must include:

i. Source Water Biological Study. The source water biological study must include:

(a). a taxonomic identification and characterization of aquatic biological resources including a summary of historical and contemporary aquatic biological resources, determination and description of the target populations of concern (those species of fish and shellfish and all life stages that are most susceptible to impingement and entrainment), and a description of the abundance and temporal/spatial characterization of the target populations based on the collection of multiple years of data to capture the seasonal and daily activities (e.g., spawning, feeding, and water column migration) of all life stages of fish and shellfish found in the vicinity of the cooling water intake structure;

(b). an identification of all threatened or endangered species that might be susceptible to impingement and entrainment by the proposed cooling water intake structure(s); and

(c). a description of additional chemical, water quality, and other anthropogenic stresses on the source water body.

ii. Evaluation of Potential Cooling Water Intake Structure Effects. This evaluation will include:

(a). calculations of the reduction in impingement mortality and entrainment of all life stages of fish and shellfish that would need to be achieved by the technologies you have selected to implement to meet requirements under Track II. To do this, you must determine the reduction in impingement mortality and entrainment that would be achieved by implementing the requirements of LAC 33:IX.4709.B.1 and 2 of Track I at your site; and

(b). an engineering estimate of efficacy for the proposed and/or implemented technologies used to minimize impingement mortality and entrainment of all life stages of

fish and shellfish and maximize survival of impinged life stages of fish and shellfish. You must demonstrate that the technologies reduce impingement mortality and entrainment of all life stages of fish and shellfish to a comparable level to that which you would achieve were you to implement the requirements in LAC 33:IX.4709.B.1 and 2 of Track I. The efficacy projection must include a site-specific evaluation of technology(ies) suitability for reducing impingement mortality and entrainment based on the results of the source water biological study in Clause C.2.d.i of this Section. Efficacy estimates may be determined based on case studies that have been conducted in the vicinity of the cooling water intake structure and/or site-specific technology prototype studies.

iii. Evaluation of Proposed Restoration Measures. If you propose to use restoration measures to maintain the fish and shellfish, as allowed in LAC 33:IX.4709.D.1.a, you must provide the following information to the state administrative authority:

(a). information and data to show that you have coordinated with the appropriate fishery management agency(ies); and

(b). a plan that provides a list of the measures you plan to implement and how you will demonstrate and continue to ensure that your restoration measures will maintain the fish and shellfish in the water body to a substantially similar level to that which would be achieved through LAC 33:IX.4709.B.1 and 2.

iv. Verification Monitoring Plan. You must include in the study the following:

(a). a plan to conduct, at a minimum, two years of monitoring to verify the full-scale performance of the proposed or implemented technologies and operational measures. The verification study must begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the facility is reducing the level of impingement and entrainment to the level documented in Clause C.2.d.ii of this Section. The plan must describe the frequency of monitoring and the parameters to be monitored. The state administrative authority will use the verification monitoring to confirm that you are meeting the level of impingement mortality and entrainment reduction required in LAC 33:IX.4709.D and that the operation of the technology has been optimized; and

(b). a plan to conduct monitoring to verify that the restoration measures will maintain the fish and shellfish in the water body to a substantially similar level as that which would be achieved through LAC 33:IX.4709.B.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

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§4715. As an owner or operator of a new facility, must I perform monitoring?

A. As an owner or operator of a new facility, you will be required to perform monitoring to demonstrate your compliance with the requirements specified in LAC 33:IX.4709.

B. Biological Monitoring. You must monitor both impingement and entrainment of the commercial, recreational, and forage base fish and shellfish species identified in either the source water baseline biological characterization data required by LAC 33:IX.2501.R.4 or the comprehensive demonstration study required by LAC 33:IX.4713.C.2, depending on whether you chose to comply with Track I or Track II. The monitoring methods used must be consistent with those used for the source water baseline biological characterization data required by LAC 33:IX.2501.R.4 or the comprehensive demonstration study required by LAC 33:IX.4713.C.2. You must follow the monitoring frequencies identified in Paragraphs B.1 and 2 of this Section for at least two years after the initial permit issuance. After that time, the state administrative authority may approve a request for less frequent sampling in the remaining years of the permit term and when the permit is reissued, if supporting data show that less frequent monitoring would still allow for the detection of any seasonal and daily variations in the species and numbers of individuals that are impinged or entrained.

1. Impingement Sampling. You must collect samples to monitor impingement rates (simple enumeration) for each species over a 24-hour period and no less than once per month when the cooling water intake structure is in operation.

2. Entrainment Sampling. You must collect samples to monitor entrainment rates (simple enumeration) for each species over a 24-hour period and no less than biweekly during the primary period of reproduction, larval recruitment, and peak abundance identified during the source water baseline biological characterization required by LAC 33:IX.2501.R.4 or the comprehensive demonstration study required by LAC 33:IX.4713.C.2. You must collect samples only when the cooling water intake structure is in operation.

C. Velocity Monitoring. If your facility uses surface intake screen systems, you must monitor head loss across the screens and correlate the measured value with the design intake velocity. The head loss across the intake screen must be measured at the minimum ambient source water surface elevation (best professional judgment based on available hydrological data). The maximum head loss across the screen for each cooling water intake structure must be used to determine compliance with the velocity requirement in LAC 33:IX.4709.B.2 or C.1. If your facility uses devices other than surface intake screens, you must monitor velocity at the point of entry through the device. You must monitor head loss or velocity during initial facility startup and, thereafter, at the frequency specified in your LPDES permit, but no less than once per quarter.

D. Visual or Remote Inspections. You must either conduct visual inspections or employ remote monitoring devices during the period the cooling water intake structure is in operation. You must conduct visual inspections at least weekly to ensure that any design and construction technologies required in LAC 33:IX.4709.B.4 and 5 or C.3 and 4 are maintained and operated to ensure that they will continue to function as designed. Alternatively, you must inspect via remote monitoring devices to ensure that the impingement and entrainment technologies are functioning as designed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1774 (August 2002), repromulgated LR 30:232 (February 2004).

§4717. As an owner or operator of a new facility, must I keep records and report information and data?

A. As an owner or operator of a new facility, you are required to keep records and report information and data to the state administrative authority as described in Subsections B and C of this Section.

B. You must keep records of all the data used to complete the permit application and show compliance with the requirements, any supplemental information developed under LAC 33:IX.4713, and any compliance monitoring data submitted under LAC 33:IX.4715 for a period of at least three years from the date of permit issuance. The state administrative authority may require that these records be kept for a longer period.

C. You must provide the following to the state administrative authority in a yearly status report:

1. biological monitoring records for each cooling water intake structure as required by LAC 33:IX.4715.B;

2. velocity and head loss monitoring records for each cooling water intake structure as required by LAC 33:IX.4715.C; and

3. records of visual or remote inspections as required by LAC 33:IX.4715.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1774 (August 2002), repromulgated LR 30:232 (February 2004).

§4719. What must the state administrative authority do to comply with the requirements of this Subchapter?

A. Permit Application. The state administrative authority must review materials submitted by the applicant under LAC 33:IX.2501.R.3 and 4713 at the time of the initial permit application and before each permit renewal or reissuance.

1. After receiving the initial permit application from the owner or operator of a new facility, the state administrative authority must determine applicable standards in LAC 33:IX.4709 to apply to the new facility. In addition, the state administrative authority must review materials to determine compliance with the applicable standards.

2. For each subsequent permit renewal, the state administrative authority must review the application materials and monitoring data to determine whether requirements or additional requirements for design and construction technologies or operational measures should be included in the permit.

3. For Track II facilities, the state administrative authority may review the information collection proposal plan required by LAC 33:IX.4713.C.2.c. The facility may initiate sampling and data collection activities prior to receiving comment from the state administrative authority.

B. Permitting Requirements. Section 316(b) of the CWA requirements are implemented for a facility through an LPDES permit. The state administrative authority must determine, based on the information submitted by the new facility in its permit application, the appropriate requirements and conditions to include in the permit based on the track (Track I or Track II) the new facility has chosen to comply with. The following requirements must be included in each permit.

1. Cooling Water Intake Structure Requirements. At a minimum, the permit conditions must include the performance standards that implement the requirements of LAC 33:IX.4709.B.1, 2, 3, 4, and 5, C.1, 2, 3, and 4, or D.1 and 2. In determining compliance with proportional flow requirement in LAC 33:IX.4709.B.3.b, C.2.b, and D.2.b, the state administrative authority must consider anthropogenic factors (those not considered "natural") unrelated to the new facility's cooling water intake structure that can influence the occurrence and location of a thermocline. These include source water inflows, other water withdrawals, managed water uses, wastewater discharges, and flow/level management practices (i.e., some reservoirs release water from below the surface, close to the deepest areas).

a. For a facility that chooses Track I, the state administrative authority must review the design and construction technology plan required in LAC 33:IX.4713.B.4 to evaluate the suitability and feasibility of the technology proposed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In the first permit issued, the state administrative authority must put a condition requiring the facility to reduce impingement mortality and entrainment commensurate with the implementation of the technologies in the permit. Under subsequent permits, the state administrative authority must review the performance of the technologies implemented and require additional or different design and construction technologies, if needed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In addition, the state administrative authority must consider whether more stringent conditions

are reasonably necessary in accordance with LAC 33:IX.4709.E.

b. For a facility that chooses Track II, the state administrative authority must review the information submitted with the comprehensive demonstration study information required in LAC 33:IX.4713.C.2 and evaluate the suitability of the proposed design and construction technologies and operational measures to determine whether they will reduce both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that could be achieved through Track I. If the state administrative authority determines that restoration measures are appropriate at the new facility for consideration of impacts other than impingement mortality and entrainment, the state administrative authority must review the evaluation of proposed restoration measures and evaluate whether the proposed measures will maintain the fish and shellfish in the water body at a substantially similar level to that which would be achieved through LAC 33:IX.4709.B.1 and 2. In addition, the state administrative authority must review the verification monitoring plan in LAC 33:IX.4713.C.2.d.iv and require that the proposed monitoring begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the technologies, operational measures, and restoration measures meet the requirements in LAC 33:IX.4709.D.1. Under subsequent permits, the state administrative authority must review the performance of the additional and/or different technologies or measures used and determine that they reduce the level of adverse environmental impact from the cooling water intake structures to a comparable level that the facility would achieve were it to implement the requirements of LAC 33:IX.4709.B.1 and 2.

2. Monitoring Conditions. At a minimum, the permit must require the permittee to perform the monitoring required in LAC 33:IX.4715. The state administrative authority may modify the monitoring program when the permit is reissued and during the term of the permit based on changes in physical or biological conditions in the vicinity of the cooling water intake structure. The state administrative authority may require continued monitoring based on the results of the verification monitoring plan in LAC 33:IX.4713.C.2.d.iv.

3. Recordkeeping and Reporting. At a minimum, the permit must require the permittee to report and keep records as required by LAC 33:IX.4717.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1774 (August 2002), repromulgated LR 30:232 (February 2004), amended by the Office of Environmental Assessment, LR 31:427 (February 2005).

Subchapter B. Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities under Section 316(b) of the Clean Water Act

§4730. Suspension of Portions of LAC 33:Part IX

A. LAC 33:IX.2501.R.1.b and R.5 are hereby suspended.

B. LAC 33:IX.Chapter 47.Subchapter B, with the exception of LAC 33:IX.4731.B, is hereby suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007).

§4731. What are the purpose and scope of this Subchapter?

A. This Subchapter establishes requirements that apply to the location, design, construction, and capacity of cooling water intake structures at existing facilities that are subject to this Subchapter (i.e., Phase II existing facilities). The purpose of these requirements is to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structures. These requirements are implemented through LPDES permits issued under Section 402 of the Clean Water Act (CWA), under the assumption of the NPDES program.

B. Existing facilities that are not subject to requirements under Subchapter A or B of this Chapter shall meet requirements under Section 316(b) of the CWA determined by the state administrative authority on a case-by-case, best professional judgment (BPJ) basis.

C. Alternative Regulatory Requirements. Notwithstanding any other provision of this Subchapter, if a state demonstrates to the administrator that it has adopted alternative regulatory requirements in its NPDES program that will result in environmental performance within a watershed that is comparable to the reductions of impingement mortality and entrainment that would otherwise be achieved under LAC 33:IX.4737, the administrator shall approve such alternative regulatory requirements.

D. Nothing in this Subchapter shall be construed to preclude or deny the right of any state or political subdivision of a state or any interstate agency under Section 510 of the CWA to adopt or enforce any requirement with respect to control or abatement of pollution that is not less stringent than those required by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:427 (February 2005).

§4733. What is a Phase II existing facility?

A. An *existing facility*, as defined in LAC 33:IX.4735.A, is a Phase II existing facility subject to this Subchapter if it meets each of the following criteria.

1. It is a point source.

2. It uses or proposes to use cooling water intake structures with a total design intake flow of 50 million gallons per day (MGD) or more to withdraw cooling water from waters of the state.

3. As its primary activity, the facility both generates and transmits electric power, or generates electric power but sells it to another entity for transmission.

4. It uses at least 25 percent of the water withdrawn exclusively for cooling purposes, measured on an average annual basis.

B. In the case of a Phase II existing facility that is co-located with a manufacturing facility, only that portion of the combined cooling water intake flow that is used by the Phase II facility to generate electricity for sale to another entity shall be considered for purposes of determining whether the 50 MGD and 25 percent criteria in Paragraphs A.2 and 4 of this Section have been exceeded.

C. Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with one or more independent suppliers of cooling water if the supplier withdraws water from waters of the state but is not itself a Phase II existing facility, except as provided in Subsection D of this Section. This provision is intended to prevent circumvention of these requirements by creating arrangements to receive cooling water from an entity that is not itself a Phase II existing facility.

D. Notwithstanding Subsection C of this Section, obtaining cooling water from a public water system or using treated effluent as cooling water does not constitute use of a cooling water intake structure for purposes of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:427 (February 2005).

§4735. What special definitions apply to this Subchapter?

A. In addition to the definitions provided in LAC 33:IX.2313, the following special definitions apply to this Subchapter.

Adaptive Management Method—a type of project management method where a facility chooses an approach to meeting the project goal, monitors the effectiveness of that approach, and then based on monitoring and any other relevant information, makes any adjustments necessary to ensure continued progress toward the project's goal. This cycle of activity is repeated as necessary to reach the project's goal.

Annual Mean Flow—the average of daily flows over a calendar year.

All Life Stages—eggs, larvae, juveniles, and adults.

Calculation Baseline—an estimate of impingement mortality and entrainment that would occur at your site assuming that the cooling water system has been designed as a once-through system; the opening of the cooling water intake structure is located at, and the face of the standard 3/8-inch mesh traveling screen is oriented parallel to, the shoreline near the surface of the source water body; and the baseline practices, procedures, and structural configuration are those that your facility would maintain in the absence of any structural or operational controls, including flow or velocity reductions, implemented in whole or in part for the purposes of reducing impingement mortality and entrainment. You may also choose to use the current level of impingement mortality and entrainment as the calculation baseline. The calculation baseline may be estimated using historical impingement mortality and entrainment data from your facility or from another facility with comparable design, operational, and environmental conditions; current biological data collected in the water body in the vicinity of your cooling water intake structure; or current impingement mortality and entrainment data collected at your facility. You may request that the calculation baseline be modified to be based on a location of the opening of the cooling water intake structure at a depth other than at or near the surface if you can demonstrate to the state administrative authority that the other depth would correspond to a higher baseline level of impingement mortality and/or entrainment.

Capacity Utilization Rate—the ratio between the average annual net generation of power by the facility (in MWh) and the total net capability of the facility to generate power (in MW) multiplied by the number of hours during a year. In cases where a facility has more than one intake structure, and each intake structure provides cooling water exclusively to one or more generating units, the capacity utilization rate may be calculated separately for each intake structure, based on the capacity utilization of the units it services. Applicable requirements under this Subpart would then be determined separately for each intake structure. The average annual net generation should be measured over a five-year period, if available, of representative operating conditions, unless the facility makes a binding commitment to maintain capacity utilization below 15 percent for the life of the permit, in which case the rate may be based on this commitment. For purposes of this Subchapter, the capacity utilization rate applies to only that portion of the facility that generates electricity for transmission or sale using a thermal cycle employing the steam water system as the thermodynamic medium.

Closed-Cycle Recirculating System—a system designed, using minimized make-up and blowdown flows, to withdraw water from a natural or other water source to support contact and/or noncontact cooling uses within a facility. The water is usually sent to a cooling canal or channel, lake, pond, or tower to allow waste heat to be dissipated to the atmosphere and then is returned to the system. (Some facilities divert the

waste heat to other process operations.) New source water (make-up water) is added to the system to replenish losses that have occurred due to blowdown, drift, and evaporation.

Cooling Water—water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used, or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process either before or after it is used for cooling is considered process water for the purposes of calculating the percentage of a facility's intake flow that is used for cooling purposes in LAC 33:IX.4733.A.4.

Cooling Water Intake Structure—the total physical structure and any associated constructed waterways used to withdraw cooling water from waters of the state. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.

Design and Construction Technology—any physical configuration of the cooling water intake structure, or a technology that is placed in the water body in front of the cooling water intake structure, to reduce impingement mortality and/or entrainment. Design and construction technologies include, but are not limited to, location of the intake structure, intake screen systems, passive intake systems, fish diversion and/or avoidance systems, and fish handling and return systems. Restoration measures are not design and construction technologies for purposes of this definition.

Design Intake Flow—the value assigned, during the cooling water intake structure design, to the total volume of water withdrawn from a source water body over a specific time period.

Design Intake Velocity—the value assigned, during the design of a cooling water intake structure, to the average speed at which intake water passes through the open area of the intake screen, or other device, upon which organisms might impinge or through which they might be entrained.

Diel—daily and refers to variation in organism abundance and density over a 24-hour period due to the influence of water movement, physical or chemical changes, and changes in light intensity.

Entrainment—the incorporation of any life stages of fish and shellfish with intake water flow entering and passing through a cooling water intake structure and into a cooling water system.

Estuary—a semi-enclosed body of water that has a free connection with open seas and within which the seawater is measurably diluted with fresh water derived from land drainage. The salinity of an estuary exceeds 0.5 parts per thousand (by mass) but is typically less than 30 parts per thousand (by mass).

Existing Facility—any facility that commenced construction as described in 40 CFR 122.29(b)(4) on or before January 17, 2002 (or July 17, 2006, for an offshore oil and gas extraction facility), and any modification of, or any addition of, a unit at such a facility that does not meet the definition of a *new facility* in LAC 33:IX.4707.

Freshwater River or Stream—a lotic (free-flowing) system that does not receive significant inflows of water from oceans or bays due to tidal action. For the purposes of this regulation, a flow-through reservoir with a retention time of seven days or less shall be considered a freshwater river or stream.

Impingement—the entrapment of any life stages of fish and shellfish on the outer part of an intake structure or against a screening device during periods of intake water withdrawal.

Lake or Reservoir—any inland body of open water with some minimum surface area free of rooted vegetation and with an average hydraulic retention time of more than seven days. Lakes or reservoirs might be natural water bodies or impounded streams, usually fresh, surrounded by land or by land and a man-made retainer (e.g., a dam). Lakes or reservoirs might be fed by rivers, streams, springs, and/or local precipitation.

Moribund—dying; close to death.

Natural Thermal Stratification—the naturally occurring and/or existing division of a water body into horizontal layers of differing densities as a result of variations in temperature at different depths.

Ocean—marine open coastal waters with a salinity greater than or equal to 30 parts per thousand (by mass).

Once-Through Cooling Water System—a system designed to withdraw water from a natural or other water source, use it at the facility to support contact and/or noncontact cooling uses, and then discharge it to a water body without recirculation. Once-through cooling systems sometimes employ canals/channels, ponds, or non-recirculating cooling towers to dissipate waste heat from the water before it is discharged.

Operational Measure—a modification to any operation at a facility that serves to minimize impact to fish and shellfish from the cooling water intake structure. Examples of operational measures include, but are not limited to, reductions in cooling water intake flow through the use of variable speed pumps and seasonal flow reductions or shutdowns, and more frequent rotation of traveling screens.

Phase II Existing Facility—any existing facility that meets the criteria specified in LAC 33:IX.4733.

Source Water—the waters of the U.S. from which the cooling water is withdrawn.

Supplier—an entity, other than the regulated facility, that owns and operates its own cooling water intake structure and directly withdraws water from waters of the state. The supplier sells the cooling water to other facilities for their

use, but may also use a portion of the water itself. An entity that provides potable water to residential populations (e.g., public water system) is not a supplier for purposes of this Subchapter.

Thermocline—the middle layer of a thermally stratified lake or a reservoir. In this layer, there is a rapid change in temperatures between the top and bottom of the layer.

Tidal River—the most seaward reach of a river or stream where the salinity is typically less than or equal to 0.5 parts per thousand (by mass) at a time of annual low flow and whose surface elevation responds to the effects of coastal lunar tides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:428 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2070 (October 2007).

§4737. How will requirements reflecting best technology available for minimizing adverse environmental impact be established for my Phase II existing facility?

A. Compliance Alternatives. You must select and implement one of the following five alternatives for establishing best technology available for minimizing adverse environmental impact at your facility.

1. You may demonstrate to the state administrative authority that you have:

a. reduced, or will reduce, your flow commensurate with a closed-cycle recirculating system. In this case, you are deemed to have met the applicable performance standards and will not be required to demonstrate further that your facility meets the impingement mortality and entrainment performance standards specified in Subsection B of this Section. In addition, you are not subject to the requirements in LAC 33:IX.4739, 4741, 4743, or 4745. However, you may still be subject to any more stringent requirements established under Subsection E of this Section; or

b. reduced, or will reduce, your maximum through-screen design intake velocity to 0.5 ft/s or less. In this case, you are deemed to have met the impingement mortality performance standards and will not be required to demonstrate further that your facility meets the performance standards for impingement mortality specified in Subsection B of this Section, and you are not subject to the requirements in LAC 33:IX.4739, 4741, 4743, or 4745 as they apply to impingement mortality. However, you are still subject to any applicable requirements for entrainment reduction and may still be subject to any more stringent requirements established under Subsection E of this Section.

2. You may demonstrate to the state administrative authority that your existing design and construction technologies, operational measures, and/or restoration measures meet the performance standards specified in Subsection B of this Section and/or the restoration requirements in Subsection C of this Section.

3. You may demonstrate to the state administrative authority that you have selected, and will install and properly operate and maintain, design and construction technologies, operational measures, and/or restoration measures that will, in combination with any existing design and construction technologies, operational measures, and/or restoration measures, meet the performance standards specified in Subsection B of this Section and/or the restoration requirements in Subsection C of this Section.

4. You may demonstrate to the state administrative authority that you have installed, or will install, and properly operate and maintain an approved design and construction technology in accordance with LAC 33:IX.4747.A or B.

5. You may demonstrate to the state administrative authority that you have selected, installed, and are properly operating and maintaining, or will install and properly operate and maintain, design and construction technologies, operational measures, and/or restoration measures that the state administrative authority has determined to be the best technology available to minimize adverse environmental impact for your facility in accordance with Subparagraph A.5.a or b of this Section.

a. If the state administrative authority determines that data specific to your facility demonstrate that the costs of compliance under alternatives in Paragraphs A.2 through 4 of this Section would be significantly greater than the costs considered by the administrator for a facility like yours in establishing the applicable performance standards in Subsection B of this Section, the state administrative authority will make a site-specific determination of the best technology available for minimizing adverse environmental impact. This determination will be based on reliable, scientifically- valid cost and performance data submitted by you and any other information that the state administrative authority deems appropriate. The state administrative authority will establish site-specific alternative requirements based on new and/or existing design and construction technologies, operational measures, and/or restoration measures that achieve an efficacy that is, in the judgment of the state administrative authority, as close as practicable to the applicable performance standards in Subsection B of this Section, without resulting in costs that are significantly greater than the costs considered by the administrator for a facility like yours in establishing the applicable performance standards. The state administrative authority's site-specific determination may conclude that design and construction technologies, operational measures, and/or restoration measures in addition to those already in place are not justified because of the significantly greater costs. To calculate the costs considered by the state administrative authority for a facility like yours in establishing the applicable performance standards you must:

i. determine which technology the administrator modeled as the most appropriate compliance technology for your facility;

ii. using the administrator's costing equations, calculate the annualized capital and net operation and maintenance (O&M) costs for a facility with your design intake flow using this technology;

iii. determine the annualized net revenue loss associated with net construction downtime that the administrator modeled for your facility to install this technology;

iv. determine the annualized pilot study costs that the administrator modeled for your facility to test and optimize this technology;

v. sum the cost items in Clauses A.5.b.ii, iii, and iv of this Section; and

vi. determine if the performance standards that form the basis of these estimates (i.e., impingement mortality reduction only or impingement mortality and entrainment reduction) are applicable to your facility, and if necessary, adjust the estimates to correspond to the applicable performance standards.

b. If the state administrative authority determines that data specific to your facility demonstrate that the costs of compliance under alternatives in Paragraphs A.2 through 4 of this Section would be significantly greater than the benefits of complying with the applicable performance standards at your facility, the state administrative authority will make a site-specific determination of best technology available for minimizing adverse environmental impact. This determination will be based on reliable, scientifically valid cost and performance data submitted by you and any other information the state administrative authority deems appropriate. The state administrative authority will establish site-specific alternative requirements based on new and/or existing design and construction technologies, operational measures, and/or restoration measures that achieve an efficacy that, in the judgment of the state administrative authority, is as close as practicable to the applicable performance standards in Subsection B of this Section without resulting in costs that are significantly greater than the benefits at your facility. The state administrative authority's site-specific determination may conclude that design and construction technologies, operational measures, and/or restoration measures in addition to those already in place are not justified because the costs would be significantly greater than the benefits at your facility.

B. National Performance Standards

1. Impingement Mortality Performance Standards. If you choose a compliance alternative in Paragraph A.2, 3, or 4 of this Section, you must reduce impingement mortality for all life stages of fish and shellfish by 80 to 95 percent from the calculation baseline.

2. Entrainment Performance Standards. If you choose a compliance alternative in Subparagraph A.1.b or Paragraph A.2, 3, or 4 of this Section, you must also reduce entrainment of all life stages of fish and shellfish by 60 to 90 percent from the calculation baseline if:

a. your facility has a capacity utilization rate of 15 percent or greater; and

b. your facility uses cooling water withdrawn from:

i. a tidal river, estuary, or ocean; or

ii. a freshwater river or stream, and the design intake flow of your cooling water intake structures is greater than 5 percent of the mean annual flow.

3. Additional Performance Standards for Facilities Withdrawing from a Lake or a Reservoir. If your facility withdraws cooling water from a lake or a reservoir and you propose to increase the design intake flow of cooling water intake structures it uses, your increased design intake flow shall not disrupt the natural thermal stratification or turnover pattern, where present, of the source water, except in cases where the disruption does not adversely affect the management of fisheries. In determining whether any such disruption does not adversely affect the management of fisheries, you should consult with federal, state, or tribal fish and wildlife management agencies.

4. Use of Performance Standards for Site-Specific Determinations of Best Technology Available. The performance standards in Paragraphs B.1-3 of this Section must also be used for determining eligibility for site-specific determinations of best technology available for minimizing adverse environmental impact and establishing site-specific requirements that achieve an efficacy as close as practicable to the applicable performance standards without resulting in costs that are significantly greater than those considered by the state administrative authority for a facility like yours in establishing the performance standards or costs that are significantly greater than the benefits at your facility in accordance with Paragraph A.5 of this Section.

C. Requirements for Restoration Measures. With the approval of the state administrative authority, you may implement and adaptively manage restoration measures that produce and result in increases of fish and shellfish in your facility's watershed in place of, or as a supplement to, installing design and control technologies and/or adopting operational measures that reduce impingement mortality and entrainment. You must demonstrate to the state administrative authority that:

1. you have evaluated the use of design and construction technologies and operational measures for your facility and determined that the use of restoration measures is appropriate because meeting the applicable performance standards or site-specific requirements through the use of design and construction technologies and/or operational measures alone is less feasible, less cost-effective, or less environmentally desirable than meeting the standards or requirements in whole or in part through the use of restoration measures; and

2. the restoration measures you will implement, alone or in combination with design and construction technologies and/or operational measures, will produce ecological benefits (fish and shellfish), including maintenance or protection of community structure and function in your

facility's water body or watershed, at a level that is substantially similar to the level you would achieve by meeting the applicable performance standards under Subsection B of this Section, or that satisfies alternative site-specific requirements established in accordance with Paragraph A.5 of this Section.

D. Compliance Using a Technology Installation and Operation Plan or Restoration Plan

1. If you choose one of the compliance alternatives in Paragraph A.2, 3, 4, or 5 of this Section, you may request that compliance with the requirements of Subsection B of this Section during the first permit containing requirements consistent with this Subchapter be determined based on whether you have complied with the construction, operational, maintenance, monitoring, and adaptive management requirements of a technology installation and operation plan developed in accordance with LAC 33:IX.4739.B.4.b, for any design and construction technologies and/or operational measures, and/or a restoration plan developed in accordance with LAC 33:IX.4739.B.5, for any restoration measures. The technology installation and operation plan must be designed to meet applicable performance standards in Subsection B of this Section or alternative site-specific requirements developed in accordance with Paragraph A.5 of this Section. The restoration plan must be designed to achieve compliance with the applicable requirements in Paragraph C of this Section.

2. During subsequent permit terms, if you selected and installed design and construction technologies and/or operational measures and have been in compliance with the construction, operational, maintenance, monitoring, and adaptive management requirements of your technology installation and operation plan during the preceding permit term, you may request that compliance with the requirements of this Section during the following permit term be determined based on whether you remain in compliance with your technology installation and operation plan, revised in accordance with your adaptive management plan in LAC 33:IX.4739.B.4.b.iii if applicable performance standards are not being met. Each request and approval of a technology installation and operation plan will be limited to one permit term.

3. During subsequent permit terms, if you selected and installed restoration measures and have been in compliance with the construction, operational, maintenance, monitoring, and adaptive management requirements in your restoration plan during the preceding permit term, you may request that compliance with the requirements of this Section during the following permit term be determined based on whether you remain in compliance with your restoration plan, revised in accordance with your adaptive management plan in LAC 33:IX.4739.B.5.e if applicable performance standards are not being met. Each request and approval of a restoration plan will be limited to one permit term.

E. More Stringent Standards. The state administrative authority may establish more stringent requirements as best technology available for minimizing adverse environmental impact if the state administrative authority determines that your compliance with the applicable requirements of this Section would not meet the requirements of applicable state and tribal law, or other federal law.

F. Nuclear Facilities. If you demonstrate to the state administrative authority based on consultation with the Nuclear Regulatory Commission that compliance with this Subpart would result in a conflict with a safety requirement established by the commission, the state administrative authority will make a site-specific determination of best technology available for minimizing adverse environmental impact that would not result in a conflict with the Nuclear Regulatory Commission's safety requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:429 (February 2005).

§4739. As an owner or operator of a Phase II existing facility, what must I collect and submit when I apply for my reissued LPDES permit?

A. Submittal of Information for an Owner or Operator of a Phase II Existing Facility

1. You must submit to the state administrative authority the proposal for information collection required in Paragraph B.1 of this Section prior to the start of information collection activities.

2. You must submit to the state administrative authority the information required in LAC 33:IX.2501.R.2, 3, and 5 and any applicable portions of the comprehensive demonstration study, except for the proposal for information collection required by Paragraph B.1 of this Section.

a. You must submit your LPDES permit application in accordance with the time frames specified in LAC 33:IX.2501.D.2.

b. If your existing permit expires before July 9, 2008, you may request that the state administrative authority establish a schedule for you to submit the information required by this Section as expeditiously as practicable, but not later than January 7, 2008. Between the time your existing permit expires and the time an LPDES permit containing requirements consistent with this Subchapter is issued to your facility, the best technology available to minimize adverse environmental impact will continue to be determined based on the state administrative authority’s best professional judgment.

3. In subsequent permit terms, the state administrative authority may approve a request to reduce the information required to be submitted in your permit application on the cooling water intake structure and the source water body, if conditions at your facility and in the water body remain substantially unchanged since your previous application. You must submit your request for reduced cooling water

intake structure and water body application information to the state administrative authority at least one year prior to the expiration of the permit. Your request must identify each required information item in LAC 33:IX.2501.R and this Section that you determine has not substantially changed since the previous permit application and the basis for your determination.

B. Comprehensive Demonstration Study. The purpose of the comprehensive demonstration study ("study") is to characterize impingement mortality and entrainment, to describe the operation of your cooling water intake structures, and to confirm that the technologies, operational measures, and/or restoration measures you have selected and installed, or will install, at your facility meet the applicable requirements of LAC 33:IX.4737. All facilities except those that have met the applicable requirements in accordance with LAC 33:IX.4737.A.1.a-b and A.4 must submit all applicable portions of the study to the state administrative authority in accordance with Paragraph A.1 of this Section. Facilities that meet the requirements in LAC 33:IX.4737.A.1.a by reducing their flow commensurate with a closed-cycle, recirculating system are not required to submit a study. Facilities that meet the requirements in LAC 33:IX.4737.A.1.b by reducing their design intake velocity to 0.5 ft/sec or less are required to submit a study only for the entrainment requirements, if applicable. Facilities that meet the requirements in LAC 33:IX.4737.A.4 and have installed and properly operate and maintain an approved design and construction technology, in accordance with LAC 33:IX.4747, are required to submit only the technology installation and operation plan in Paragraph B.4 of this Section and the verification monitoring plan in Paragraph B.7 of this Section. Facilities that are required to meet only impingement mortality performance standards in LAC 33:IX.4737.B.1 are required to submit only a study for the impingement mortality reduction requirements. The study must include the following information.

1. Proposal for Information Collection. You must submit to the state administrative authority for review and comment a description of the information you will use to support your study. The proposal for information must be submitted prior to the start of information collection activities, but you may initiate such activities prior to receiving comment from the state administrative authority. The proposal must include:

a. a description of the proposed and/or implemented technologies, operational measures, and/or restoration measures to be evaluated in the study;

b. a list and description of any historical studies characterizing impingement mortality and entrainment and/or the physical and biological conditions in the vicinity of the cooling water intake structures and their relevance to this proposed study. If you propose to use existing data, you must demonstrate the extent to which the data are representative of current conditions and that the data were collected using appropriate quality assurance/quality control procedures;

c. a summary of any past or ongoing consultations with appropriate federal, state, and tribal fish and wildlife agencies that are relevant to this study and a copy of written comments received as a result of such consultations; and

d. a sampling plan for any new field studies you propose to conduct in order to ensure that you have sufficient data to develop a scientifically-valid estimate of impingement mortality and entrainment at your site. The sampling plan must document all methods and quality assurance/quality control procedures for sampling and data analysis. The sampling and data analysis methods you propose must be appropriate for a quantitative survey and include consideration of the methods used in other studies performed in the source water body. The sampling plan must include a description of the study area, including the area of influence of the cooling water intake structure, and provide a taxonomic identification of the sampled or evaluated biological assemblages, including all life stages of fish and shellfish.

2. Source Water Body Flow Information. You must submit to the state administrative authority the following source water body flow information.

a. If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow of the water body and any supporting documentation and engineering calculations to support your analysis of whether your design intake flow is greater than 5 percent of the mean annual flow of the river or stream for purposes of determining applicable performance standards under Subsection B of this Section. Representative historical data (from a period of time up to 10 years, if available) must be used.

b. If your cooling water intake structure is located in a lake or a reservoir and you propose to increase its design intake flow, you must provide a description of the thermal stratification in the water body, and any supporting documentation and engineering calculations to show that the total design intake flow after the increase will not disrupt the natural thermal stratification and turnover pattern in a way that adversely impacts fisheries, including the results of any consultations with federal, state, or tribal fish and wildlife management agencies.

3. Impingement Mortality and/or Entrainment Characterization Study. You must submit to the state administrative authority an impingement mortality and/or entrainment characterization study, whose purpose is to provide information to support the development of a calculation baseline for evaluating impingement mortality and entrainment and to characterize current impingement mortality and entrainment. The impingement mortality and/or entrainment characterization study must include the following, in sufficient detail to support development of the other elements of the comprehensive demonstration study:

a. taxonomic identifications of all life stages of fish, shellfish, and any species protected under federal, state, or tribal law, including threatened or endangered species, that

are in the vicinity of the cooling water intake structure and are susceptible to impingement and entrainment;

b. a characterization of all life stages of fish, shellfish, and any species protected under federal, state, or tribal law, including threatened or endangered species, identified in accordance with Subparagraph B.3.a of this Section, including a description of the abundance and temporal and spatial characteristics in the vicinity of the cooling water intake structure, based on sufficient data to characterize annual, seasonal, and diel variations in impingement mortality and entrainment (e.g., related to climate and weather differences, spawning, feeding, and water column migration). These may include historical data that are representative of the current operation of your facility and of biological conditions at the site; and

c. documentation of the current impingement mortality and entrainment of all life stages of fish, shellfish, and any species protected under federal, state, or tribal law, including threatened or endangered species, identified in accordance with Subparagraph B.3.a of this Section and an estimate of impingement mortality and entrainment to be used as the calculation baseline. The documentation may include historical data that are representative of the current operation of your facility and of biological conditions at the site. Impingement mortality and entrainment samples to support the calculations required in Clause B.4.a.iii and Subparagraph B.5.c of this Section must be collected during periods of representative operational flows for the cooling water intake structure, and the flows associated with the samples must be documented.

4. Technology and Compliance Assessment Information

a. Design and Construction Technology Plan. If you choose to use design and construction technologies and/or operational measures, in whole or in part, to meet the requirements of LAC 33:IX.4737.A.2 or 3, you must submit a design and construction technology plan to the state administrative authority for review and approval. In the plan, you must provide the capacity utilization rate for your facility, or for individual intake structures where applicable, in accordance with LAC 33:IX.4735, and provide supporting data, including the average annual net generation of the facility (in MWh) measured over a five-year period, if available, of representative operating conditions and the total net capacity of the facility (in MW), and underlying calculations. The plan must explain the technologies and/or operational measures you have in place and/or have selected to meet the requirements in LAC 33:IX.4737. Examples of potentially appropriate technologies may include, but are not limited to, wedgewire screens, fine mesh screens, fish handling and return systems, barrier nets, aquatic filter barrier systems, vertical and/or lateral relocation of the cooling water intake structure, and enlargement of the cooling water intake structure opening to reduce velocity. Examples of potentially appropriate operational measures may include, but are not limited to, seasonal shutdowns, reductions in flow, and continuous or more frequent rotation of traveling screens. The plan must contain the following information:

i. a narrative description of the design and operation of all design and construction technologies and/or operational measures, existing and proposed, including fish handling and return systems, that you have in place or will use to meet the requirements to reduce impingement mortality of those species expected to be most susceptible to impingement, and information that demonstrates the efficacy of the technologies and/or operational measures for those species;

ii. a narrative description of the design and operation of all design and construction technologies and/or operational measures, existing and proposed, that you have in place or will use to meet the requirements to reduce entrainment of those species expected to be the most susceptible to entrainment, if applicable, and information that demonstrates the efficacy of the technologies and/or operational measures for those species;

iii. calculations of the reduction in impingement mortality and entrainment of all life stages of fish and shellfish that would be achieved by the technologies and/or operational measures you have selected based on the impingement mortality and/or entrainment characterization study in Paragraph B.3 of this Section. In determining compliance with any requirements to reduce impingement mortality or entrainment, you must assess the total reduction in impingement mortality and entrainment against the calculation baseline determined in accordance with Paragraph B.3 of this Section. Reductions in impingement mortality and entrainment from this calculation baseline as a result of any design and construction technologies and/or operational measures already implemented at your facility should be added to the reductions expected to be achieved by any additional design and/or construction technologies and operational measures that will be implemented, and any increases in fish and shellfish within the water body attributable to your restoration measures. Facilities that recirculate a portion of their flow, but do not reduce flow sufficiently to satisfy the compliance option in LAC 33:IX.4737.A.1.a, may take into account the reduction in impingement mortality and entrainment associated with the reduction in flow when determining the net reduction associated with existing design and construction technologies and/or operational measures. This estimate must include a site-specific evaluation of the suitability of the technologies and/or operational measures based on the species that are found at the site, and may be determined based on representative studies (i.e., studies that have been conducted at a similar facility's cooling water intake structures located in the same water body type with similar biological characteristics) and/or site-specific technology prototype or pilot studies; and

iv. design and engineering calculations, drawings, and estimates prepared by a qualified professional to support the descriptions required by Clauses B.4.a.i and ii of this Section.

b. Technology Installation and Operation Plan. If you choose the compliance alternative in LAC 33:IX.4737.A.2, 3, 4, or 5 and use design and construction technologies and/or operational measures in whole or in part to comply with the applicable requirements of LAC 33:IX.4737, you must submit the following information with your application for review and approval by the state administrative authority:

i. a schedule for the installation and maintenance of any new design and construction technologies. Any downtime of generating units to accommodate installation and/or maintenance of these technologies should be scheduled to coincide with otherwise necessary downtime (e.g., for repair, overhaul, or routine maintenance of the generating units) to the extent practicable. Where additional downtime is required, you may coordinate scheduling of this downtime with the North American Electric Reliability Council and/or other generators in your area to ensure that impacts to reliability and supply are minimized;

ii. a list of operational and other parameters to be monitored, and the location at which and frequency with which you will monitor them;

iii. a list of activities you will undertake to ensure to the degree practicable the efficacy of installed design and construction technologies and operational measures, and your schedule for implementing them;

iv. a schedule and method for assessing the efficacy of any installed design and construction technologies and operational measures in meeting applicable performance standards or site-specific requirements, including an adaptive management plan for revising design and construction technologies, operational measures, operation and maintenance requirements, and/or monitoring requirements if your assessment indicates that applicable performance standards or site-specific requirements are not being met; and

v. if you choose the compliance alternative in LAC 33:IX.4737A.4, documentation that the appropriate site conditions in LAC 33:IX.4747.A or B exist at your facility.

5. Restoration Plan. If you propose to use restoration measures, in whole or in part, to meet the applicable requirements in LAC 33:IX.4737, you must address species of concern identified in consultation with federal, state, and tribal fish and wildlife management agencies with responsibility for fisheries and wildlife potentially affected by your cooling water intake structure. The following information must be submitted with your application for review and approval by the state administrative authority.

a. You must provide a demonstration to the state administrative authority that you have evaluated the use of design and construction technologies and/or operational measures for your facility and an explanation of how you determined that restoration would be more feasible, cost-effective, or environmentally desirable.

b. You must provide a narrative description of the design and operation of all restoration measures, existing and proposed, that you have in place or will use to produce fish and shellfish.

c. You must provide a quantification of the ecological benefits of the proposed restoration measures. You must use information from the impingement mortality and/or entrainment characterization study required in Paragraph B.3 of this Section, and any other available and appropriate information, to estimate the reduction in fish and shellfish impingement mortality and/or entrainment that would be necessary for your facility to comply with LAC 33:IX.4737.C.2. You must then calculate the production of fish and shellfish that you will achieve with the restoration measures you will or have already installed. You must include a discussion of the nature and magnitude of uncertainty associated with the performance of these restoration measures. You must also include a discussion of the time frame within which these ecological benefits are expected to accrue.

d. You must design calculations, drawings, and estimates to document that your proposed restoration measures in combination with design and construction technologies and/or operational measures, or alone, will meet the requirements of LAC 33:IX.4737.C.2. If the restoration measures address the same fish and shellfish species identified in the impingement mortality and/or entrainment characterization study (in-kind restoration), you must demonstrate that the restoration measures will produce a level of these fish and shellfish substantially similar to that which would result from meeting applicable performance standards in LAC 33:IX.4737.B, or that they will satisfy site-specific requirements established in accordance with LAC 33:IX.4737.A.5. If the restoration measures address fish and shellfish species different from those identified in the impingement mortality and/or entrainment characterization study (out-of-kind restoration), you must demonstrate that the restoration measures produce ecological benefits substantially similar to or greater than those that would be realized through in-kind restoration. Such a demonstration should be based on a watershed approach to restoration planning and consider applicable multi-agency watershed restoration plans, site-specific peer-reviewed ecological studies, and/or consultation with appropriate federal, state, and tribal fish and wildlife management agencies.

e. You must provide a plan utilizing an adaptive management method for implementing, maintaining, and demonstrating the efficacy of the restoration measures you have selected and for determining the extent to which the restoration measures, or the restoration measures in combination with design and construction technologies and operational measures, have met the applicable requirements of LAC 33:IX.4737.C.2. The plan must include:

i. a monitoring plan that includes a list of the restoration parameters that will be monitored, the frequency with which you will monitor them, and success criteria for each parameter;

ii. a list of activities you will undertake to ensure the efficacy of the restoration measures, a description of the linkages between these activities and the items in Clause B.5.e.i of this Section, and an implementation schedule; and

iii. a process for revising the restoration plan as new information, including monitoring data, becomes available, if the applicable requirements under LAC 33:IX.4737.C.2 are not being met.

f. You must provide a summary of any past or ongoing consultation with appropriate federal, state, and tribal fish and wildlife management agencies on your use of restoration measures, including a copy of any written comments received as a result of such consultations.

g. If requested by the state administrative authority, you must provide a peer review of the items you submit for the restoration plan. You must choose the peer reviewers in consultation with the state administrative authority, who may consult with EPA and federal, state, and tribal fish and wildlife management agencies with responsibility for fish and wildlife potentially affected by your cooling water intake structure. Peer reviewers must have appropriate qualifications (e.g., in the fields of geology, engineering, and/or biology, etc.) depending upon the materials to be reviewed.

h. You must provide a description of the information to be included in a biannual status report to the state administrative authority.

6. Information to Support Site-Specific Determination of Best Technology Available For Minimizing Adverse Environmental Impact. If you have requested a site-specific determination of best technology available for minimizing adverse environmental impact in accordance with LAC 33:IX.4737.A.5.a because of costs significantly greater than those considered by the administrator for a facility like yours in establishing the applicable performance standards of LAC 33:IX.4737.B, you must provide to the state administrative authority the information specified in Subparagraphs B.6.a and c of this Section. If you have requested a site-specific determination of best technology available for minimizing adverse environmental impact in accordance with LAC 33:IX.4737.A.5.b because of costs significantly greater than the benefits of meeting the applicable performance standards of LAC 33:IX.4737.B at your facility, you must provide the information specified in Subparagraphs B.6.a and c of this Section.

a. Comprehensive Cost Evaluation Study. You must perform and submit the results of a comprehensive cost evaluation study that includes:

i. engineering cost estimates in sufficient detail to document the costs of implementing design and construction technologies, operational measures, and/or restoration measures at your facility that would be needed to meet the applicable performance standards of LAC 33:IX.4737.B;

ii. a demonstration that the costs documented in Clause B.6.a.i of this Section significantly exceed either those considered by the administrator for a facility like yours in establishing the applicable performance standards or the benefits of meeting the applicable performance standards at your facility; and

iii. engineering cost estimates in sufficient detail to document the costs of implementing the design and construction technologies, operational measures, and/or restoration measures in your site-specific technology plan developed in accordance with Subparagraph B.6.c of this Section.

b. Benefits Valuation Study. If you are seeking a site-specific determination of best technology available for minimizing adverse environmental impact because of costs significantly greater than the benefits of meeting the applicable performance standards of LAC 33:IX.4737.B at your facility, you must use a comprehensive method to fully value the impacts of impingement mortality and entrainment at your site and the benefits achievable by meeting the applicable performance standards. In addition to the valuation estimates, the benefit study must include the following:

i. a description of the method used to value commercial, recreational, and ecological benefits, including any non-use benefits, if applicable;

ii. documentation of the basis for any assumptions and quantitative estimates. If you plan to use an entrainment survival rate other than zero, you must submit a determination of entrainment survival at your facility based on a study approved by the state administrative authority;

iii. an analysis of the effects of significant sources of uncertainty on the results of the study; and

iv. if requested by the state administrative authority, a peer review of the items you submit in the benefits valuation study. You must choose the peer reviewers in consultation with the state administrative authority, who may consult with EPA and federal, state, and tribal fish and wildlife management agencies with responsibility for fish and wildlife potentially affected by your cooling water intake structure. Peer reviewers must have appropriate qualifications depending upon the materials to be reviewed; and

v. a narrative description of any non-monetized benefits that would be realized at your site if you were to meet the applicable performance standards, and a qualitative assessment of their magnitude and significance.

c. Site-Specific Technology Plan. Based on the results of the comprehensive cost evaluation study required by Subparagraph B.6.a of this Section, and the benefits valuation study required by Subparagraph B.6.b of this Section, if applicable, you must submit a site-specific technology plan to the state administrative authority for review and approval. The plan must contain the following information:

i. a narrative description of the design and operation of all existing and proposed design and

construction technologies, operational measures, and/or restoration measures that you have selected in accordance with LAC 33:IX.4737.A.5;

ii. an engineering estimate of the efficacy of the proposed and/or implemented design and construction technologies or operational measures, and/or restoration measures. This estimate must include a site-specific evaluation of the suitability of the technologies or operational measures for reducing impingement mortality and/or entrainment, as applicable, of all life stages of fish and shellfish based on representative studies (e.g., studies that have been conducted at cooling water intake structures located in the same water body type with similar biological characteristics) and, if applicable, site-specific technology prototype or pilot studies. If restoration measures will be used, you must provide a restoration plan that includes the elements described in Paragraph B.5 of this Section;

iii. a demonstration that the proposed and/or implemented design and construction technologies, operational measures, and/or restoration measures achieve an efficacy that is as close as practicable to the applicable performance standards of LAC 33:IX.4737.B without resulting in costs significantly greater than either the costs considered by the administrator for a facility like yours in establishing the applicable performance standards or, as appropriate, the benefits of complying with the applicable performance standards at your facility; and

iv. design and engineering calculations, drawings, and estimates prepared by a qualified professional to support the elements of the plan.

7. Verification Monitoring Plan. If you comply using compliance alternatives in LAC 33:IX.4737.A.2, 3, 4, or 5 using design and construction technologies and/or operational measures, you must submit a plan to conduct, at a minimum, two years of monitoring to verify the full-scale performance of the proposed or already-implemented technologies and/or operational measures. The verification study must begin once the design and construction technologies and/or operational measures are installed and continue for a period of time that is sufficient to demonstrate to the state administrative authority whether the facility is meeting the applicable performance standards in LAC 33:IX.4737.B or site-specific requirements developed in accordance with LAC 33:IX.4737.A.5. The plan must provide the following:

a. a description of the frequency and duration of monitoring, the parameters to be monitored, and the basis for determining the parameters and the frequency and duration for monitoring. The parameters selected and duration and frequency of monitoring must be consistent with any method for assessing success in meeting applicable performance standards in your technology installation and operation plan as required by Subparagraph B.4.b of this Section;

b. a proposal on how naturally moribund fish and shellfish that enter the cooling water intake structure would be identified and taken into account in assessing success in meeting the performance standards in LAC 33:IX.4737.B; and

c. a description of the information to be included in a biannual status report to the state administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:432 (February 2005).

§4741. As an owner or operator of a Phase II existing facility, what monitoring must I perform?

A. As an owner or operator of a Phase II existing facility, you must perform monitoring, as applicable, in accordance with the technology installation and operation plan required by LAC 33:IX.4739.B.4.b, the restoration plan required by LAC 33:IX.4739.B.5, the verification monitoring plan required by LAC 33:IX.4739.B.7, and any additional monitoring specified by the state administrative authority to demonstrate compliance with the applicable requirements of LAC 33:IX.4737.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:436 (February 2005).

§4743. As an owner or operator of a Phase II existing facility, what records must I keep and what information must I report?

A. As an owner or operator of a Phase II existing facility you must keep records and report information and data to the state administrative authority as follows.

1. You must keep records of all the data used to complete the permit application and show compliance with the requirements of LAC 33:IX.4737, any supplemental information developed under LAC 33:IX.4739, and any compliance monitoring data submitted under LAC 33:IX.4741, for a period of at least three years from date of permit issuance. The state administrative authority may require that these records be kept for a longer period.

2. You must submit a status report to the state administrative authority for review every two years that includes appropriate monitoring data and other information as specified by the state administrative authority in accordance with LAC 33:IX.4745.B.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:436 (February 2005).

§4745. As the state administrative authority, what must I do to comply with the requirements of this Subchapter?

A. Permit Application. As the state administrative authority, you must review materials submitted by the applicant under LAC 33:IX.2501.R and LAC 33:IX.4739 before each permit renewal or reissuance.

1. You must review and comment on the proposal for information collection submitted by the facility in accordance with LAC 33:IX.4739.A.1. You are encouraged to provide comments expeditiously so that the permit applicant can make responsive modifications to its information gathering activities. If a facility submits a request in accordance with LAC 33:IX.4739.A.2.b for an alternate schedule for submitting the information required in LAC 33:IX.4739, you must approve a schedule that is as expeditious as practicable, but does not extend beyond January 7, 2008. If a facility submits a request in accordance with LAC 33:IX.4739.A.3 to reduce the information about its cooling water intake structures and the source water body required to be submitted in its permit application, other than with the first permit application after September 7, 2004, you must approve the request within 60 days if conditions at the facility and in the water body remain substantially unchanged since the previous application.

2. After receiving the permit application from the owner or operator of a Phase II existing facility, you must determine which of the requirements specified in LAC 33:IX.4737 apply to the facility. In addition, you must review materials to determine compliance with the applicable requirements.

3. At each permit renewal, you must review the application materials and monitoring data to determine whether new or revised requirements for design and construction technologies, operational measures, or restoration measures should be included in the permit to meet the applicable performance standards in LAC 33:IX.4737.B or alternative site-specific requirements established in accordance with LAC 33:IX.4747.A.5.

B. Permitting Requirements. Section 316(b) (of the CWA) requirements are implemented for a facility through an LPDES permit. As the state administrative authority, you must consider the information submitted by the Phase II existing facility in its permit application, and determine the appropriate requirements and conditions to include in the permit based on the compliance alternatives in LAC 33:IX.4737.A. The following requirements must be included in each permit.

1. Cooling Water Intake Structure Requirements. The permit conditions must include the requirements that implement the applicable provisions of LAC 33:IX.4737. You must evaluate the performance of the design and construction technologies, operational measures, and/or restoration measures proposed and implemented by the facility and require additional or different design and construction technologies, operational measures, and/or restoration measures, and/or improved operation and maintenance of existing technologies and measures, if needed to meet the applicable performance standards, restoration requirements, or alternative site-specific requirements. In determining compliance with the performance standards for facilities proposing to increase withdrawals of cooling water from a lake or a reservoir in accordance with LAC 33:IX.4737.B.3, you must consider anthropogenic factors (those not considered "natural") unrelated to the Phase II existing facility's cooling water intake structures that can influence the occurrence and location of a thermocline. These include source water inflows, other water withdrawals, managed water uses, wastewater discharges, and flow/level management practices (e.g., some reservoirs release water from deeper bottom layers). As the state administrative authority, you must coordinate with appropriate federal, state, or tribal fish and wildlife management agencies to determine if any disruption of the natural thermal stratification resulting from the proposed increased withdrawal of cooling water adversely affects the management of fisheries.

a. You must review and approve the design and construction technology plan required in LAC 33:IX.4739.B.4 to evaluate the suitability and feasibility of the design and construction technologies and/or operational measures proposed to meet the performance standards in LAC 33:IX.4737.B or site-specific requirements developed in accordance with LAC 33:IX.4737.A.5.

b. If the facility proposes restoration measures in accordance with LAC 33:IX.4737.C, you must review and approve the restoration plan required under LAC 33:IX.4739.B.5 to determine whether the proposed measures, alone or in combination with design and construction technologies and/or operational measures, will meet the requirements under LAC 33:IX.4737.C.

c. In each reissued permit, you must include a condition in the permit requiring the facility to reduce impingement mortality and entrainment, or to increase fish production, if applicable, commensurate with the efficacy at the facility of the installed design and construction technologies, operational measures, and/or restoration measures.

d. If the facility implements design and construction technologies and/or operational measures and requests that compliance with the requirements in LAC 33:IX.4737 be measured for the first permit term, or subsequent permit terms, if applicable, employing the technology installation and operation plan in accordance with LAC 33:IX.4739.B.4.b, you must review the technology installation and operation plan to ensure that it meets the requirements of LAC 33:IX.4739.B.4.b. If the technology installation and operation plan meets the requirements of LAC 33:IX.4739.B.4.b, you must approve the technology installation and operation plan and require the facility to meet the terms of the plan including any revision to the plan that may be necessary if applicable performance standards or alternative site-specific requirements are not being met. If the facility implements restoration measures and requests that compliance with the requirements in LAC 33:IX.4737 be measured for the first permit term, or subsequent permit terms, if applicable, employing a restoration plan in accordance with LAC 33:IX.4739.B.5, you must review the restoration plan to ensure it meets the requirements of LAC 33:IX.4739.B.5. If the restoration plan meets the requirements of LAC 33:IX.4739.B.5, you must approve the plan and require the facility to meet the terms of the plan including any revision to the plan that may be necessary if

applicable performance standards or site-specific requirements are not being met. In determining whether to approve a technology installation and operation plan or restoration plan, you must evaluate whether the design and construction technologies, operational measures, and/or restoration measures the facility has installed, or proposes to install, can reasonably be expected to meet the applicable performance standards in LAC 33:IX.4737.B, restoration requirements in LAC 33:IX.4737.C.2, and/or alternative site-specific requirements established in accordance with LAC 33:IX.4737.A.5, and whether the technology installation and operation plan and/or the restoration plan complies with the applicable requirements of LAC 33:IX.4739.B. In reviewing the technology installation and operation plan, you must approve any reasonable scheduling provisions that are designed to ensure that impacts to energy reliability and supply are minimized, in accordance with LAC 33:IX.4739.B.4.b.i. If the facility does not request that compliance with the requirements in LAC 33:IX.4737 be measured employing a technology installation and operation plan and/or a restoration plan, or the facility has not been in compliance with the terms of its current technology installation and operation plan and/or restoration plan during the preceding permit term, you must require the facility to comply with the applicable performance standards in LAC 33:IX.4737.B, restoration requirement in LAC 33:IX.4737.C.2, and/or alternative site-specific requirements developed in accordance with LAC 33:IX.4737.A.5. In considering a permit application, you must review the performance of the design and construction technologies, operational measures, and/or restoration measures implemented and require additional or different design and construction technologies, operational measures, and/or restoration measures, and/or improved operation and maintenance of existing technologies and measures, if needed to meet the applicable performance standards, restoration requirements, and/or alternative site-specific requirements.

e. You must review and approve the proposed verification monitoring plan submitted under LAC 33:IX.4739.B.7 for design and construction technologies, and/or monitoring provisions of the restoration plan submitted under LAC 33:IX.4739.B.5.e, and require that the monitoring continue for a sufficient period of time to demonstrate whether the design and construction technologies, operational measures, and/or restoration measures meet the applicable performance standards in LAC 33:IX.4737.B, restoration requirements in LAC 33:IX.4737.C.2, and/or site-specific requirements established in accordance with LAC 33:IX.4737.A.5.

f. If a facility requests requirements based on a site-specific determination of best technology available for minimizing adverse environmental impact, you must review the application materials submitted under LAC 33:IX.4739.B.6 and any other information you may have, including quantitative and qualitative benefits, that would be relevant to a determination of whether alternative requirements are appropriate for the facility. If a facility submits a study to support entrainment survival at the facility, you must review and approve the results of that study. If you determine that alternative requirements are appropriate, you must make a site-specific determination of best technology available for minimizing adverse environmental impact in accordance with LAC 33:IX.4737.A.5. You, as the state administrative authority, may request revisions to the information submitted by the facility in accordance with LAC 33:IX.4739.B.6 if it does not provide an adequate basis for you to make this determination. Any alternative site-specific requirements established based on new and/or existing design and construction technologies, operational measures, and/or restoration measures, must achieve an efficacy that is, in your judgment, as close as practicable to the applicable performance standards of LAC 33:IX.4737.B without resulting in costs that are significantly greater than the costs considered by the state administrative authority for a like facility in establishing the applicable performance standards in LAC 33:IX.4737, determined in accordance with LAC 33:IX.4737.A.5.a.i-vi, or the benefits of complying with the applicable performance standards at the facility.

g. You must review the proposed methods for assessing success in meeting applicable performance standards and/or restoration requirements submitted by the facility under LAC 33:IX.4739.B.4.b.iv and/or B.5.e.i, evaluate those and other available methods, and specify how assessment of success in meeting the performance standards and/or restoration requirements will be determined, including the averaging period for determining the percent reduction in impingement mortality and entrainment and/or the production of fish and shellfish. Compliance for facilities that request that compliance be measured employing a technology installation and operation plan and/or restoration plan will be determined in accordance with Subparagraph B.1.d of this Section.

2. Monitoring Conditions. You must require the facility to perform monitoring in accordance with the technology installation and operation plan in LAC 33:IX.4739.B.4.b, the restoration plan required by LAC 33:IX.4739.B.5, if applicable, and the verification monitoring plan required by LAC 33:IX.4739.B.7. In determining any additional applicable monitoring requirements in accordance with LAC 33:IX.4741, you must consider the monitoring facility's verification monitoring, technology installation and operation, and/or restoration plans, as appropriate. You may modify the monitoring program based on changes in physical or biological conditions in the vicinity of the cooling water intake structure.

3. Recordkeeping and Reporting. At a minimum, the permit must require the facility to report and keep records specified in LAC 33:IX.4743.

4. Design and Construction Technology Approval

a. For a facility that chooses to demonstrate that it has installed and can properly operate and maintain a design and construction technology approved in accordance with LAC 33:IX.4747, the state administrative authority must

review and approve the information submitted in the technology installation and operation plan in LAC 33:IX.4739.B.4.b and determine if it meets the criteria in LAC 33:IX.4747.

b. If a person requests approval of a technology under LAC 33:IX.4747.B, the state administrative authority must review and approve the information submitted and determine its suitability for widespread use at facilities with similar site conditions in its jurisdiction with minimal study. As the state administrative authority, you must evaluate the adequacy of the technology when installed in accordance with the required design criteria and site conditions to consistently meet the performance standards in LAC 33:IX.4737. You, as the state administrative authority, may only approve a technology following public notice and consideration of comment regarding such approval.

5. Biannual Status Report. You must specify monitoring data and other information to be included in a status report every two years. The other information may include operation and maintenance records, summaries of adaptive management activities, or any other information that is relevant to determining compliance with the terms of the facility's technology operation and installation plan and/or restoration plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:436 (February 2005).

§4747. What are approved design and construction technologies?

A. The following technologies constitute approved design and construction technologies for purposes of LAC 33:IX.4737.A.4:

1. submerged cylindrical wedge-wire screen technology, if you meet the following conditions:

a. your cooling water intake structure is located in a freshwater river or stream;

b. your cooling water intake structure is situated such that sufficient ambient counter currents exist to promote cleaning of the screen face;

c. your maximum through-screen design intake velocity is 0.5 ft/s or less;

d. the slot size is appropriate for the size of eggs, larvae, and juveniles of all fish and shellfish to be protected at the site; and

e. your entire main condenser cooling water flow is directed through the technology. Small flows totaling less than 2 MGD for auxiliary plant cooling uses are excluded from this provision;

2. a technology that has been approved in accordance with the process described in Paragraph B of this Section.

B. You or any other interested person may submit a request to the state administrative authority that a technology be approved in accordance with the compliance alternative in LAC 33:IX.4737.A.4 after providing the public with notice and an opportunity to comment on the request for approval of the technology. If the state administrative authority approves the technology, it may be used by all facilities with similar site conditions under the state administrative authority's jurisdiction. Requests for approval of a technology must be submitted to the state administrative authority and include the following information:

1. a detailed description of the technology;

2. a list of design criteria for the technology and site characteristics and conditions that each facility must have in order to ensure that the technology can consistently meet the appropriate impingement mortality and entrainment performance standards in LAC 33:IX.4737.B; and

3. information and data sufficient to demonstrate that facilities under the jurisdiction of the state administrative authority can meet the applicable impingement mortality and entrainment performance standards in LAC 33:IX.4737.B if the applicable design criteria and site characteristics and conditions are present at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:438 (February 2005).

Subchapter C. Requirements Applicable to Cooling Water Intake Structures for New Offshore Oil and Gas Extraction Facilities Under Section 316(b) of the Clean Water Act

§4761. What are the purpose and scope of this Subchapter?

A. This Subchapter establishes requirements that apply to the location, design, construction, and capacity of cooling water intake structures at new offshore oil and gas extraction facilities. The purpose of these requirements is to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structures at these facilities. These requirements are implemented through the Louisiana Pollutant Discharge Elimination System (LPDES) permits issued under Section 402 of the Clean Water Act (CWA).

B. This Subchapter implements Section 316(b) of the CWA for new offshore oil and gas extraction facilities. Section 316(b) of the CWA provides that any standard established pursuant to Section 301 or 306 of the CWA and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

C. New offshore oil and gas extraction facilities that do not meet the threshold requirements regarding amount of water withdrawn or percentage of water withdrawn for

cooling water purposes in LAC 33:IX.4763.A must meet requirements determined by the administrative authority on a case-by-case, best professional judgement (BPJ) basis.

D. Nothing in this Subchapter shall be construed to preclude or deny the right of any state or political subdivision of a state or any interstate agency under Section 510 of the CWA to adopt or enforce any requirement with respect to control or abatement of pollution that is more stringent than those required by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2071 (October 2007).

§4763. Who is subject to this Subchapter?

A. This Subchapter applies to a new offshore oil and gas extraction facility if it meets all of the following criteria.

1. It is a point source that uses or proposes to use a cooling water intake structure.

2. It has at least one cooling water intake structure that uses at least 25 percent of the water it withdraws for cooling purposes as specified in Subsection C of this Section.

3. It has a design intake flow greater than 2 million gallons per day (MGD).

B. Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with an independent supplier (or multiple suppliers) of cooling water if the supplier or suppliers withdraw water from waters of the United States. Use of cooling water does not include obtaining cooling water from a public water system or the use of treated effluent that otherwise would be discharged to a water of the U.S.

C. The threshold requirement that at least 25 percent of water withdrawn be used for cooling purposes must be measured on an average monthly basis. A new offshore oil and gas extraction facility meets the 25 percent cooling water threshold if, based on the new facility's design, any monthly average over a year for the percentage of cooling water withdrawn is expected to equal or exceed 25 percent of the total water withdrawn.

D. Neither this Subchapter nor Subchapter A of this Chapter applies to seafood processing vessels or offshore liquefied natural gas import terminals that are *new facilities* as defined in LAC 33:IX.4707. Seafood processing vessels and offshore liquefied natural gas import terminals must meet requirements established by the administrative authority on a case-by-case, best professional judgment (BPJ) basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2071 (October 2007).

§4765. When must I comply with this Subchapter?

A. You must comply with this Subchapter when an LPDES permit containing requirements consistent with this Subchapter is issued to you.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2071 (October 2007).

§4767. What special definitions apply to this Subchapter?

A. In addition to the definitions set forth in LAC 33:IX.4707, the following special definitions apply to this Subchapter.

Cooling Water—water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the *cooling water* is to absorb waste heat rejected from the process or processes used or from auxiliary operations on the facility's premises. *Cooling water* that is used in another industrial process either before or after it is used for cooling is considered process water rather than *cooling water* for the purposes of calculating the percentage of a new offshore oil and gas extraction facility's intake flow that is used for cooling purposes in accordance with LAC 33:IX.4763.C.

Existing Facility—any facility that commenced construction as described in 40 CFR 122.29(b)(4) on or before January 17, 2002 (or July 17, 2006, for an offshore oil and gas extraction facility), and any modification of, or any addition of, a unit at such a facility that does not meet the definition of a *new facility* in LAC 33:IX.4707.

Fixed Facility—a bottom-founded offshore oil and gas extraction facility permanently attached to the seabed or subsoil of the outer continental shelf (e.g., platforms, guyed towers, articulated gravity platforms) or a buoyant facility securely and substantially moored so that it cannot be moved without a special effort (e.g., tension leg platforms, permanently moored semi-submersibles) and which is not intended to be moved during the production life of the well. This definition does not include mobile offshore drilling units (MODUs) (e.g., drill ships, temporarily moored semi-submersibles, jack-ups, submersibles, tender-assisted rigs, and drill barges).

Minimum Ambient Source Water Surface Elevation—the mean low tidal water level for estuaries or oceans. The mean low tidal water level is the average height of the low water over at least 19 years.

New Offshore Oil and Gas Extraction Facility—any building, structure, facility, or installation that meets the definition of a *new facility* in LAC 33:IX.4707 and is regulated by the Offshore or Coastal Subcategories of the Oil and Gas Extraction Point Source Category Effluent Guidelines incorporated by reference in LAC 33:IX.4903, but only if it commences construction after July 17, 2006.

Offshore Liquefied Natural Gas (LNG) Import Terminal—any facility located in waters defined in the federal regulations incorporated by reference in LAC 33:IX.4903 that liquefies, re-gasifies, transfers, or stores liquefied natural gas.

Sea Chest—the underwater compartment or cavity within the facility or vessel hull or pontoon through which sea water is drawn in (for cooling and other purposes) or discharged.

Seafood Processing Vessel—any offshore or nearshore, floating, mobile facility engaged in the processing of fresh, frozen, canned, smoked, salted, or pickled seafood or seafood paste, mince, or meal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2071 (October 2007).

§4769. As an owner or operator of a new offshore oil and gas extraction facility, what must I do to comply with this Subchapter?

A. Applicability

1. The owner or operator of a new offshore oil and gas extraction facility must comply with:

a. the Track I requirements in Subsection B or the Track II requirements in Subsection C of this Section, if it is a fixed facility; or

b. the Track I requirements in Subsection B of this Section, if it is not a fixed facility.

2. In addition to meeting the requirements in Subsection B or C of this Section, the owner or operator of a new offshore oil and gas extraction facility may be required to comply with Subsection D of this Section.

B. Track I Requirements for New Offshore Oil and Gas Extraction Facilities

1. New offshore oil and gas extraction facilities that are fixed facilities shall:

a. comply with all of the requirements in Paragraphs B.3-9 of this Section if they do not employ sea chests as cooling water intake structures; or

b. comply with the requirements in Paragraphs B.3, 4, 5, 7, 8, and 9 of this Section if they employ sea chests.

2. New offshore oil and gas extraction facilities that are not fixed facilities must comply with the requirements in Paragraphs B.3, 5, 7, 8, and 9 of this Section.

3. You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s.

4. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

5. You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if the administrative authority determines that:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

b. based on information submitted by any fishery management agency or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. based on information submitted by any fishery management agency or other relevant information, the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.3 and 6 of this Section, would still contribute unacceptable stress to the protected species, or critical habitat of those species, or species of concern.

6. You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish.

7. You must submit the applicable application information required in LAC 33:IX.2501.R and 4773.B. If you are a fixed facility, you must submit the information required in LAC 33:IX.2501.R.2 (except 2.d), 3, and 4 and 4773.B as part of your application. If you are a not a fixed facility, you must only submit the information required in LAC 33:IX.2501.R.2.d and 3 (except 3.b) and 4773.B as part of your application.

8. You must implement the monitoring requirements specified in LAC 33:IX.4775.

9. You must implement the recordkeeping requirements specified in LAC 33:IX.4777.

C. Track II Requirements for New Offshore Oil and Gas Extraction Facilities. The owner or operator of a new offshore oil and gas extraction facility that is a fixed facility and chooses to comply under Track II must comply with the following requirements.

1. You must demonstrate to the administrative authority that the technologies employed will reduce the level of adverse environmental impact from your cooling water intake structures to a comparable level to that which you would achieve were you to implement the applicable requirements of Paragraph B.3 of this Section and, if your facility is a fixed facility without a sea chest, also Paragraph B.6 of this Section. This demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, will be comparable to

those which would result if you were to implement the requirements of Paragraph B.3 of this Section and, if your facility is a fixed facility without a sea chest, also Paragraph B.6 of this Section. In identifying such species, the administrative authority may consider information provided by any fishery management agency along with data and information from other sources.

2. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

3. You must submit the applicable information required in LAC 33:IX.2501.R.2 (except 2.d), 3, and 4 and 4773.C.

4. You must implement the monitoring requirements specified in LAC 33:IX.4775.

5. You must implement the recordkeeping requirements specified in LAC 33:IX.4777.

D. You must comply with any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure or monitoring requirements at a new offshore oil and gas extraction facility that the administrative authority deems are reasonably necessary to comply with any provision of federal or state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2072 (October 2007).

§4771. May alternative requirements be authorized?

A. Any interested person may request that alternative requirements less stringent than those specified in LAC 33:IX.4769 be imposed in the permit. The administrative authority may establish alternative requirements less stringent than the requirements in LAC 33:IX.4769 only if:

1. there is an applicable requirement in LAC 33:IX.4769;

2. the administrative authority determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to the costs EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local water resources other than impingement or entrainment or significant adverse impacts on energy markets;

3. the alternative requirement requested is no less stringent than justified by the wholly-out-of-proportion cost or the significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on energy markets; and

4. the alternative requirement will ensure compliance with other applicable provisions of the Clean Water Act and any applicable requirement of federal or state law.

B. The burden is on the person requesting the alternative requirement to demonstrate that the alternative requirement should be authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2073 (October 2007).

§4773. As an owner or operator of a new offshore oil and gas extraction facility, what must I collect and submit when I apply for my new or reissued LPDES permit?

A. General Application Requirements

1. As an owner or operator of a new offshore oil and gas extraction facility, you must submit to the administrative authority a statement that you intend to comply with either:

a. the Track I requirements for new offshore oil and gas extraction facilities in LAC 33:IX.4769.B; or

b. if you are a fixed facility, the Track II requirements in LAC 33:IX.4769.C.

2. You must also submit the application information required by LAC 33:IX.2501.R and the information required in either Subsection B of this Section for Track I or, if you are a fixed facility that chooses to comply under Track II, Subsection C of this Section when you apply for a new or reissued LPDES permit in accordance with LAC 33:IX.2501.

B. Track I Application Requirements. To demonstrate compliance with Track I requirements in LAC 33:IX.4769.B, you must collect and submit to the administrative authority the information in Paragraphs B.1-3 of this Section.

1. Velocity Information. You must submit the following information to the administrative authority to demonstrate that you are complying with the requirement to meet a maximum through-screen design intake velocity of no more than 0.5 ft/s at each cooling water intake structure as required in LAC 33:IX.4769.B.3:

a. a narrative description of the design, structure, equipment, and operation used to meet the velocity requirement; and

b. design calculations showing that the velocity requirement will be met at minimum ambient source water surface elevations (based on best professional judgment using available hydrological data) and maximum head loss across the screens or other device.

2. Source Water Body Flow Information. If you are a fixed facility and your cooling water intake structure is

located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements in LAC 33:IX.4769.B.4.

3. Design and Construction Technology Plan. To comply with LAC 33:IX.4769.B.5 and/or 6, if applicable, you must submit to the administrative authority the following information in a design and construction technology plan:

a. if the administrative authority determines that additional impingement requirements should be included in your permit:

i. information to demonstrate whether you meet the criteria in LAC 33:IX.4769.B.5;

ii. delineation of the hydraulic zone of influence for your cooling water intake structure; and

b. if required to install design and construction technologies and/or operational measures in accordance with LAC 33:IX.4769.B.5 or 6, a plan explaining the technologies and measures you have selected. (Examples of appropriate technologies include, but are not limited to, increased opening to cooling water intake structure to decrease design intake velocity, wedgewire screens, fixed screens, velocity caps, location of cooling water intake opening in water body, etc. Examples of appropriate operational measures include, but are not limited to, seasonal shutdowns or reductions in flow, continuous operations of screens, etc.) The plan must contain the following information, if applicable:

i. a narrative description of the design and operation of the design and construction technologies, including fish-handling and return systems, that you will use to maximize the survival of those species expected to be most susceptible to impingement. Provide species-specific information that demonstrates the efficacy of the technology;

ii. to demonstrate compliance with LAC 33:IX.4769.B.6, if applicable, a narrative description of the design and operation of the design and construction technologies that you will use to minimize entrainment of those species expected to be the most susceptible to entrainment. Provide species-specific information that demonstrates the efficacy of the technology; and

iii. design calculations, drawings, and estimates to support the descriptions provided in Clauses B.3.b.i and ii of this Section.

C. Track II Application Requirements. If you are a fixed facility and have chosen to comply with the requirements of Track II in LAC 33:IX.4769.C, you must collect and submit to the administrative authority the following information.

1. Source Water Body Flow Information. If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements in LAC 33:IX.4769.C.2.

2. Track II Comprehensive Demonstration Study. You must perform and submit the results of a comprehensive demonstration study (study). This information is required to characterize the source water baseline in the vicinity of the cooling water intake structure(s), characterize operation of the cooling water intake(s), and confirm that the technology(ies) proposed and/or implemented at your cooling water intake structure reduces the impacts to fish and shellfish to levels comparable to those you would achieve were you to implement the applicable requirements in LAC 33:IX.4769.B.

a. To meet the comparable-level requirement, you must demonstrate that:

i. you have reduced impingement mortality of all life stages of fish and shellfish to 90 percent or greater of the reduction that would be achieved through the applicable requirements in LAC 33:IX.4769.B.3; and

ii. if you are a facility without sea chests, you have minimized entrainment of entrainable life stages of fish and shellfish to 90 percent or greater of the reduction that would have been achieved through the applicable requirements in LAC 33:IX.4769.B.6.

b. You must develop and submit a plan to the administrative authority containing a proposal for how information will be collected to support the study. The plan must include:

i. a description of the proposed and/or implemented technology(ies) to be evaluated in the study;

ii. a list and description of any historical studies characterizing the physical and biological conditions in the vicinity of the proposed or actual intakes and their relevancy to the proposed study. If you propose to rely on existing source water body data, the data must be no more than 5 years old, you must demonstrate that the existing data are sufficient to develop a scientifically valid estimate of potential impingement mortality and (if applicable) entrainment impacts, and you must provide documentation showing that the data were collected using appropriate quality assurance/quality control procedures;

iii. any public participation or consultation with federal or state agencies undertaken in developing the plan; and

iv. a sampling plan for data that will be collected using actual field studies in the source water body. The sampling plan must document all methods and quality assurance procedures for sampling and data analysis. The sampling and data analysis methods you propose must be appropriate for a quantitative survey and based on consideration of methods used in other studies performed in the source water body. The sampling plan must include a description of the study area (including the area of influence of the cooling water intake structure and at least 100 meters beyond), taxonomic identification of the sampled or

evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods.

c. You must submit documentation of the results of the study to the administrative authority. Documentation of the results of the study must include the following information.

i. Source Water Biological Study. The source water biological study must include:

(a). a taxonomic identification and characterization of aquatic biological resources including a summary of historical and contemporary aquatic biological resources, a determination and description of the target populations of concern (those species of fish and shellfish and all life stages that are most susceptible to impingement and entrainment), and a description of the abundance and temporal/spatial characterization of the target populations based on the collection of multiple years of data to capture the seasonal and daily activities (e.g., spawning, feeding, and water column migration) of all life stages of fish and shellfish found in the vicinity of the cooling water intake structure;

(b). an identification of all threatened or endangered species that might be susceptible to impingement and entrainment by the proposed cooling water intake structure(s); and

(c). a description of additional chemical, water quality, and other anthropogenic stresses on the source water body.

ii. Evaluation of Potential Cooling Water Intake Structure Effects. This evaluation must include:

(a). calculations of the reduction in impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish that would need to be achieved by the technologies you have selected to implement to meet requirements under Track II. To do this, you must determine the reduction in impingement mortality and entrainment that would be achieved by implementing the requirements in LAC 33:IX.4769.B.3 and, for facilities without sea chests, LAC 33:IX.4769.B.6 of Track I at your site;

(b). an engineering estimate of efficacy for the proposed and/or implemented technologies used to minimize impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish and maximize survival of impinged life stages of fish and shellfish. You must demonstrate that the technologies reduce impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish to a comparable level to that which you would achieve were you to implement the requirements in LAC 33:IX.4769.B.3 and, for facilities without sea chests, LAC 33:IX.4769.B.6 of Track I. The efficacy projection must include a site-specific evaluation of technology(ies) suitability for reducing impingement mortality and (if applicable) entrainment based on the results of the source water biological study conducted in accordance with Clause C.2.c.i of this Section. Efficacy estimates may be determined based on case studies that have been conducted in the vicinity of the cooling water intake structure and/or site-specific technology prototype studies.

iii. Verification Monitoring Plan. You must include in the study a plan to conduct, at a minimum, two years of monitoring to verify the full-scale performance of the proposed or implemented technologies and/or operational measures. The verification study must begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the facility is reducing the level of impingement mortality and (if applicable) entrainment to the level documented in Clause C.2.c.i of this Section. The plan must describe the frequency of monitoring and the parameters to be monitored. The administrative authority will use the verification monitoring to confirm that you are meeting the level of impingement mortality and entrainment reduction required in LAC 33:IX.4769.C and that the operation of the technology has been optimized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2073 (October 2007).

§4775. As an owner or operator of a new offshore oil and gas extraction facility, must I perform monitoring?

A. As an owner or operator of a new offshore oil and gas extraction facility, you will be required to perform monitoring to demonstrate your compliance with the requirements specified in LAC 33:IX.4769 or alternative requirements in LAC 33:IX.4771.

B. Biological Monitoring

1. Facility Requirements

a. Fixed facilities without sea chests that choose to comply with the Track I requirements in LAC 33:IX.4769.B.1 must monitor for entrainment. These facilities are not required to monitor for impingement, unless the administrative authority determines that the information would be necessary to evaluate the need for, or compliance with, additional requirements in accordance with LAC 33:IX.4769.B.5 or more stringent requirements in accordance with LAC 33:IX.4769.D.

b. Fixed facilities with sea chests that choose to comply with the Track I requirements in LAC 33:IX.4769.B.1 are not required to perform biological monitoring unless the administrative authority determines that the information would be necessary to evaluate the need for, or compliance with, additional requirements in accordance with LAC 33:IX.4769.B.5 or more stringent requirements in accordance with LAC 33:IX.4769.D.

c. Facilities that are not fixed facilities are not required to perform biological monitoring unless the administrative authority determines that the information would be necessary to evaluate the need for, or compliance with, additional requirements in accordance with

LAC 33:IX.4769.B.5 or more stringent requirements in accordance with LAC 33:IX.4769.D.

d. Fixed facilities with sea chests that choose to comply with the Track II requirements in LAC 33:IX.4769.C must monitor for impingement only. Fixed facilities without sea chests that choose to comply with Track II requirements must monitor for both impingement and entrainment.

2. Monitoring must characterize the impingement rates and (if applicable) entrainment rates of commercial, recreational, and forage base fish and shellfish species identified in the source water baseline biological characterization data required by LAC 33:IX.2501.R.4, identified in the comprehensive demonstration study required by LAC 33:IX.4773.C.2, or as specified by the administrative authority.

3. The monitoring methods used must be consistent with those used for the source water baseline biological characterization data required in LAC 33:IX.2501.R.4, those used by the comprehensive demonstration study required by LAC 33:IX.4773.C.2, or as specified by the administrative authority. You must follow the monitoring frequencies in Paragraphs B.4 and 5 of this Section for at least two years after the initial permit issuance. After that time, the administrative authority may approve a request for less frequent sampling in the remaining years of the permit term and when the permit is reissued, if supporting data show that less frequent monitoring would still allow for the detection of any seasonal variations in the species and numbers of individuals of those species that are impinged or entrained.

4. Impingement Sampling. You must collect samples to monitor impingement rates (simple enumeration) for each species over a 24-hour period and no less than once per month when the cooling water intake structure is in operation.

5. Entrainment Sampling. If your facility is subject to the requirements of LAC 33:IX.4769.B.1.a, or if your facility is subject to LAC 33:IX.4769.C and is a fixed facility without a sea chest, you must collect samples to monitor entrainment rates (simple enumeration) for each species over a 24-hour period and no less than biweekly during the primary period of reproduction, larval recruitment, and peak abundance identified during the source water baseline biological characterization required by LAC 33:IX.2501.R.4 or the comprehensive demonstration study required in LAC 33:IX.4773.C.2. You must collect samples only when the cooling water intake structure is in operation.

C. Velocity Monitoring. If your facility uses a surface intake screen system, you must monitor head loss across the screens and correlate the measured value with the design intake velocity. The head loss across the intake screen must be measured at the minimum ambient source water surface elevation (best professional judgment based on available hydrological data). The maximum head loss across the screen for each cooling water intake structure must be used to determine compliance with the velocity requirement in LAC 33:IX.4769.B.3. If your facility uses devices other than surface intake screens, you must monitor velocity at the point of entry through the device. You must monitor head loss or velocity during initial facility startup and, thereafter, at the frequency specified in your LPDES permit, but no less than once per quarter.

D. Visual or Remote Inspections. You must either conduct visual inspections or employ remote monitoring devices during the period the cooling water intake structure is in operation. You must conduct visual inspections at least weekly to ensure that any design and construction technologies required in LAC 33:IX.4769.B.5, B.6, C, and/or D are maintained and operated to ensure that they will continue to function as designed. Alternatively, you must inspect via remote monitoring devices to ensure that the impingement and entrainment technologies are functioning as designed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2075 (October 2007).

§4777. As an owner or operator of a new offshore oil and gas extraction facility, must I keep records and report?

A. As an owner or operator of a new offshore oil and gas extraction facility you are required to keep records and report information and data to the administrative authority as follows.

1. You must keep records of all the data used to complete the permit application and show compliance with the requirements, any supplemental information developed under LAC 33:IX.4773, and any compliance monitoring data submitted under LAC 33:IX.4775, for a period of at least three years from the date of permit issuance. The administrative authority may require that these records be kept for a longer period.

2. You must provide the following to the administrative authority in a yearly status report:

a. for fixed facilities, biological monitoring records for each cooling water intake structure as required by LAC 33:IX.4775.B;

b. velocity and head loss monitoring records for each cooling water intake structure as required by LAC 33:IX.4775.C; and

c. records of visual or remote inspections as required in LAC 33:IX.4775.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2076 (October 2007).

§4779. What must the administrative authority do to comply with the requirements of this Subchapter?

A. Permit Application. The administrative authority must review materials submitted by the applicant in accordance with LAC 33:IX.2501.R, 4771, and 4773 at the time of the initial permit application and before each permit renewal or reissuance.

1. After receiving the initial permit application from the owner or operator of a new offshore oil and gas extraction facility, the administrative authority must determine applicable standards in LAC 33:IX.4769 or 4771 to apply to the new offshore oil and gas extraction facility. In addition, the administrative authority must review materials to determine compliance with the applicable standards.

2. For each subsequent permit renewal, the administrative authority must review the application materials and monitoring data to determine whether requirements, or additional requirements, for design and construction technologies or operational measures should be included in the permit.

3. For Track II facilities, the administrative authority must review the information collection proposal plan required by LAC 33:IX.4773.C.2.b. The facility may initiate sampling and data collection activities prior to receiving comment from the administrative authority.

B. Permitting Requirements. Section 316(b) requirements of the CWA are implemented for a facility through an LPDES permit. The administrative authority must determine, based on the information submitted by the new offshore oil and gas extraction facility in its permit application, the appropriate requirements and conditions to include in the permit based on the track (Track I or Track II), or alternative requirements in accordance with LAC 33:IX.4771, the new offshore oil and gas extraction facility has chosen to comply with. The following requirements must be included in each permit.

1. Cooling Water Intake Structure Requirements. At a minimum, the permit conditions must include the performance standards that implement the applicable requirements of LAC 33:IX.4769.B.3-6 and C.1 and 2 or LAC 33:IX.4771.

a. For a facility that chooses Track I, the administrative authority must review the design and construction technology plan required in LAC 33:IX.4773.B.3 to evaluate the suitability and feasibility of the technology proposed to minimize impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish. In the first permit issued, the administrative authority must include a condition requiring the facility to reduce impingement mortality and/or entrainment commensurate with the implementation of the technologies in the permit. Under subsequent permits, the administrative authority must review the performance of the technologies implemented and require additional or different design and construction technologies, if needed, to minimize impingement mortality and/or entrainment of all life stages of fish and shellfish. In addition, the administrative authority must consider whether more stringent conditions are reasonably necessary in accordance with LAC 33:IX.4769.D.

b. For a fixed facility that chooses Track II, the administrative authority must review the information submitted with the comprehensive demonstration study required in LAC 33:IX.4773.C.2 and evaluate the suitability of the proposed design and construction technology and/or operational measures to determine whether they will reduce both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that could be achieved through Track I. In addition, the administrative authority must review the verification monitoring plan required in LAC 33:IX.4773.C.2.c.iii and require that the proposed monitoring begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the technologies and operational measures meet the requirements in LAC 33:IX.4769.C.1. Under subsequent permits, the administrative authority must review the performance of the additional and/or different technologies or measures used and determine that they reduce the level of adverse environmental impact from the cooling water intake structures to a comparable level that the facility would achieve were it to implement the requirements of LAC 33:IX.4769.B.3 and, if applicable, LAC 33:IX.4769.B.6.

c. If a facility requests alternative requirements in accordance with LAC 33:IX.4771, the administrative authority must determine if data specific to the facility meet the requirements in LAC 33:IX.4771.A and include requirements in the permit that are no less stringent than justified by the wholly-out-of-proportion cost or the significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on energy markets.

2. Monitoring Conditions. At a minimum, the permit must require the permittee to perform the monitoring required in LAC 33:IX.4775. The administrative authority may modify the monitoring program when the permit is reissued and during the term of the permit based on changes in physical or biological conditions in the vicinity of the cooling water intake structure. The administrative authority may require continued monitoring based on the results of monitoring done pursuant to the verification monitoring plan required in LAC 33:IX.4773.C.2.c.iii.

3. Recordkeeping and Reporting. At a minimum, the permit must require the permittee to report and keep records as required by LAC 33:IX.4777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2076 (October 2007).

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2012, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012).

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2012, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012).

§4905. Availability

A. Copies of documents incorporated by reference may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, or by telephone at (866) 512-1800.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:74 (January 2008).

Chapter 51. Criteria for Extending Compliance Dates under Section 301(i) of the Act—Reserved

Chapter 53. Criteria and Standards for Best Management Practices Authorized under Section 304(e) of the Act—Reserved

Chapter 55. Criteria and Standards for Imposing Conditions for the Disposal of Sewage Sludge under Section 405 of the Act—Reserved

Chapter 57. Toxic Pollutant Effluent Standards and Prohibitions

§5701. Scope and Purpose

A. The provisions of this Chapter apply to owners or operators of specified facilities discharging into waters of the state.

B. The effluent standards or prohibitions for toxic pollutants established in this Chapter shall be applicable to the sources and pollutants hereinafter set forth, and may be incorporated in any LPDES permit, modification or renewal thereof, in accordance with the provisions of this Chapter.

C. The provisions of LAC 33:IX.Chapters 31-47 and 51-55 shall apply to any LPDES permit proceedings for any point source discharge containing any toxic pollutant for which a standard or prohibition is established under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5703. Definitions

A. All terms not defined herein shall have the meaning given them in the Act or in LAC 33:IX.Chapters 31-35 or 37-47 and 51-55. As used in this Chapter, the term:

Act—the Clean Water Act (*CWA*) as defined in LAC 33:IX.2313 and the appropriate provisions of the LEQA and regulations.

Administrator—the Administrator of the Environmental Protection Agency or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under Section 307(a) of the Act, or any person who shall by operation of law be authorized to carry out such functions.

Air Emissions—the release or discharge of a toxic pollutant by an owner or operator into the ambient air either

a. by means of a stack; or

b. as a fugitive dust, mist or vapor as a result inherent to the manufacturing or formulating process.

Ambient Water Criterion—the concentration of a toxic pollutant in a waters of the state that, based upon available data, will not result in adverse impact on important aquatic life, or on consumers of such aquatic life, after exposure of that aquatic life for periods of time exceeding 96 hours and continuing at least through one reproductive cycle, and will not result in a significant risk of adverse health effects in a large human population based on available information such as mammalian laboratory toxicity data, epidemiological studies of human occupational exposures, or human exposure data, or any other relevant data.

Construction—any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

Effluent Standard—for purposes of Section 307, the equivalent of effluent limitation as that term is defined in Section 502(11) of the Act with the exception that it does not include a schedule of compliance.

Existing Source—any source which is not a new source as defined below.

Fugitive Dust, Mist or Vapor—dust, mist or vapor containing a toxic pollutant regulated under this Chapter which is emitted from any source other than through a stack.

Manufacturer—any establishment engaged in the mechanical or chemical transformation of materials or substances into new products including but not limited to the blending of materials such as pesticidal products, resins, or liquors.

New Source—source discharging a toxic pollutant, the construction of which is commenced after proposal of an effluent standard or prohibition applicable to such source if such effluent standard or prohibition is thereafter promulgated in accordance with Section 307 of the Act.

Owner or Operator—any person who owns, leases, operates, controls, or supervises a source as defined below.

Permit—a permit for the discharge of pollutants into waters of the state under the Louisiana Pollutant Discharge Elimination System established by Section 402 of the Act and implemented in LAC 33:IX.Chapters 31-47 and 51-55.

Process Wastes—any designated toxic pollutant, whether in wastewater or otherwise present, which is inherent to or unavoidably resulting from any manufacturing process, including that which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product and is discharged into the waters of the state.

Prohibited—the constituent shall be absent in any discharge subject to these standards, as determined by any analytical method.

Source—any building, structure, facility, or installation from which there is or may be the discharge of toxic pollutants designated as such by the EPA or DEQ under Section 307(a)(1) of the Act.

Stack—chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.

State Administrative Authority—the chief administrative officer of a state or interstate water pollution control agency operating an approved NPDES permit program. In the event responsibility for water pollution control and enforcement is divided among two or more state or interstate agencies, the term state administrative authority means the administrative officer authorized to perform the particular procedure to which reference is made.

Ten-Year 24-Hour Rainfall Event—the maximum precipitation event with a probable recurrence interval of once in 10 years as defined by the National Weather Service in Technical Paper No. 40, Rainfall Frequency Atlas of the United States, May 1961, and subsequent amendments or equivalent regional or state rainfall probability information developed therefrom.

Working Day—the hours during a calendar day in which a facility discharges effluents subject to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5705. Abbreviations

A. The abbreviations used in this Chapter represent the following terms.

lb = pound (or pounds)

g = gram

μg/L = micrograms per liter (1 one-millionth gram/liter)

kg = kilogram(s)

kkg = 1000 kilogram(s)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5707. Toxic Pollutants

A. The following are the pollutants subject to regulation under the provisions of this Chapter.

1. Aldrin/Dieldrin

Aldrin—the compound aldrin as identified by the chemical name, 1, 2, 3, 4, 10, 10-hexachloro-1, 4, 4a, 5, 8, 8a-hexahydro-1, 4- endo-5, 8-exo-dimethanonaphthalene;

Dieldrin—the compound dieldrin as identified by the chemical name 1, 2, 3, 4, 10, 10-hexachloro-6, 7-epoxy- 1, 4, 4a, 5, 6, 7, 8, 8a-octahydro-1, 4-endo-5, 8-exo-dimethanonaphthalene.

2. DDT

DDT—the compounds DDT, DDD, and DDE as identified by the chemical names: (DDT)-1, 1, 1-trichloro-2, 2-bis(p-chlorophenyl) ethane and some o, p-isomers; (DDD) or (TDE)-1, 1-dichloro-2, 2- bis (p-chlorophenyl) ethane and some o, p-isomers; (DDE)-1, 1 -dichloro-2, 2-bis(p-chlorophenyl) ethylene.

3. Endrin

Endrin—the compound endrin as identified by the chemical name 1, 2, 3, 4, 10, 10-hexachloro-6, 7-epoxy -1, 4, 4a, 5, 6, 7, 8, 8a-octahydro- 1, 4-endo-5, 8-endodimethanonaphthalene.

4. Toxaphene

Toxaphene—a material consisting of technical grade chlorinated camphene having the approximate formula of $C_{10}H_{10}C_{l8}$ and normally containing 67-69 percent chlorine by weight.

5. Benzidine

Benzidine—the compound benzidine and its salts as identified by the chemical name 4, 4 diaminobiphenyl.

6. Polychlorinated Biphenyls (PCBs)

Polychlorinated Biphenyls (PCBs)—a mixture of compounds composed of the biphenyl molecule which has been chlorinated to varying degrees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5709. Compliance

A.1. Within 60 days from the date of promulgation of any toxic pollutant effluent standard or prohibition each owner or operator with a discharge subject to that standard or prohibition must notify the Office of Environmental Services of such discharge. Such notification shall include such information and follow such procedures as the state administrative authority may require.

2. Any owner or operator who does not have a discharge subject to any toxic pollutant effluent standard at the time of such promulgation but who thereafter commences or intends to commence any activity which would result in such a discharge shall first notify the state administrative authority in the manner herein provided at least 60 days prior to any such discharge.

B. Upon receipt of any application for issuance or reissuance of a permit or for a modification of an existing permit for a discharge subject to a toxic pollutant effluent standard or prohibition the permitting authority shall proceed thereon in accordance with LAC 33:IX.Chapters 31-35 or 37-47 and 51-55, whichever is applicable.

C.1. Every permit which contains limitations based upon a toxic pollutant effluent standard or prohibition under this Chapter is subject to revision following the completion of any proceeding revising such toxic pollutant effluent standard or prohibition regardless of the duration specified on the permit.

2. For purposes of this Section, all toxic pollutants for which standards are set under this Chapter are deemed to be injurious to human health within the meaning of Section 402(k) of the Act unless otherwise specified in the standard established for any particular pollutant.

D.1. Upon the compliance date for any Section 307(a) toxic pollutant effluent standard or prohibition, each owner or operator of a discharge subject to such standard or prohibition shall comply with such monitoring, sampling, recording, and reporting conditions as the state administrative authority may require for that discharge. Notice of such conditions shall be provided in writing to the owner or operator.

2. In addition to any conditions required pursuant to LAC 33:IX.5709.D.1 of this Section and to the extent not required in conditions contained in LPDES permits, within 60 days following the close of each calendar year each owner or operator of a discharge subject to any toxic standard or prohibition shall report to the state administrative authority concerning the compliance of such discharges. Such report shall include, as a minimum, information concerning:

a. relevant identification of the discharger such as name, location of facility, discharge points, receiving waters, and the industrial process or operation emitting the toxic pollutant;

b. relevant conditions (pursuant to LAC 33:IX.5709.D.1 of this Section or to an LPDES permit) as to flow, Section 307(a) toxic pollutant concentrations, and Section 307(a) toxic pollutant mass emission rate; and

c. compliance by the discharger with such conditions.

3. When samples collected for analysis are composited, such samples shall be composited in proportion to the flow at time of collection and preserved in compliance with requirements of the state administrative authority, but shall include at least five samples, collected at approximately equal intervals throughout the working day.

E.1. Nothing in these regulations shall preclude an EPA regional administrator from requiring in any permit a more stringent effluent limitation or standard pursuant to Section 301(b)(1)(C) of the Act and implemented in 40 CFR 125.11 and other related provisions of LAC 33:IX.Chapters 37-47 and 51-55.

2. Nothing in these regulations shall preclude the state administrative authority from requiring in any permit a more

stringent effluent limitation or standard pursuant to Section 301(b)(1)(C) of the Act and implemented in 40 CFR 124.42 and other related provisions of LAC 33:IX.Chapters 31-35.

F. Any owner or operator of a facility which discharges a toxic pollutant to the waters of the state and to a publicly owned treatment system shall limit the summation of the mass emissions from both discharges to the less restrictive standard, either the direct discharge standard or the pretreatment standard; but in no case will this Section allow a discharge to the waters of the state greater than the toxic pollutant effluent standard established for a direct discharge to the waters of the state.

G. In any permit hearing or other administrative proceeding relating to the implementation or enforcement of these standards, or any modification thereof, or in any judicial proceeding other than a petition for review of these standards pursuant to Section 509(b)(1)(C) of the Act, the parties thereto may not contest the validity of any national or state standards established in this Chapter, or the ambient water criterion established herein for any toxic pollutant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 27:191 (February 2001), LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 33:2169 (October 2007).

§5711. Adjustment of Effluent Standard for Presence of Toxic Pollutant in the Intake Water

A. Upon the request of the owner or operator of a facility discharging a pollutant subject to a toxic pollutant effluent standard or prohibition, the state administrative authority shall give credit, and shall adjust the effluent standard(s) in such permit to reflect credit for the toxic pollutant(s) in the owner's or operator's water supply if:

1. the source of the owner's or operator's water supply is the same body of water into which the discharge is made; and if

2. it is demonstrated to the state administrative authority that the toxic pollutant(s) present in the owner's or operator's intake water will not be removed by any wastewater treatment systems whose design capacity and operation were such as to reduce toxic pollutants to the levels required by the applicable toxic pollutant effluent standards in the absence of the toxic pollutant in the intake water.

B. Effluent limitations established pursuant to this Section shall be calculated on the basis of the amount of Section 307(a) toxic pollutant(s) present in the water after any water supply treatment steps have been performed by or for the owner or operator.

C. Any permit which includes toxic pollutant effluent limitations established pursuant to this Section shall also contain conditions requiring the permittee to conduct additional monitoring in the manner and locations determined by the state administrative authority for those toxic pollutants for which the toxic pollutant effluent standards have been adjusted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5713. Requirement and Procedure for Establishing a More Stringent Effluent Limitation

A. In exceptional cases:

1. where the state administrative authority determines that the ambient water criterion established in these standards is not being met or will not be met in the receiving water as a result of one or more discharges at levels allowed by these standards; and

2. where he further determines that this is resulting in or may cause or contribute to significant adverse effects on aquatic or other organisms usually or potentially present, or on human health, he may issue to an owner or operator a permit or a permit modification containing a toxic pollutant effluent limitation at a more stringent level than that required by the standard set forth in these regulations. Any such action shall be taken pursuant to the procedural provisions of LAC 33:IX.Chapters 31-47 and 51-55, as appropriate. In any proceeding in connection with such action the burden of proof and of going forward with evidence with regard to such more stringent effluent limitation shall be upon the state administrative authority as the proponent of such more stringent effluent limitation;

3. evidence in such proceeding shall include at a minimum: an analysis using data and other information to demonstrate receiving water concentrations of the specified toxic pollutant, projections of the anticipated effects of the proposed modification on such receiving water concentrations, and the hydrologic and hydrographic characteristics of the receiving waters including the occurrence of dispersion of the effluent. Detailed specifications for presenting relevant information by any interested party may be prescribed in guidance documents published from time to time, whose availability will be announced in the *Federal Register*.

B. Any effluent limitation in an LPDES permit which a state proposes to issue which is more stringent than the toxic pollutant effluent standards promulgated by the administrator is subject to review by the administrator under Section 402(d) of the Act. The administrator may approve or disapprove such limitation(s) or specify another limitation(s) upon review of any record of any proceedings held in connection with the permit issuance or modification and any other evidence available to him. If he takes no action within 90 days of his receipt of the notification of the action of the permit issuing authority and any record thereof, the action of

the state permit issuing authority shall be deemed to be approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5715. Compliance Date

A. The effluent standards or prohibitions set forth herein shall be complied with not later than one year after promulgation unless an earlier date is established by the administrator for an industrial subcategory in the promulgation of the standards or prohibitions.

B. Toxic pollutant effluent standards or prohibitions set forth herein shall become enforceable under Sections 307(d) and 309 of the Act on the date established in LAC 33:IX.5715.A regardless of proceedings in connection with the issuance of any LPDES permit or application therefor, or modification or renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5717. Aldrin/Dieldrin

A. Specialized Definitions

1. *Aldrin/Dieldrin Manufacturer*—a manufacturer, excluding any source which is exclusively an aldrin/dieldrin formulator, who produces, prepares or processes technical aldrin or dieldrin or who uses aldrin or dieldrin as a material in the production, preparation or processing of another synthetic organic substance.

2. *Aldrin/Dieldrin Formulator*—a person who produces, prepares or processes a formulated product comprising a mixture of either aldrin or dieldrin and inert materials or other diluents, into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).

3. The ambient water criterion for aldrin/dieldrin in waters of the state is contained in LAC 33:IX.Chapter 11 (Surface Water Quality Standards).

B. Aldrin/Dieldrin Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by aldrin/dieldrin as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5717 B.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of aldrin/dieldrin, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase the analytical sensitivity.

3. Effluent Standard

a. Existing Sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin manufacturer.

b. New Sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin manufacturer.

C. Aldrin/Dieldrin Formulator

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by aldrin/dieldrin as a result of the formulating process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5717.C.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of aldrin/dieldrin, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase the analytical sensitivity.

3. Effluent Standard

a. Existing Sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin formulator.

b. New Sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin formulator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5719. DDT, DDD, and DDE

A. Specialized Definitions

1. *DDT Manufacturer*—a manufacturer, excluding any source which is exclusively a DDT formulator, who produces, prepares or processes technical DDT, or who uses DDT as a material in the production, preparation or processing of another synthetic organic substance.

2. *DDT Formulator*—a person who produces, prepares or processes a formulated product comprising a mixture of DDT and inert materials or other diluents into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).

3. The ambient water criterion for DDT in waters of the state is contained in LAC 33:IX.Chapter 11 (Surface Water Quality Standards).

B. DDT Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by DDT as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5719. B.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of DDT, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase the analytical sensitivity.

3. Effluent Standard

a. Existing Sources. DDT is prohibited in any discharge from any DDT manufacturer.

b. New Sources. DDT is prohibited in any discharge from any DDT manufacturer.

C. DDT Formulator

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by DDT as a result of the formulating process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5719.C.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of DDT, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase the analytical sensitivity.

3. Effluent Standard

a. Existing Sources. DDT is prohibited in any discharge from any DDT formulator.

b. New Sources. DDT is prohibited in any discharge from any DDT formulator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5721. Endrin

A. Specialized Definitions

1. *Endrin Manufacturer*—a manufacturer, excluding any source which is exclusively an endrin formulator, who produces, prepares or processes technical endrin or who uses endrin as a material in the production, preparation or processing of another synthetic organic substance.

2. *Endrin Formulator*—person who produces, prepares or processes a formulated product comprising a mixture of endrin and inert materials or other diluents into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).

3. The ambient water criterion for endrin in waters of the state is contained in LAC 33:IX.Chapter 11 (Surface Water Quality Standards).

B. Endrin Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5721.B.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of endrin, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901).

3. Effluent Standard

a. Existing Sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 1.5 µg/L calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.0006 kg/kkg of endrin produced, and shall not exceed 7.5 µg/L in a sample(s) representing any working day.

b. New Sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 0.1 µg/L calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.00004 kg/kkg of endrin produced, and shall not exceed 0.5 µg/L in a sample(s) representing any working day.

c. Mass Emission Standard during Shutdown of Production. In computing the allowable monthly average daily loading figure required under the preceding Subparagraphs B.3.a and b of this Section, for any calendar month for which there is no endrin being manufactured at any plant or facility which normally contributes to the discharge which is subject to these standards, the applicable production value shall be deemed to be the average monthly production level for the most recent preceding 360 days of actual operation of the plant or facility.

C. Endrin Formulator

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin as a result of the formulating process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5721.C.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of endrin, or to storm-water runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase the analytical sensitivity.

3. Effluent Standard

a. Existing Sources. Endrin is prohibited in any discharge from any endrin formulator.

b. New Sources. Endrin is prohibited in any discharge from any endrin formulator.

D. The standards set forth in this Section shall apply to the total combined weight or concentration of endrin, excluding any associated element or compound.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5723. Toxaphene

A. Specialized Definitions

1. *Toxaphene Manufacturer*—a manufacturer, excluding any source which is exclusively a toxaphene formulator, who produces, prepares or processes toxaphene or who uses toxaphene as a material in the production, preparation or processing of another synthetic organic substance.

2. *Toxaphene Formulator*—a person who produces, prepares or processes a formulated product comprising a mixture of toxaphene and inert materials or other diluents into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).

3. The ambient water criterion for toxaphene in waters of the state is contained in LAC 33:IX.Chapter 11 (Surface Water Quality Standards).

B. Toxaphene Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5723.B.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of toxaphene, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901).

3. Effluent Standard

a. Existing Sources. Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 1.5 µg/L calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.00003 kg/kkg of toxaphene produced, and shall not exceed 7.5 µg/L in a sample(s) representing any working day.

b. New Sources. Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 0.1 µg/L calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.000002 kg/kkg of toxaphene produced, and shall not exceed 0.5 µg/L in a sample(s) representing any working day.

c. Mass Emission during Shutdown of Production. In computing the allowable monthly average daily loading figure required under the preceding Subparagraphs B.3.a and b of this Section, for any calendar month for which there is no toxaphene being manufactured at any plant or facility which normally contributes to the discharge which is subject to these standards, the applicable production value shall be deemed to be the average monthly production level for the most recent preceding 360 days of actual operation of the plant or facility.

C. Toxaphene Formulator

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the formulating process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5723.C.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of toxaphene, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase the analytical sensitivity.

3. Effluent Standards

a. Existing Sources. Toxaphene is prohibited in any discharge from any toxaphene formulator.

b. New Sources. Toxaphene is prohibited in any discharge from any toxaphene formulator.

D. The standards set forth in this Section shall apply to the total combined weight or concentration of toxaphene, excluding any associated element or compound.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5725. Benzidine

A. Specialized Definitions

1. *Benzidine Manufacturer*—a manufacturer who produces benzidine or who produces benzidine as an intermediate product in the manufacture of dyes commonly used for textile, leather and paper dyeing.

2. *Benzidine-Based Dye Applicator*—an owner or operator who uses benzidine-based dyes in the dyeing of textiles, leather or paper.

3. The ambient water criterion for benzidine in waters of the state is contained in LAC 33:IX.Chapter 11 (Surface Water Quality Standards).

B. Benzidine Manufacturer

1. Applicability

a. These standards apply to:

i. all discharges into the waters of the state of process wastes; and

ii. all discharges into the waters of the state of wastes containing benzidine from the manufacturing areas, loading and unloading areas, storage areas, and other areas subject to direct contamination by benzidine or

benzidine-containing product as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5725.B.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of benzidine, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901).

3. Effluent Standards

a. Existing Sources. Discharges from a benzidine manufacturer shall not contain benzidine concentrations exceeding an average per working day of 10 µg/L calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 µg/L in a sample(s) representing any working day.

b. New Sources. Discharges from a benzidine manufacturer shall not contain benzidine concentrations exceeding an average per working day of 10 µg/L calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 µg/L in a sample(s) representing any working day.

4. The standards set forth in LAC 33:IX.5725 shall apply to the total combined weight or concentration of benzidine, excluding any associated element or compound.

C. Benzidine-Based Dye Applicators

1. Applicability

a. These standards apply to:

i. all discharges into the waters of the state of process wastes; and

ii. all discharges into the waters of the state of wastes containing benzidine from the manufacturing areas, loading and unloading areas, storage areas, and other areas subject to direct contamination by benzidine or benzidine-containing product as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5725.C.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of benzidine, or to stormwater that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901); or

b. mass balance monitoring approach which requires the calculation of the benzidine concentration by dividing the total benzidine contained in dyes used during a working day (as certified in writing by the manufacturer) by the total quantity of water discharged during the working day.

[Comment: The state administrative authority shall rely entirely upon the method specified in 40 CFR Part 136 (LAC 33:IX.4901) in analyses performed for enforcement purposes.]

3. Effluent Standards

a. Existing Sources. Discharges from benzidine-based dye applicators shall not contain benzidine concentrations exceeding an average per working day of 10 µg/L calculated over any calendar month, and shall not exceed 25 µg/L in a sample(s) or calculation(s) representing any working day.

b. New Sources. Discharges from benzidine-based dye applicators shall not contain benzidine concentrations exceeding an average per working day of 10 µg/L calculated over any calendar month, and shall not exceed 25 µg/L in a sample(s) or calculation(s) representing any working day.

4. The standards set forth in LAC 33:IX.5725.C shall apply to the total combined concentrations of benzidine, excluding any associated element or compound.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5727. Polychlorinated Biphenyls (PCBs)

A. Specialized Definitions

1. *PCB Manufacturer*—a manufacturer who produces polychlorinated biphenyls.

2. *Electrical Capacitor Manufacturer*—a manufacturer who produces or assembles electrical capacitors in which PCB or PCB-containing compounds are part of the dielectric.

3. *Electrical Transformer Manufacturer*—a manufacturer who produces or assembles electrical transformers in which PCB or PCB-containing compounds are part of the dielectric.

4. The ambient water criterion for PCBs in waters of the state is contained in LAC 33:IX.Chapter 11 (Surface Water Quality Standards).

B. PCB Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes;

ii. all discharges from the manufacturing or incinerator areas, loading and unloading areas, storage areas, and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5727. B.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of PCBs, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901) except that a 1-liter sample size is required to increase analytical sensitivity.

3. Effluent Standards

a. Existing Sources. PCBs are prohibited in any discharge from any PCB manufacturer.

b. New Sources. PCBs are prohibited in any discharge from any PCB manufacturer.

C. Electrical Capacitor Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the manufacturing or incineration areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5727.C.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of PCBs, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase analytical sensitivity.

3. Effluent Standards

a. Existing Sources. PCBs are prohibited in any discharge from any electrical capacitor manufacturer.

b. New Sources. PCBs are prohibited in any discharge from any electrical capacitor manufacturer.

D. Electrical Transformer Manufacturer

1. Applicability

a. These standards or prohibitions apply to:

i. all discharges of process wastes; and

ii. all discharges from the manufacturing or incineration areas, loading and unloading areas, storage areas, and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

(a). stormwater and other runoff except as hereinafter provided in LAC 33:IX.5727.D.1.b; and

(b). water used for routine cleanup or cleanup of spills.

b. These standards do not apply to stormwater runoff or other discharges from areas subject to contamination solely by fallout from air emissions of PCBs, or to stormwater runoff that exceeds that from the 10-year 24-hour rainfall event.

2. Analytical Method Acceptable

a. Environmental Protection Agency method specified in 40 CFR Part 136 (see LAC 33:IX.4901), except that a 1-liter sample size is required to increase analytical sensitivity.

3. Effluent Standards

a. Existing Sources. PCBs are prohibited in any discharge from any electrical transformer manufacturer.

b. New Sources. PCBs are prohibited in any discharge from any electrical transformer manufacturer.

E. Adjustment of Effluent Standard for Presence of PCBs in Intake Water. Whenever a facility which is subject to these standards has PCBs in its effluent which result from the presence of PCBs in its intake waters, the owner may apply to the state administrative authority for a credit pursuant to the provisions of LAC 33:IX.5711, where the source of the water supply is the same body of water into which the discharge is made. The requirement of LAC 33:IX.5711.A.1, relating to the source of the water supply, shall be waived, and such facility shall be eligible to apply for a credit under LAC 33:IX.5711, upon a showing by the owner or operator of such facility to the state administrative authority that the concentration of PCBs in the intake water supply of such facility does not exceed the concentration of PCBs in the receiving water body to which the plant discharges its effluent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

Chapter 59. Secondary Treatment under the LPDES Program

§5901. Purpose

A. This Chapter provides information on the level of effluent quality attainable through the application of secondary or equivalent treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5903. Definitions

A. Terms used in this Chapter are defined as follows.

7-Day Average—the arithmetic mean of pollutant parameter values for samples collected in a period of seven consecutive days.

30-Day Average—the arithmetic mean of pollutant parameter values of samples collected in a period of 30 consecutive days.

Act—the Clean Water Act (*CWA*) as defined in LAC 33:IX.2313 and the appropriate provisions of the LEQA and regulations.

BOD_5—the five day measure of the pollutant parameter biochemical oxygen demand (BOD).

$CBOD_5$—the five day measure of the pollutant parameter carbonaceous biochemical oxygen demand (CBOD).

Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance—for a given pollutant parameter:

a. the 95th percentile value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions; and

b. a 7-day average value equal to 1.5 times the value derived under LAC 33:IX.5903.A.*Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance.a.*

Facilities Eligible for Treatment Equivalent to Secondary Treatment—treatment works shall be eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment (LAC 33:IX.5911), if:

a. the BOD_5 and TSS effluent concentrations consistently achievable through proper operation and maintenance (LAC 33:IX.5903.A.*Effluent Concentrations Consistently Achievable through Proper Operation and Maintenance*) of the treatment works exceed the minimum level of the effluent quality set forth in LAC 33:IX.5905.A and B;

b. a trickling filter or waste stabilization pond is used as the principal process; and

c. the treatment works provide significant biological treatment of municipal wastewater.

mg/L—milligrams per liter.

NPDES—National Pollutant Discharge Elimination System.

Percent Removal—a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.

Significant Biological Treatment—the use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65 percent removal of BOD_5.

Significantly More Stringent Limitation—the BOD_5 and TSS limitations necessary to meet the percent removal requirements of at least 5 mg/L more stringent than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/L in the case of the secondary treatment limits for BOD_5 and TSS), or the percent removal limitations in LAC 33:IX.5905 and 5911, if such limits would, by themselves, force significant construction or other significant capital expenditure.

State Administrative Authority—the chief administrative officer of any state or interstate agency operating an approved program, or the delegated representative of the state administrative authority. If responsibility is divided among two or more state or interstate agencies, state administrative authority means the chief administrative officer of the state or interstate agency authorized to perform the particular procedure or function to which reference is made.

TSS—the pollutant parameter total suspended solids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1880 (September 2009).

§5905. Secondary Treatment

The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of

the parameters BOD_5, TSS, and pH. All requirements for each parameter shall be achieved except as provided in LAC 33:IX.5907 and 5911.

A. BOD_5

1. The 30-day average shall not exceed 30 mg/L.

2. The 7-day average shall not exceed 45 mg/L.

3. The 30-day average percent removal shall not be less than 85 percent.

4. At the option of the LPDES permitting authority, in lieu of the parameter BOD_5 and the levels of the effluent quality specified in LAC 33:IX.5905.A.1-3, the parameter $CBOD_5$ may be substituted with the following levels of the $CBOD_5$ effluent quality provided:

a. the 30-day average shall not exceed 25 mg/L;

b. the 7-day average shall not exceed 40 mg/L;

c. the 30-day average percent removal shall not be less than 85 percent.

B. TSS

1. The 30-day average shall not exceed 30 mg/L.

2. The 7-day average shall not exceed 45 mg/L.

3. The 30-day average percent removal shall not be less than 85 percent.

C. pH. The effluent values for pH shall be maintained within the limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that:

1. inorganic chemicals are not added to the waste stream as part of the treatment process; and

2. contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5907. Special Considerations

A. Combined Sewers. Treatment works subject to this Chapter may not be capable of meeting the percentage removal requirements established under LAC 33:IX.5905.A.3 and B.3, or 5911.A.3 and B.3 during wet weather where the treatment works receive flows from combined sewers (i.e., sewers which are designed to transport both storm water and sanitary sewage). For such treatment works, the decision must be made on a case-by-case basis as to whether any attainable percentage removal level can be defined, and if so, what the level should be.

B. Industrial Wastes. For certain industrial categories, the discharge to navigable waters of BOD_5 and TSS permitted under Sections 301(b)(1)(A)(i), (b)(2)(E) or 306 of the Act may be less stringent than the values given in LAC 33:IX.5905.A.1, A.4.a, B.1, 5911.A.1, B.1, and E.1.a. In cases when wastes would be introduced from such an industrial category into a publicly owned treatment works, the values for BOD_5, and TSS in LAC 33:IX.5905.A.1, A.4.a, B.1, 5911.A.1, B.1, and E.1.a may be adjusted upwards provided that:

1. the permitted discharge of such pollutants, attributable to the industrial category, would not be greater than that which would be permitted under Sections 301(b)(1)(A)(i), 301(b)(2)(E) or 306 of the Act if such industrial category were to discharge directly into the navigable waters; and

2. the flow or loading of such pollutants introduced by the industrial category exceeds 10 percent of the design flow or loading of the publicly owned treatment works. When such an adjustment is made, the values for BOD_5 or TSS in LAC 33:IX.5905.A.2, A.4.b, B.2, 5911.A.2, B.2, and E.1.b should be adjusted proportionately.

C. Waste Stabilization Ponds. The EPA regional administrator, or, if appropriate, state administrative authority subject to EPA approval, is authorized to adjust the minimum levels of effluent quality set forth in LAC 33:IX.5911.B.1-3 for treatment works subject to this Chapter, to conform to the TSS concentrations achievable with waste stabilization ponds, provided that:

1. waste stabilization ponds are the principal process used for secondary treatment; and

2. operation and maintenance data indicate that the TSS values specified in LAC 33:IX.5911.B.1-3 cannot be achieved. The term *TSS concentrations achievable with waste stabilization ponds* means a TSS value, determined by the EPA regional administrator, or, if appropriate, state administrative authority subject to EPA approval, which is equal to the effluent concentration achieved 90 percent of the time within the state or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality for BOD_5 specified in LAC 33:IX.5911.A.1.

D. Less Concentrated Influent Wastewater for Separate Sewers. The EPA regional administrator, or if appropriate, state administrative authority is authorized to substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in LAC 33:IX.5905.A.3, 4.b, B.3, 5911.A.3, B.3, and E.1.c provided that the permittee satisfactorily demonstrates that:

1. the treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits but its percent removal requirements cannot be met due to less concentrated influent wastewater;

2. to meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration-based standards; and

3. the less concentrated influent wastewater is not the result of excessive Inflow/Infiltration (I/I). The determination of whether the less concentrated wastewater is the result of excessive I/I will use the definition of excessive I/I in 40 CFR 35.2005(b)(16) plus the additional criterion that inflow is nonexcessive if the total flow to the POTW (i.e., wastewater plus inflow plus infiltration) is less than 275 gallons per capita per day.

E. Less Concentrated Influent Wastewater for Combined Sewers during Dry Weather. The EPA regional administrator or, if appropriate the state administrative authority, is authorized to substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in LAC 33:IX.5905.A.3, A.4.c, B.3, or 3311.A.3, B.3, and E.1.c provided that the permittee satisfactorily demonstrates that:

1. the treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limitations, but the percent removal requirements cannot be met due to less concentrated influent wastewater;

2. to meet the percent removal requirements, the treatment works would have to achieve significantly more stringent effluent concentrations than would otherwise be required by the concentration-based standards; and

3. the less concentrated influent wastewater flows not result from either excessive infiltration or clear water industrial discharges during dry weather periods. The determination of whether the less concentrated wastewater results from excessive infiltration is discussed in 40 CFR 35.2005(b)(28), plus the additional criterion that either 40 gallons per capita per day (gpcd) or 1500 gallons per inch diameter per mile of sewer (gpdim) may be used as the threshold value for that portion of the dry weather base flow attributed to the infiltration. If the less concentrated influent wastewater is the result of clear water industrial discharges, then the treatment works must control such discharges pursuant to LAC 33:IX.Chapter 61.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5909. Sampling and Test Procedures

A. Sampling and test procedures for pollutants listed in this Chapter shall be in accordance with guidelines promulgated by the administrator in 40 CFR Part 136 (see LAC 33:IX.4503).

B. Chemical oxygen demand (COD) or total organic carbon (TOC) may be substituted for BOD_5 when a long-term BOD:COD or BOD:TOC correlation has been demonstrated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§5911. Treatment Equivalent to Secondary Treatment

This Section describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment (LAC 33:IX.5903.*Facilities Eligible for Treatment Equivalent to Secondary Treatment*) in terms of the parameters BOD_5, TSS, and pH. All requirements for the specified parameters in LAC 33:IX.5911.A, B, and C shall be achieved except as provided for in LAC 33:IX.5907, or 5911.D, E, or F.

A. BOD_5

1. The 30-day average shall not exceed 45 mg/L.

2. The 7-day average shall not exceed 65 mg/L.

3. The 30-day average percent removal shall not be less than 65 percent.

B. TSS. Except where TSS values have been adjusted in accordance with LAC 33:IX.5907.C:

1. the 30-day average shall not exceed 45 mg/L;

2. the 7-day average shall not exceed 65 mg/L;

3. the 30-day average percent removal shall not be less than 65 percent.

C. pH. The requirements of LAC 33:IX.5905.C shall be met.

D. Alternative State Requirements. Except as limited by LAC 33:IX.5911.F, and after notice and opportunity for public comment, the state administrative authority, subject to EPA approval, is authorized to adjust the minimum levels of effluent quality set forth in LAC 33:IX.5911.A.1-2, and B.1-2 for trickling filter facilities and in LAC 33:IX.5911.A.1-2 for waste stabilization pond facilities, to conform to the BOD_5 and TSS effluent concentrations consistently achievable through proper operation and maintenance (LAC 33:IX.5903) by the median (50th percentile) facility in a representative sample of facilities within the state or appropriate contiguous geographical area that meet the definition of facilities eligible for treatment equivalent to secondary treatment (LAC 33:IX.5903).

E. $CBOD_5$ Limitation

1. Where data are available to establish $CBOD_5$ limitations for a treatment works subject to this Section, the LPDES permitting authority may substitute the parameter $CBOD_5$ for the parameter BOD_5 in LAC 33:IX.5911.A.1-3, on a case-by-case basis provided that the levels of $CBOD_5$ effluent quality are not less stringent than the following.

a. The 30-day average shall not exceed 40 mg/L.

b. The 7-days average shall not exceed 60 mg/L.

c. The 30-day average percent removal shall not be less than 65 percent.

2. Where data are available, the parameter $CBOD_5$ may be used for effluent quality limitations established under LAC 33:IX.5911.D. Where concurrent BOD effluent data are available, they must be submitted with the CBOD data as a part of the approval process outlined in LAC 33:IX.5911.D.

F. Permit Adjustments. Any permit adjustment made pursuant to this Chapter may not be any less stringent than the limitations required pursuant to LAC 33:IX.5911.A-E. Furthermore, permitting authorities shall require more stringent limitations when adjusting permits if:

1. for existing facilities the permitting authority determines that the 30-day average and 7-day average BOD_5 and TSS effluent values that could be achievable through proper operation and maintenance of the treatment works, based on an analysis of the past performance of the treatment works, would enable the treatment works to achieve more stringent limitations; or

2. for new facilities, the permitting authority determines that the 30-day average and 7-day average BOD_5 and TSS effluent values that could be achievable through proper operation and maintenance of the treatment works, considering the design capability of the treatment process and geographical and climatic conditions, would enable the treatment works to achieve more stringent limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of Environmental Assessment, LR 31:439 (February 2005).

Chapter 61. General Pretreatment Regulations for Existing and New Sources of Pollution

§6101. Purpose and Applicability

A. This Chapter implements Sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(l)(A)(ii), 301(b)(2)(A)(ii), 301(h)(5) and 301(i)(2), 304(e) and (g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (Pub. L. 95-217) or "The Act." It establishes responsibilities of federal, state, and local government, industry and the public to implement national pretreatment standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works (POTWs) or which may contaminate sewage sludge.

B. This regulation applies:

1. to pollutants from non-domestic sources covered by pretreatment standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined below in LAC 33:IX.2313;

2. to POTWs which receive wastewater from sources subject to national pretreatment standards;

3. to states which have or are applying for National Pollutant Discharge Elimination System (NPDES) programs approved in accordance with Section 402 of the CWA; and

4. to any new or existing source subject to pretreatment standards. National pretreatment standards do not apply to sources which discharge to a sewer which is not connected to a POTW treatment plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§6103. Objectives of General Pretreatment Regulations

By establishing the responsibilities of government and industry to implement national pretreatment standards this regulation fulfills three objectives:

A. to prevent the introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge;

B. to prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and

C. to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§6105. Definitions

A. For purposes of this Chapter, except as discussed below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this regulation.

Act—the Clean Water Act (*CWA*) as defined in LAC 33:IX.2313 and the appropriate provisions of the LEQA and regulations.

Approval Authority—the state administrative authority in an NPDES state with an approved state pretreatment program and the appropriate EPA regional administrator in a non NPDES state or NPDES state without an approved state pretreatment program.

Approved POTW Pretreatment Program or *Program* or *POTW Pretreatment Program*—a program administered by a POTW that meets the criteria established in this regulation (LAC 33:IX.6115 and 6117) and which has been approved by a EPA regional administrator or state administrative

authority in accordance with LAC 33:IX.6121 of this regulation.

Best Management Practices (BMPs)—schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in LAC 33:IX.6109. *BMPs* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Control Authority—a POTW, if the POTW's pretreatment program submission has been approved in accordance with the provisions in LAC 33:IX.6121; or the *approval authority*, as defined in this Subsection, if the submission has not been approved.

EPA Regional Administrator—the appropriate EPA Regional Administrator.

Indirect Discharge or *Discharge*—the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

Industrial User or *User*—a source of indirect discharge.

Interference—a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

a. inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes or operations, use or disposal; and

b. therefore is a cause of a violation of any requirement of the POTW's LPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

National Pretreatment Standard, Pretreatment Standard, or *Standard*—any regulation containing pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to LAC 33:IX.6109.

New Source—

a. any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

i. the building, structure, facility or installation is constructed at a site at which no other source is located; or

ii. the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

iii. the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subparagraph 1.b and c above but otherwise alters, replaces, or adds to existing process or production equipment.

c. Construction of a new source as defined under this Paragraph has commenced if the owner or operator has:

i. begun, or caused to begin as part of a continuous on-site construction program:

(a). any placement, assembly, or installation of facilities or equipment; or

(b). significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

ii. entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this Paragraph.

NPDES State—a *state* (as defined in LAC 33:IX.2313) or interstate water pollution control agency with an NPDES permit program approved pursuant to Section 402(b) of the Act.

Pass Through—a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's LPDES permit (including an increase in the magnitude or duration of a violation).

Permit—an NPDES or LPDES permit issued to a POTW pursuant to Section 402 of the Act.

POTW Treatment Plant—that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Pretreatment—the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by LAC 33:IX.6105.*Approved POTW Pretreatment Program* or *Program* or *POTW Treatment Program.* Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with LAC 33:IX.6111.E.

Pretreatment Requirements—any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Significant Industrial User—

a. except as provided in Subparagraph b of this definition, the term *significant industrial user* means:

i. all industrial users subject to categorical pretreatment standards under LAC 33:IX.6111 and 40 CFR Chapter I, Subchapter N (LAC 33:IX.4903); and

ii. any other industrial user that:

(a). discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b). contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c). is designated as such by the *control authority*, as defined in this Subsection, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with LAC 33:IX.6115.F.6);

b. the control authority may determine that an industrial user subject to categorical pretreatment standards under LAC 33:IX.6111 and 40 CFR Chapter I, Subchapter N is a non-significant categorical industrial user rather than a *significant industrial user* on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

i. the industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

ii. the industrial user annually submits the certification statement required in LAC 33:IX.6123.Q together with any additional information necessary to support the certification statement; and

iii. the industrial user never discharges any untreated concentrated wastewater;

c. upon a finding that an industrial user meeting the criteria in Clause a.ii of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the *control authority* (as defined in this Subsection) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with LAC 33:IX.6115.F.6, determine that such industrial user is not a *significant industrial user*.

State Administrative Authority—the chief administrative officer of a state or interstate water pollution control agency operating an NPDES permit program and an approved state pretreatment program.

Submission—

a. a request by a POTW for approval of a pretreatment program to the EPA or the state administrative authority;

b. a request by a POTW or the state administrative authority for authority to revise the discharge limits in categorical pretreatment standards to reflect POTW pollutant removals; or

c. a request to the EPA by an NPDES State for approval of its State pretreatment program.

Water Management Division Director—one of the Directors of the Water Management Divisions within the Regional Offices of the Environmental Protection Agency or this person's delegated representative.

EDITORIAL NOTE: At 49 FR 5132, Feb. 10, 1984, Paragraphs (i) and (n) were suspended until further notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1033 (June 2006).

§6107. State or Local Law

A. Nothing in this regulation is intended to affect any pretreatment requirements, including any standards or prohibitions, established by state or local law as long as the state or local requirements are not less stringent than any set forth in national pretreatment standards, or any other requirements or prohibitions established under the Act or this regulation. States with an NPDES permit program approved in accordance with Section 402 (b) and (c) of the

Act, or states requesting NPDES programs, are responsible for developing a state pretreatment program in accordance with 40 CFR 403.10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§6109. National Pretreatment Standards: Prohibited Discharges

A.1. General Prohibitions. A user may not introduce into a POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in Subsection B of this Section apply to each user introducing pollutants into a POTW whether or not the user is subject to other national pretreatment standards or any national, state, or local pretreatment requirements.

2. Affirmative Defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Subsection A of this Section and the specific prohibitions in Paragraphs B.3-7 of this Section where the user can demonstrate that:

a. it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

b.i. a local limit designed to prevent pass through and/or interference, as the case may be, was developed in accordance with Subsection C of this Section for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

ii. if a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed in accordance with Subsection C of this Section for the pollutant(s) that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's LPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

B. Specific Prohibitions. In addition, the following pollutants shall not be introduced into a POTW:

1. pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test methods specified in 40 CFR 261.21;

2. pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges;

3. solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;

4. any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;

5. heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C or 104°F unless the approval authority, upon request of the POTW, approves alternate temperature limits;

6. petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

7. pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and

8. any trucked or hauled pollutants, except at discharge points designated by the POTW.

C. Development of Specific Limits by POTW

1. Each POTW developing a POTW pretreatment program pursuant to LAC 33:IX.6115 shall develop and enforce specific limits to implement the prohibitions listed in Paragraph A.1 and Subsection B of this Section. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits. In addition, the POTW may establish such limits as necessary to address the land disposal restrictions at 40 CFR 268.40.

2. All other POTWs shall, in cases where pollutants contributed by user(s) result in interference or pass through, and such violation is likely to recur, develop and enforce specific effluent limits for industrial user(s), and all other users, as appropriate, which, together with appropriate changes in the POTW treatment plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's LPDES permit or sludge use or disposal practices.

3. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

4. POTWs may develop best management practices (BMPs) to implement Paragraphs C.1 and 2 of this Section. Such BMPs shall be considered local limits and pretreatment standards for the purposes of Section 307(d) of the CWA.

D. Local Limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with Subsection C of this Section, including those standards established to address land disposal restrictions at 40 CFR 268.40, such limits shall be deemed

pretreatment standards for the purposes of Section 307(d) of the Act.

E. DEQ Enforcement Actions under R.S 30:2076.1. If, within 30 days after notice of an interference or pass through violation has been sent by DEQ to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, DEQ may take appropriate enforcement action under the authority provided in R.S 30:2076.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2232 (December 2001), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1033 (June 2006).

§6111. National Pretreatment Standards: Categorical Standards

National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories will be established as separate regulations under the appropriate Subpart of 40 CFR Chapter I, Subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this Chapter.

A. Category Determination Request

1. Application Deadline. Within 60 days after the effective date of a pretreatment standard for a subcategory under which an industrial user may be included, the industrial user or POTW may request that the state administrative authority, as appropriate, provide written certification on whether the industrial user falls within that particular subcategory. If an existing industrial user adds or changes a process or operation which may be included in a subcategory, the existing industrial user must request this certification prior to commencing discharge from the added or changed processes or operation. A new source must request this certification prior to commencing discharge. Where a request for certification is submitted by a POTW, the POTW shall notify any affected industrial user of such submission. The industrial user may provide written comments on the POTW submission to the state administrative authority, as appropriate, within 30 days of notification.

2. Contents of Application. Each request shall contain a statement:

a. describing which subcategories might be applicable; and

b. citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this Section shall make the following certification:

> "I certify under penalty of the law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. Deficient Requests. The state administrative authority will only act on written requests for determinations that contain all of the information required. Persons who have made incomplete submissions will be notified by the state administrative authority that their requests are deficient and, unless the time period is extended, will be given 30 days to correct the deficiency. If the deficiency is not corrected within 30 days or within an extended period allowed by the state administrative authority, the request for a determination shall be denied.

4. Final Decision

a. When the state administrative authority receives a submittal he or she will, after determining that it contains all of the information required by Paragraph 2 above, consider the submission, any additional evidence that may have been requested, and any other available information relevant to the request. The state administrative authority will then make a written determination of the applicable subcategory and state the reasons for the determination.

b. Where the request is submitted to the state administrative authority, the state administrative authority shall forward the determination described in this Paragraph to the Water Management Division director who may make a final determination. The Water Management Division director may waive receipt of these determinations. If the Water Management Division director does not modify the state administrative authority's decision within 60 days after receipt thereof, or if the Water Management Division director waives receipt of the determination, the state administrative authority's decision is final.

c. Where the request is submitted by the industrial user or POTW to the Water Management Division director or where the Water Management Division director elects to modify the state administrative authority's decision, the Water Management Division director's decision will be final.

d. The Water Management Division director or state administrative authority, as appropriate, shall send a copy of the determination to the affected industrial user and the POTW. Where the final determination is made by the Water Management Division director, he or she shall send a copy of the determination to the state administrative authority.

5. Requests for Hearing and/or Legal Decision. Within 30 days following the date of receipt of notice of the final determination as provided for by Subparagraph A.4.d of this Section, the requester may submit a petition to reconsider or

contest the decision to the EPA regional administrator who shall act on such petition expeditiously and state the reasons for his or her determination, in writing.

B. Deadline for Compliance with Categorical Standards. Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate Subpart of 40 CFR Chapter I, Subchapter N. Direct dischargers with LPDES permits modified or reissued to provide a variance pursuant to Section 301(i)(2) of the Act shall be required to meet compliance dates set forth in any applicable categorical pretreatment standard. Existing sources which become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of a *new source* as defined in LAC 33:IX.6105.*New Source*. New sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

C. Concentration and Mass Limits

1. Pollutant discharge limits in categorical pretreatment standards will be expressed either as concentration or mass limits. Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, state or federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical pretreatment standards shall apply to the effluent of the process regulated by the standard, or as otherwise specified by the standard.

2. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day of effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

3. A control authority calculating equivalent mass-per-day limitations under Paragraph C.2 of this Section shall calculate such limitations by multiplying the limits in the standard by the industrial user's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

4. A control authority calculating equivalent concentration limitations under Paragraph C.2 of this Section shall calculate such limitations by dividing the mass limitations derived under Paragraph C.3 of this Section by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.

5. When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the control authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the control authority.

a. The control authority may establish equivalent mass limits only if the industrial user meets all the following conditions. To be eligible for equivalent mass limits, an industrial user must:

i. employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

ii. currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

iii. provide sufficient information to establish the facility’s actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility’s long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

iv. not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

v. have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user’s request for equivalent mass limits.

b. An industrial user subject to equivalent mass limits must:

i. maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

ii. continue to record the facility’s flow rates through the use of a continuous effluent flow monitoring device;

iii. continue to record the facility’s production rates and notify the control authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in Clause C.5.a.iii of this Section. Upon notification of a revised production rate, the control authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

iv. continue to employ the same or comparable water conservation methods and technologies as those implemented in accordance with Clause C.5.a.i of this

Section so long as it discharges under an equivalent mass limit.

c. A control authority that chooses to establish equivalent mass limits:

i. must calculate the mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

ii. upon notification of a revised production rate, must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

iii. may retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate is reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit are not based on the use of dilution as a substitute for treatment, in accordance with Subsection D of this Section. The industrial user must also be in compliance with LAC 33:IX.6133 (regarding the prohibition of bypass).

d. The control authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.

6. The control authority may convert the mass limits of the categorical pretreatment standards at 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users under the following conditions. When converting such limits to concentration limits, the control authority must use the concentrations listed in the applicable Subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Subsection D of this Section.

7. Equivalent limitations calculated in accordance with Paragraphs C.3, 4, 5, and 6 of this Section are deemed pretreatment standards for the purposes of Section 307(d) of the CWA and this Chapter. The control authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the industrial user must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

8. Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations. Where such standards are being applied, the same production of flow figure shall be used in calculating both the average and the maximum equivalent limitations.

9. Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the control authority within two business days after the user has a reasonable basis to know that the production level will significantly change with the next calendar month. Any user not notifying the control authority of such an anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

D. Dilution Prohibited as Substitute for Treatment. Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The *control authority* (as defined in LAC 33:IX.6105.A) may impose mass limitations on industrial users that are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

E. Combined Wastestream Formula. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the control authority or by the industrial user with the written concurrence of the control authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical pretreatment standard(s) and an alternative consecutive sampling day average value using the monthly average value(s) specified in the appropriate categorical pretreatment standard(s). The industrial user shall comply with the alternative daily maximum and monthly average limits fixed by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any such material or significant change to the control authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.

1. Alternative Limit Calculation. For purposes of these formulas, the "average daily flow" means a reasonable measure of the average daily flow for a 30-day period. For new sources, flows shall be estimated using projected values. The alternative limit for a specified pollutant will be derived by the use of either of the following formulas:

a. alternative concentration limit:

$$C_T = \left(\frac{\sum_{i=1}^{n} C_i F_i}{\sum_{i=1}^{n} F_i} \right) \left(\frac{F_T - F_D}{F_T} \right)$$

where:

C_T = the alternative concentration limit for the combined wastestream.

C_i = the categorical pretreatment standard concentration limit for a pollutant in the regulated stream i.

F_i = the average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D = the average daily flow (at least a 30-day average) from:

(a) boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an industrial user's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the control authority, upon application of the industrial user, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the control authority, the industrial user must provide engineering, production, sampling and analysis and such other information so that the control authority can make its determination; or

(b) sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or

(c) from any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards pursuant to Paragraph 8 of the NRDC v. Costle Consent Decree (the decree) (12 ERC 1833) for one or more of the following reasons (see LAC 33:IX.7123.Appendix L):

(1) the pollutants of concern are not detectable in the effluent from the industrial user (Paragraph (8)(a)(iii) of the decree);

(2) the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (Paragraph (8)(a)(iii) of the decree);

(3) the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the administrator or the state administrative authority (Paragraph (8)(a)(iii) of the decree); or

(4) the wastestream contains only pollutants which are compatible with the POTW (Paragraph (8)(b)(i) of the decree).

F_T= the average daily flow (at least a 30 day average) through the combined treatment facility (includes Fi, FD and unregulated streams).

n = the total number of regulated streams.

b. alternative mass limit:

$$M_T = \left(\sum_{i=1}^{n} M_i \right) \left(\frac{F_T - F_D}{\sum_{i=1}^{n} F_i} \right)$$

where:

M_T = the alternative mass limit for a pollutant in the combined wastestream.

M_i = the categorical pretreatment standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

F_i = the average flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D = the average daily flow (at least a 30-day average) from:

(a) boiler blowdown streams, non-contact cooling streams; stormwater streams, and demineralizer backwash streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an industrial user's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the control authority, upon application of the industrial user, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the control authority, the industrial user must provide engineering, production, sampling and analysis and such other information so that the control authority can make its determination; or

(b) sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or

(c) from any process wastestreams which were or could have been entirely exempted from categorical pretreatment standards pursuant to Paragraph 8 of the NRDC v. Costle Consent Decree (the decree) (12 ERC 1833) for one or more of the following reasons (see LAC 33:IX.7123.Appendix L):

(1) the pollutants of concern are not detectable in the effluent from the industrial user (Paragraph (8)(a)(iii) of the decree);

(2) the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (Paragraph (8)(a)(iii) of the decree);

(3) the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the administrator or the state administrative authority (Paragraph (8)(a)(iii) of the decree); or

(4) the wastestream contains only pollutants which are compatible with the POTW (Paragraph (8)(b)(i) of the decree).

F_T = the average flow (at least a 30-day average) through the combined treatment facility (includes Fi, FD and unregulated streams).

n = the total number of regulated streams.

2. Alternate Limits below Detection Limit. An alternative pretreatment limit may not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

3. Self-Monitoring. Self-monitoring required to insure compliance with the alternative categorical limit shall be conducted in accordance with the requirements of LAC 33:IX.6123.G.

4. Choice of Monitoring Location. Where a treated regulated process wastestream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process wastestream or the combined wastestream for the purpose of determining compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process wastestream, it shall apply the applicable categorical pretreatment standard. If the user chooses to monitor the combined wastestream, it shall apply an alternative discharge limit calculated using the combined wastestream formula as provided in this Section. The industrial user may change monitoring points only after receiving approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring point(s) will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1034 (June 2006).

§6113. Removal Credits

A. Introduction

1. Definitions. For the purpose of this Section:

Overflow—the intentional or unintentional diversion of flow from the POTW before the POTW treatment plant.

Removal—a reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this Chapter shall not mean dilution of a pollutant in the POTW.

Sludge Requirements—the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

i. Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) (including Title II more commonly referred to as the Resource Conservation Recovery Act (RCRA) and State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of SWDA);

ii. the Clean Air Act;

iii. the Toxic Substances Control Act; and

iv. the Marine Protection, Research and Sanctuaries Act.

2. General. Any POTW receiving wastes from an industrial user to which a categorical pretreatment standard(s) applies may, at its discretion and subject to the conditions of this Section, grant removal credits to reflect removal by the POTW of pollutants specified in the categorical pretreatment standard(s). The POTW may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected industrial user shall calculate its revised discharge limits in accordance with LAC 33:IX.6113.A.4. Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical pretreatment standard if the categorical pretreatment standard so specifies.

3. Conditions for Authorization to Give Removal Credits. A POTW is authorized to give removal credits only if the following conditions are met.

a. Application. The POTW applies for, and receives, authorization from the approval authority to give a removal credit in accordance with the requirements and procedures specified in LAC 33:IX.6113.E.

b. Consistent Removal Determination. The POTW demonstrates and continues to achieve consistent removal of the pollutant in accordance with LAC 33:IX.6113.B.

c. POTW Local Pretreatment Program. The POTW has an approved pretreatment program in accordance with and to the extent required by LAC 33:IX.Chapter 61; provided, however, a POTW which does not have an approved pretreatment program may, pending approval of such a program, conditionally give credits as provided in LAC 33:IX.6113.D.

d. Sludge Requirements. The granting of removal credits will not cause the POTW to violate the local, state and federal sludge requirements which apply to the sludge management method chosen by the POTW. Alternatively, the POTW can demonstrate to the approval authority that even though it is not presently in compliance with applicable sludge requirements, it will be in compliance when the industrial user(s) to whom the removal credit would apply is required to meet its categorical pretreatment standard(s) as modified by the removal credit. If granting removal credits forces a POTW to incur greater sludge management costs than would be incurred in the absence of granting removal credits, the additional sludge management costs will not be eligible for EPA grant assistance. Removal credits may be made available for the following pollutants:

i. for any pollutant listed in LAC 33:IX.Chapter 49 for the use or disposal practice employed by the POTW, when the requirements in 40 CFR Part 503 for that practice are met;

ii. for any pollutant listed in LAC 33:IX.Chapter 49 for the use or disposal practice employed by the POTW

when the concentration for a pollutant listed in LAC 33:IX.Chapter 49 in the sewage sludge that is used or disposed does not exceed the concentration for the pollutant in LAC 33:IX.Chapter 49; and

iii. for any pollutant in sewage sludge when the POTW disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in 40 CFR Part 258.

e. LPDES Permit Limitations. The granting of removal credits will not cause a violation of the POTW's permit limitations or conditions. Alternatively, the POTW can demonstrate to the approval authority that even though it is not presently in compliance with applicable limitations and conditions in its LPDES permit, it will be in compliance when the industrial user(s) to whom the removal credit would apply is required to meet its categorical pretreatment standard(s), as modified by the removal credit provision.

4. Calculation of Revised Discharge Limits. Revised discharge limits for a specific pollutant shall be derived by use of the following formula:

$$y = \frac{x}{1 - r}$$

where:

x = pollutant discharge limit specified in the applicable categorical pretreatment standard

r = removal credit for that pollutant as established under LAC 33:IX.6113.B (percentage removal expressed as a proportion, i.e., a number between 0 and 1)

y = revised discharge limit for the specified pollutant (expressed in same units as x)

B. Establishment of Removal Credits; Demonstration of Consistent Removal

1. *Consistent Removal*—the average of the lowest 50 percent of the removal measured according to LAC 33:IX.6113.B.2. All sample data obtained for the measured pollutant during the time period prescribed in LAC 33:IX.6113.B.2 must be reported and used in computing consistent removal. If a substance is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used by POTW at its discretion and subject to approval by the approval authority. If the substance is not measurable in the influent, the date may not be used. Where the number of samples with concentrations equal to or above the limit of measurement is between 8 and 12, the average of the lowest 6 removals shall be used. If there are less than 8 samples with concentrations equal to or above the limit of measurement, the approval authority may approve alternate means for demonstrating consistent removal. The term *measurement* refers to the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.

2. Consistent Removal Data. Influent and effluent operational data demonstrating consistent removal or other information, as provided for in LAC 33:IX.6113.B.1, which demonstrates consistent removal of the pollutants for which discharge limit revisions are proposed. This data shall meet the following requirements.

a. Representative Data—Seasonal. The data shall be representative of yearly and seasonal conditions to which the POTW is subjected for which a discharge limit revision is proposed.

b. Representative Data—Quality and Quantity. The data shall be representative of the quality and quantity of normal effluent and influent flow if such data can be obtained. If such data are unobtainable, alternate data or information may be presented for approval to demonstrate consistent removal as provided for in LAC 33:IX.6113.B.1.

c. Sampling Procedures—Composite

i. The influent and effluent operational data shall be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. For discrete sampling, at least 12 aliquots shall be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to each stream flow at time of collection of influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

ii.(a). Twelve samples shall be taken at approximately equal intervals throughout one full year. Sampling must be evenly distributed over the days of the week so as to include non-workdays as well as workdays. If the approval authority determines that this schedule will not be most representative of the actual operation of the POTW treatment plant, an alternative sampling schedule will be approved.

(b). In addition, upon the approval authority's concurrence, a POTW may utilize an historical data base amassed prior to the effective data of this Section provide that such data otherwise meet the requirements of this Paragraph. In order for the historical data base to be approved it must present a statistically valid description of daily, weekly and seasonal sewage treatment plant loadings and performance for at least one year.

iii. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the approval authority requires detention time compensation. The approval authority may require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will

be based upon the average of the daily flows during the same month of the previous year.

d. Sampling Procedures—Grab. Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a 24-hour average daily flow value. The average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

e. Analytical Methods. The sampling referred to in LAC 33:IX.6113.B.2.a-d and an analysis of these samples shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto. Where 40 CFR Part 136 (see LAC 33:IX.4901) does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the 40 CFR Part 136 (see LAC 33:IX.4901) sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

f. Calculation of Removal. All data acquired under the provisions of this Section must be submitted to the approval authority. Removal for a specific pollutant shall be determined either, for each sample, by measuring the difference between the concentrations of the pollutant in the influent and effluent of the POTW and expressing the difference as a percent of the influent concentration, or, where such data cannot be obtained. Removal may be demonstrated using other data or procedures subject to concurrence by the approval authority as provided for in LAC 33:IX.6113.B.1.

C. Provisional Credits. For pollutants which are not being discharged currently (i.e., new or modified facilities, or production changes) the POTW may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal shall be based provisionally on data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of influent are similar. Within 18 months after the commencement of discharge of pollutants in question, consistent removal must be demonstrated pursuant to the requirements of LAC 33:IX.6113.B. If, within 18 months after the commencement of the discharge of the pollutant in question, the POTW cannot demonstrate consistent removal pursuant to the requirements of LAC 33:IX.6113.B, the authority to grant provisional removal credits shall be terminated by the approval authority and all industrial users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard(s), as may be specified by the approval authority.

D. Exception to POTW Pretreatment Program Requirement. A POTW required to develop a local pretreatment program by LAC 33:IX.6115 may conditionally give removal credits pending approval of such a program in accordance with the following terms and conditions.

1. All industrial users who are currently subject to a categorical pretreatment standard and who wish conditionally to receive a removal credit must submit to the POTW the information required in LAC 33:IX.6123.B.1-7 (except new or modified industrial users must only submit the information required by LAC 33:IX.6123.B.1-6), pertaining to the categorical pretreatment standard as modified by the removal credit. The industrial users shall indicate what additional technology, if any, will be needed to comply with the categorical pretreatment standard(s) as modified by the removal credit.

2. The POTW must have submitted to the approval authority an application for pretreatment program approval meeting the requirements of LAC 33:IX.6115 and 6117 in a timely manner, not to exceed the time limitation set forth in a compliance schedule for development of a pretreatment program included in the POTW's LPDES permit, but in no case later than July 1, 1983, where no permit deadline exists.

3. The POTW must:

a. compile and submit data demonstrating its consistent removal in accordance with LAC 33:IX.6113.B;

b. comply with the conditions specified in LAC 33:IX.6113.A.3; and

c. Submit a complete application for removal credit authority in accordance with LAC 33:IX.6113.E.

4. If a POTW receives authority to grant conditional removal credits and the approval authority subsequently makes a final determination, after appropriate notice, that the POTW failed to comply with the conditions in LAC 33:IX.6113.D.2 and 3, the authority to grant conditional removal credits shall be terminated by the approval authority and all industrial users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard(s), as may be specified by the approval authority.

5. If a POTW grants conditional removal credits and the POTW or the approval authority subsequently makes a final determination, after appropriate notice, that the industrial user(s) failed to comply with the conditions in

LAC 33:IX.6113.D.1, the conditional credit shall be terminated by the POTW or the approval authority for the non-complying industrial user(s) and the industrial user(s) to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard(s), as may be specified by the approval authority. The conditional credit shall not be terminated where a violation of the provisions of this Paragraph results from causes entirely outside of the control of the industrial user(s) or the industrial user(s) had demonstrated substantial compliance.

6. The approval authority may elect not to review an application for conditional removal credit authority upon receipt of such application, in which case the conditionally revised discharge limits will remain in effect until reviewed by the approval authority. This review may occur at any time in accordance with the procedures of LAC 33:IX.6121, but in no event later than the time of any pretreatment program approval or any LPDES permit reissuance thereunder.

E. POTW Application for Authorization to Give Removal Credits and Approval Authority Review

1. Who Must Apply. Any POTW that wants to give a removal credit must apply for authorization from the approval authority.

2. To Whom Application Made. An application for authorization to give removal credits (or modify existing ones) shall be submitted by the POTW to the approval authority.

3. When to Apply. A POTW may apply for authorization to give or modify removal credits at any time.

4. Contents of the Application. An application for authorization to give removal credits must be supported by the following information.

a. List of Pollutants. A list of pollutants for which removal credits are proposed.

b. Consistent Removal Data. The data as required pursuant to LAC 33:IX.6113.B.

c. Calculation of Revised Discharge Limits. Proposed revised discharge limits for each affected subcategory of industrial users calculated in accordance with LAC 33:IX.6113.A.4.

d. Local Pretreatment Program Certification. A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement found in LAC 33:IX.6113.D.

e. Sludge Management Certification. A specific description of the POTW's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements identified in LAC 33:IX.6113.A.3.d.

f. LPDES Permit Limit Certification. A certification that the granting of removal credits will not cause a violation of the POTW's LPDES permit limits and conditions as required in LAC 33:IX.6113.A.3.e.

5. Approval Authority Review. The approval authority shall review the POTW's application for authorization to give or modify removal credits in accordance with the procedures of LAC 33:IX.6121 and shall, in no event, have more that 180 days from public notice of an application to complete review.

6. EPA Review of State Removal Credit Approvals. Where the NPDES state has an approved pretreatment program, the EPA regional administrator may agree in the Memorandum of Agreement under 40 CFR 123.24(d) to waive the right to review and object to submissions for authority to grant removal credits. Such an agreement shall not restrict the EPA regional administrator's right to comment upon or object to permits issued to POTWs except to the extent 40 CFR 123.24(d) allows such restriction.

7. Nothing in these regulations precludes an industrial user or other interested party from assisting the POTW in preparing and presenting the information necessary to apply for authorization.

F. Continuation and Withdrawal of Authorization

1. Effect of Authorization. Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in Subparagraph A.3.d of this Section or its LPDES permit limits and conditions as required by Subparagraph A.3.e of this Section. If a POTW elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory or one or more industrial users that initially were not granted removal credits, it must notify the Office of Environmental Services.

2. Inclusion in POTW Permit. Once authority is granted, the removal credits shall be included in the POTW's LPDES permit as soon as possible and shall become an enforceable requirement of the POTW's LPDES permit. The removal credits will remain in effect for the term of the POTW's LPDES permit, provided the POTW maintains compliance with the conditions specified in LAC 33:IX.6113.F.4.

3. Compliance Monitoring. Following authorization to give removal credits, a POTW shall continue to monitor and report on (at such intervals as may be specified by the approval authority, but in no case less than once per year) the POTW's removal capabilities. A minimum of one representative sample per month during the reporting period is required, and all sampling data must be included in the POTW's compliance report.

4. Modification or Withdrawal of Removal Credits

a. Notice of POTW. The approval authority shall notify the POTW if, on the basis of pollutant removal

capability reports received pursuant to LAC 33:IX.6113.F.3 or other relevant information available to it, the approval authority determines:

i. that one or more of the discharge limit revisions made by the POTW, of the POTW itself, no longer meets the requirements of this Section;

ii. that such discharge limit revisions are causing a violation of any conditions or limits contained in the POTW's LPDES Permit.

b. Corrective Action. If appropriate corrective action is not taken within a reasonable time, not to exceed 60 days unless the POTW or the affected industrial users demonstrate that a longer time period is reasonably necessary to undertake the appropriate corrective action, the approval authority shall either withdraw such discharge limits or require modifications in the revised discharge limits.

c. Public Notice of Withdrawal or Modification. The approval authority shall not withdraw or modify revised discharge limits unless it shall first have notified the POTW and all industrial users to whom revised discharge limits have been applied, and made public, in writing, the reasons for such withdrawal or modification, and an opportunity is provided for a hearing. Following such notice and withdrawal or modification, all industrial users to whom revised discharge limits have been applied, shall be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical pretreatment standards, as appropriate, and shall achieve compliance with such limits within a reasonable time (not to exceed the period of time prescribed in the applicable categorical pretreatment standard(s) as may be specified by the approval authority.

G. Removal Credits in State-Run Pretreatment Programs under LAC 33:IX.6119.E. Where an NPDES state with an approved pretreatment program elects to implement a local pretreatment program in lieu or requiring the POTW to develop such a program (as provided in LAC 33:IX.6119.E), the POTW will not be required to develop a pretreatment program as a precondition to obtaining authorization to give removal credits. The POTW will, however, be required to comply with the other conditions of LAC 33:IX.6113.A.3.

H. Compensation for Overflow. POTWs that at least once annually overflow untreated wastewater to receiving waters may claim consistent removal of a pollutant only by complying with either Paragraph H.1 or 2 of this Section. However, this Subsection shall not apply where industrial user(s) can demonstrate that overflow does not occur between the industrial user(s) and the POTW treatment plant.

1. The industrial user provides containment or otherwise ceases or reduces discharges from the regulated processes which contain the pollutant for which an allowance is requested during all circumstances in which an overflow event can reasonably be expected to occur in the POTW or at a sewer to which the industrial user is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the POTW. Allowances under this provision will only be granted where the POTW submits to the approval authority evidence that:

a. all industrial users to which the POTW proposes to apply this provision have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an overflow event can reasonably be expected to occur, discharges from the regulated processes which contain pollutants for which an allowance is requested;

b. the POTW has identified circumstances in which an overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that industrial users will learn of an impending overflow in sufficient time to contain, cease or reduce discharging to prevent untreated overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in LAC 33:IX.6113.H.1.c, to insure that industrial users are containing, ceasing or reducing operations during POTW systems overflow; and

c. all industrial users to which the POTW proposes to apply this provision have demonstrated the ability and commitment to collect and make available, upon request by the POTW, state administrative authority or EPA regional administrator, daily flow reports or other data sufficient to demonstrate that all discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced or otherwise ceased, as appropriate, during all circumstances in which an overflow event was reasonably expected to occur; or

2.a. The consistent removal claimed is reduced pursuant to the following equation.

$$r_c = r_m \frac{8760 - z}{8760}$$

where:

r_m = POTW's consistent removal rate for that pollutant as established under LAC 33:IX.6113.A.1 and B.2.

r_c = removal corrected by the overflow factor.

Z = hours per year that overflow occurred between the industrial user(s) and the POTW treatment plant, the hours either to be shown in the POTW's current LPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular industrial user's discharge overflows between the industrial user and the POTW treatment plant.

b. The POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree issued in accordance with the CWA affecting combined sewer outflows. These requirements include, but are not limited to, any combined sewer overflow requirements that conform to the combined sewer overflow control policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 32:1035 (June 2006), LR 33:2169 (October 2007).

§6115. Pretreatment Program Requirements: Development and Implementation by POTW

A. POTWs Required to Develop a Pretreatment Program. Any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from industrial users pollutants which pass through or interfere with the operation of the POTW or are otherwise subject to pretreatment standards will be required to establish a POTW pretreatment program unless the NPDES state exercises its option to assume local responsibilities as provided for in LAC 33:IX.6119.E. The EPA regional administrator or state administrative authority may require that a POTW with a design flow of 5 mgd or less develop a POTW pretreatment program if he or she finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent interference with the POTW or pass through.

B. Deadline for Program Approval. A POTW which meets the criteria of Subsection A of this Section must receive approval of a POTW pretreatment program no later than three years after the reissuance or modification of its existing permit but in no case later than July 1, 1983. POTWs whose permits are modified under Section 301(h) of the Act shall have a pretreatment program within three years as provided for in 40 CFR Part 125, Subpart G. POTWs identified after July 1, 1983 as being required to develop a POTW Pretreatment Program under Subsection A of this Section shall develop and submit such a program for approval as soon as possible, but in no case later than one year after written notification from the approval authority of such identification. The POTW Pretreatment Program shall meet the criteria set forth in Subsection F of this Section and shall be administered by the POTW to ensure compliance by industrial users with applicable pretreatment standards and requirements.

C. Incorporation of Approved Programs in Permits. A POTW may develop an appropriate POTW pretreatment program any time before the time limit set forth in Subsection B of this Section. The POTW's LPDES permit will be reissued or modified by the NPDES state or EPA to incorporate the approved program conditions as enforceable conditions of the permit. The modification of a POTW's LPDES permit for the purposes of incorporating a POTW pretreatment program approved in accordance with the procedures in LAC 33:IX.6121 shall be deemed a minor permit modification subject to the procedures in LAC 33:IX.2905.

D. Reserved.

E. Cause for Reissuance or Modification of Permits. Under the authority of Section 402(b)(1)(C) of the Act, the approval authority may modify, or alternatively, revoke and reissue a POTW's permit in order to:

1. put the POTW on a compliance schedule for the development of a POTW pretreatment program where the addition of pollutants into a POTW by an industrial user or combination of industrial users presents a substantial hazard to the functioning of the treatment works, quality of the receiving waters, human health, or the environment;

2. coordinate the issuance of a Section 201 of the Act construction grant with the introduction into a permit of a compliance schedule for POTW pretreatment program;

3. incorporate a modification of the permit approved under Section 301(h) or 301(i) of the Act;

4. incorporate an approved POTW pretreatment program in the POTW permit;

5. incorporate a compliance schedule for the development of a POTW pretreatment program in the POTW permit; or

6. incorporate the removal credits (established under LAC 33:IX.6113) in the POTW permit.

F. POTW Pretreatment Program Requirements. A POTW Pretreatment Program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

1. Legal Authority. The POTW shall operate pursuant to legal authority enforceable in federal, state or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of Sections 307(b) and (c), and 402(b)(8) of the Act and any regulations implementing those Sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by state law. At a minimum, this legal authority shall enable the POTW to:

a. deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its LPDES permit;

b. require compliance with applicable pretreatment standards and requirements by industrial users;

c. control through permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant under LAC 33:IX.6105.A.*Significant Industrial User*, this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such user except that:

i. at the discretion of the POTW, this control may include use of general control mechanisms if all of the facilities to be covered:

(a). involve the same or substantially similar types of operations;

(b). discharge the same types of wastes;

(c). require the same effluent limitations;

(d). require the same or similar monitoring; and

(e). in the opinion of the POTW, are more appropriately controlled under general control mechanisms than under individual control mechanisms;

ii. to be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with LAC 33:IX.6123.E.2 for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with LAC 33:IX.6123.E.2. The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in Clause F.1.c.i of this Section, and a copy of the user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations (LAC 33:IX.6111.E and 6129).

d. employ individual or general control mechanisms that are enforceable and contain, at a minimum, the following conditions:

i. a statement of duration (in no case more than five years);

ii. a statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

iii. effluent limits, including best management practices, based on applicable general pretreatment standards in this Chapter, categorical pretreatment standards, local limits, and state and local law;

iv. self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with LAC 33:IX.6123.E.2, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in this Chapter, categorical pretreatment standards, local limits, and state and local law;

v. a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable deadlines;

e. impose the following requirements to control slug discharges, if determined by the POTW to be necessary:

i. the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements; and

ii. the submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in LAC 33:IX.6123;

f. carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under LAC 33:IX.6123.O to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the CWA;

g. obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement:

i. all POTWs shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of $1,000 a day for each violation by industrial users of pretreatment standards or requirements;

ii. pretreatment requirements that can be enforced through the remedies set forth in Clause F.1.g.i of this Section include, but are not limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; and any reporting requirements imposed by the POTW or these regulations. The POTW shall have authority and procedures (after informal notice to the discharger)

immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or that threatens to interfere with the operation of the POTW. The approval authority shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty that the approval authority believes to be insufficient. The procedures for notice to dischargers where the POTW is seeking ex parte temporary judicial injunctive relief are to be governed by applicable state or federal law, and not by this provision; and

h. comply with the confidentiality requirements set forth in LAC 33:IX.6127.

2. Procedures. The POTW shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:

a. identify and locate all possible industrial users which might be subject to the POTW pretreatment program. Any compilation, index, or inventory of industrial users made under this Paragraph shall be made available to the EPA regional administrator or state administrative authority upon request;

b. identify the character and volume of pollutants contributed to the POTW by the industrial users identified under Subparagraph F.2.a of this Section. This information shall be made available to the EPA regional administrator or state administrative authority upon request;

c. notify industrial users identified under Subparagraph F.2.a of this Section, of applicable pretreatment standards and any applicable requirements under Sections 204(b) and 405 of the Act and Subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to LAC 33:IX.6115.F.6, of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status;

d. receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in LAC 33:IX.6123;

e. randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards; and inspect and sample the effluent from each significant industrial user at least once a year, except as otherwise specified below:

i. where the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with LAC 33:IX.6123.E.3, the POTW shall sample for the waived pollutant at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the user's operations, the POTW shall immediately begin at least annual effluent inspection and monitoring of the user's discharge and inspection;

ii. where the POTW has determined that an industrial user meets the criteria for classification as a non-significant categorical industrial user, the POTW must evaluate, at least once per year, whether an industrial user continues to meet the criteria in LAC 33:IX.6105;

iii. in the case of industrial users subject to reduced reporting requirements under LAC 33:IX.6123.E.3, the POTW shall randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in LAC 33:IX.6123.E.3, the POTW must immediately begin sampling and inspecting the industrial user at least once a year;

f. evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional significant industrial users must be evaluated within one year of being designated a significant industrial user. For purposes of this Subsection, a *slug discharge* is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge that has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's regulations, local limits, or permit conditions. The results of such activities shall be available to the approval authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at their facilities affecting potential for slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

i. a description of discharge practices, including nonroutine batch discharges;

ii. a description of stored chemicals;

iii. procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under LAC 33:IX.6109.B, with procedures for follow-up written notification within five days;

iv. if necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic

organic pollutants (including solvents), and/or measures and equipment for emergency response;

g. investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under LAC 33:IX.6123, or indicated by analysis, inspection, and surveillance activities described in Subparagraph F.2.e of this Section. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

h. comply with the public participation requirements of 40 CFR Part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, of industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant industrial user (or any industrial user that violates Clause F.2.h.iii, iv, or v of this Section) is in significant noncompliance if its violation meets one or more of the following criteria:

i. chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by LAC 33:IX.6105.A.*National Pretreatment Standard, Pretreatment Standard, or Standard*;

ii. technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by LAC 33:IX.6105.A.*National Pretreatment Standard, Pretreatment Standard, or Standard*, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

iii. any other violation of a pretreatment standard or requirement as defined by LAC 33:IX.6105.A.*National Pretreatment Standard, Pretreatment Standard, or Standard* (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

iv. any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under Clause F.1.g.ii of this Section to halt or prevent such a discharge;

v. failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

vi. failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

vii. failure to accurately report noncompliance;

viii. any other violation or group of violations, which may include a violation of best management practices, that the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

3. Funding. The POTW shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in Paragraphs F.1 and 2 of this Section. In some limited circumstances, funding and personnel may be delayed where:

a. the POTW has adequate legal authority and procedures to carry out the pretreatment program requirements described in this Section; and

b. a limited aspect of the program does not need to be implemented immediately (see LAC 33:IX.6117.B).

4. Local Limits. The POTW shall develop local limits as required in LAC 33:IX.6109.C.1, or demonstrate that they are not necessary.

5. The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

a. describe how the POTW will investigate instances of noncompliance;

b. describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

c. identify (by title) the official(s) responsible for each type of response;

d. adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in Paragraphs F.1 and 2 of this Section.

6. The POTW shall prepare and maintain a list of its industrial users meeting the criteria in LAC 33:IX.6105.A.*Significant Industrial User*.a. The list shall identify the criteria in LAC 33:IX.6105.A.*Significant Industrial User*.a applicable to each industrial user and, where applicable, shall also indicate whether the POTW has made a determination in accordance with LAC 33:IX.6105.A.*Significant Industrial User*.c that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the

approval authority in accordance with LAC 33:IX.6117 as a nonsubstantial program modification in accordance with LAC 33:IX.6135.D. Modifications to the list shall be submitted to the approval authority in accordance with LAC 33:IX.6123.I.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1092 (June 1999), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1035 (June 2006).

§6117. POTW Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval

A. Who Approves Program. A POTW requesting approval of a POTW pretreatment program shall develop a program description that includes the information set forth in Paragraphs B.1-4 of this Section. This description shall be submitted to the Office of Environmental Services, which will make a determination on the request for program approval in accordance with the procedures described in LAC 33:IX.6121.

B. Contents of POTW Program Submission. The program description must contain the following information:

1. a statement from the city solicitor or a city official acting in a comparable capacity (or the attorney for those POTWs which have independent legal counsel) that the POTW has authority adequate to carry out the programs described in LAC 33:IX.6115. This statement shall:

a. identify the provision of the legal authority under LAC 33:IX.6115.F.1 which provides the basis for each procedure under LAC 33:IX.6115.F.2;

b. identify the manner in which the POTW will implement the program requirements set forth in LAC 33:IX.6115, including the means by which pretreatment standards will be applied to individual industrial users (e.g., by order, permit, ordinance, etc.); and

c. identify how the POTW intends to ensure compliance with pretreatment standards and requirements, and to enforce them in the event of noncompliance by industrial users;

2. a copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the program. This submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW pretreatment program if approved;

3. a brief description (including organization charts) of the POTW organization which will administer the pretreatment program. If more than one agency is responsible for administration of the program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth; and

4. a description of the funding levels and full and part-time manpower available to implement the program.

C. Conditional POTW Program Approval. The POTW may request conditional approval of the pretreatment program pending the acquisition of funding and personnel for certain elements of the program. The request for conditional approval must meet the requirements set forth in Subsection B of this Section except that the requirements of Subsection B of this Section may be relaxed if the submission demonstrates that:

1. a limited aspect of the program does not need to be implemented immediately;

2. the POTW had adequate legal authority and procedures to carry out those aspects of the program which will not be implemented immediately; and

3. funding and personnel for the program aspects to be implemented at a later date will be available when needed. The POTW will describe in the submission the mechanism by which this funding will be acquired. Upon receipt of a request for conditional approval, the approval authority will establish a fixed date for the acquisition of the needed funding and personnel. If funding is not acquired by this date, the conditional approval of the POTW pretreatment program and any removal allowances granted to the POTW, may be modified or withdrawn.

D. Content of Removal Allowance Submission. The request for authority to revise categorical pretreatment standards must contain the information required in LAC 33:IX.6113.D.

E. Approval Authority Action. Any POTW requesting POTW pretreatment program approval shall submit to the Office of Environmental Services three copies of the submission described in Subsection B of this Section, and, if appropriate, Subsection D of this Section. Within 60 days after receiving the submission, the Office of Environmental Services shall make a preliminary determination of whether the submission meets the requirements of Subsection B of this Section and, if appropriate, Subsection D of this Section. If the approval authority makes the preliminary determination that the submission meets these requirements, the approval authority shall:

1. notify the POTW that the submission has been received and is under review; and

2. commence the public notice and evaluation activities set forth in LAC 33:IX.6121.

F. Notification Where Submission Is Defective. If, after review of the submission as provided for in Subsection E of this Section, the approval authority determines that the submission does not comply with the requirements of Subsection B or C, and, if appropriate, Subsection D, of this Section, the approval authority shall provide notice in writing to the applying POTW and each person who has requested individual notice. This notification shall identify

any defects in the submission and advise the POTW and each person who has requested individual notice of the means by which the POTW can comply with the applicable requirements of Subsections B and C, and, if appropriate, Subsection D of this Section.

G. Consistency with Water Quality Management Plans

1. In order to be approved the POTW pretreatment program shall be consistent with any approved water quality management plan developed in accordance with 40 CFR Parts 130, 131, as revised, where such CWA Section 208 plan includes management agency designations and addresses pretreatment in a manner consistent with LAC 33:IX.Chapter 61. In order to assure such consistency the approval authority shall solicit the review and comment of the appropriate CWA Section 208 planning agency during the public comment period provided for in LAC 33:IX.6121.B.1.b prior to approval or disapproval of the program.

2. Where no CWA Section 208 plan has been approved or where a plan has been approved but lacks management agency designations and/or does not address pretreatment in a manner consistent with this Regulation, the approval authority shall nevertheless solicit the review and comment of the appropriate CWA Section 208 planning agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 33:2170 (October 2007).

§6119. Development and Submission of NPDES State Pretreatment Programs

A. Approval of State Programs. No state NPDES program shall be approved under Section 402 of the Act after the effective date of these regulations unless it is determined to meet the requirements of Subsection F of this Section. Notwithstanding any other provision of this Regulation, a state will be required to act upon those authorities which it currently possesses before the approval of a state pretreatment program.

B. Reserved.

C. Failure to Request Approval. Failure of an approved State to administer its state pretreatment program in accordance with the requirements of this Section constitutes grounds for withdrawal of NPDES program approval under Section 402(c)(3) of the Act.

D. Reserved.

E. State Program In Lieu of POTW Program. Notwithstanding the provision of LAC 33:IX.6115.A, a state with an approved pretreatment program may assume responsibility for implementing the POTW pretreatment program requirements set forth in LAC 33:IX.6115.F in lieu of requiring the POTW to develop a pretreatment program. However, this does not preclude POTWs from independently developing pretreatment programs.

F. State Pretreatment Program Requirements. In order to be approved, a request for state pretreatment program approval must demonstrate that the state pretreatment program has the following elements.

1. Legal Authority. The attorney general's statement submitted in accordance with Subparagraph G.1.a of this Section shall certify that the state administrative authority has authority under state law to operate and enforce the state pretreatment program to the extent required by this Chapter and by 40 CFR 123.27. At a minimum, the state administrative authority shall have the authority to:

a. incorporate POTW pretreatment program conditions into permits issued to POTWs; require compliance by POTWs with these incorporated permit conditions; and require compliance by industrial users with pretreatment standards;

b. ensure continuing compliance by POTWs with pretreatment conditions incorporated into the POTW permit through review of monitoring reports submitted to the state administrative authority by the POTW in accordance with LAC 33:IX.6123 and ensure continuing compliance by industrial users with pretreatment standards through the review of self-monitoring reports submitted to the POTW or to the state administrative authority by the industrial users in accordance with LAC 33:IX.6123;

c. carry out inspection, surveillance and monitoring procedures which will determine, independent of information supplied by the POTW, compliance or noncompliance by the POTW with pretreatment conditions incorporated into the POTW permit; and carry out inspection, surveillance and monitoring procedures which will determine, independent of information supplied by the industrial user, whether the industrial user is in compliance with pretreatment standards;

d. seek civil and criminal penalties, and injunctive relief, for noncompliance by the POTW with pretreatment conditions incorporated into the POTW permit and for noncompliance with pretreatment standards by industrial users as set forth in LAC 33:IX.6123.F.1.f. The state administrative authority shall have authority to seek judicial relief for noncompliance by industrial users even when the POTW has acted to seek such relief (e.g., if the POTW has sought a penalty which the state administrative authority finds to be insufficient);

e. approve and deny requests for approval of POTW pretreatment programs submitted by a POTW to the state administrative authority;

f. deny and recommend approval of (but not approve) requests for fundamentally different factors variances submitted by industrial users in accordance with the criteria and procedures set forth in LAC 33:IX.6125; and

g. approve and deny requests for authority to modify categorical pretreatment standards to reflect removals achieved by the POTW in accordance with the criteria and procedures set forth in LAC 33:IX.6113, 6117, and 6121.

2. Procedures. The state administrative authority shall have developed procedures to carry out the requirements of Sections 307(b) and (c), and 402(b)(1), 402(b)(2), 402(b)(8), and 402(b)(9) of the Act. At a minimum, these procedures shall enable the state administrative authority to:

a. identify POTWs required to develop pretreatment programs in accordance with LAC 33:IX.6115.A and notify these POTWs of the need to develop a POTW pretreatment program. In the absence of a POTW pretreatment program, the state shall have procedures to carry out the activities set forth in LAC 33:IX.6115.F.2;

b. provide technical and legal assistance to POTWs in developing pretreatment programs;

c. develop compliance schedules for inclusion in POTW Permits which set forth the shortest reasonable time schedule for the completion of tasks needed to implement a POTW pretreatment program. The final compliance date in these schedules shall be no later than July 1, 1983;

d. sample and analyze:

i. influent and effluent of the POTW to identify, independent of information supplied by the POTW, compliance or noncompliance with pollutant removal levels set forth in the POTW permit (see LAC 33:IX.6113); and

ii. the contents of sludge from the POTW and methods of sludge disposal and use to identify, independent of information supplied by the POTW, compliance or noncompliance with requirements applicable to the selected method of sludge management;

e. investigate evidence of violations of pretreatment conditions set forth in the POTW permit by taking samples and acquiring other information as needed. This data acquisition shall be performed with sufficient care as to produce evidence admissible in an enforcement proceeding or in court;

f. review and approve requests for approval of POTW pretreatment programs and authority to modify categorical pretreatment standards submitted by a POTW to the state administrative authority; and

g. consider requests for fundamentally different factors variances submitted by industrial users in accordance with the criteria and procedures set forth in LAC 33:IX.6125.

3. Funding. The state administrative authority shall assure that funding and qualified personnel are available to carry out the authorities and procedures described in Paragraphs F.1 and 2 of this Section.

G. Content of State Pretreatment Program Submission. The request for state pretreatment program approval will consist of:

1.a. a statement from the state attorney general (or the attorney for those state agencies which have independent legal counsel) that the laws of the state provide adequate authority to implement the requirements of this Chapter. The authorities cited by the attorney general in this statement shall be in the form of lawfully adopted state statutes or regulations which shall be effective by the time of approval of the state pretreatment program; and

b. copies of all state statutes and regulations cited in the above statement;

c. states with approved pretreatment programs shall establish pretreatment regulations by November 16, 1989, unless the state would be required to enact or amend statutory provision, in which case, such regulations must be established by November 16, 1990;

2. a description of the funding levels and full- and part-time personnel available to implement the program; and

3. any modifications or additions to the memorandum of agreement (required by 40 CFR 123.24) which may be necessary for EPA and the state to implement the requirements of this Chapter.

H. EPA Action. Any approved NPDES state requesting state pretreatment program approval shall submit to the EPA regional administrator three copies of the submission described in Subsection G of this Section. Upon a preliminary determination that the submission meets the requirements of Subsection G of this Section the EPA regional administrator shall:

1. notify the state administrative authority that the submission has been received and is under review; and

2. commence the program revision process set out in 40 CFR 123.62. For purposes of that section, all requests for approval of state pretreatment programs shall be deemed substantial program modifications. A comment period of at least 30 days and the opportunity for a hearing shall be afforded the public on all such proposed program revisions.

a. Notification Where Submission Is Defective. If, after review of the submission as provided for in Subsection H of this Section, EPA determines that the submission does not comply with the requirements of Subsection F or G of this Section, EPA shall so notify the applying NPDES state in writing. This notification shall identify any defects in the submission and advise the NPDES state of the means by which it can comply with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§6121. Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization.

A. Deadline for Review of Submission. The approval authority shall have 90 days from the date of public notice of any submission complying with the requirements of LAC 33:IX.6117.B and, where removal credit authorization is sought with LAC 33:IX.6113.E and 6117.D, to review the submission. The approval authority shall review the submission to determine compliance with the requirements of LAC 33:IX.6115.B and F, and, where removal credit authorization is sought, with LAC 33:IX.6113. The approval authority may have up to an additional 90 days to complete the evaluation of the submission if the public comment period provided for in Subparagraph B.1.b of this Section is extended beyond 30 days or if a public hearing is held as provided for in Paragraph B.2 of this Section. In no event, however, shall the time for evaluation of the submission exceed a total of 180 days from the date of public notice of a submission meeting the requirements of LAC 33:IX.6117.B and, in the case of a removal credit application, LAC 33:IX.6113.E and 6117.B.

B. Public Notice and Opportunity for Hearing. Upon receipt of a submission the approval authority shall commence its review. Within 20 work days after making a determination that a submission meets the requirements of LAC 33:IX.6117.B and, where removal allowance approval is sought, LAC 33:IX.6113.D and 6117.D, the approval authority shall:

1. issue a public notice of request for approval of the submission:

a. this public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the submission. Procedures for the circulation of public notice shall include:

i. mailing notices of the request for approval of the submission to designated 208 planning agencies, federal and state fish, shellfish, and wildlife resource agencies (unless such agencies have asked not to be sent the notices); and to any other person or group who has requested individual notice, including those on appropriate mailing lists; and

ii. publication of a notice of request for approval of the submission in a newspaper(s) of general circulation within the jurisdiction(s) served by the POTW that provides meaningful public notice;

b. the public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission to the Office of Environmental Services; and

c. all written comments submitted during the 30-day comment period shall be retained by the approval authority and considered in the decision on whether or not to approve the submission. The period for comment may be extended at the discretion of the approval authority; and

2. provide an opportunity for the applicant, any affected state, any interested state or federal agency, person or group of persons to request a public hearing with respect to the submission:

a. this request for public hearing shall be filed within the 30-day (or extended) comment period described in Subparagraph B.1.b of this Section and shall indicate the interest of the person filing such request and the reasons why a hearing is warranted;

b. the approval authority shall hold a hearing if the POTW so requests. In addition, a hearing will be held if there is a significant public interest in issues relating to whether or not the submission should be approved. Instances of doubt should be resolved in favor of holding the hearing; and

c. public notice of a hearing to consider a submission and sufficient to inform interested parties of the nature of the hearing and the right to participate shall be published in the same newspaper as the notice of the original request for approval of the submission under Clause B.1.b.ii of this Section. In addition, notice of the hearing shall be sent to those persons requesting individual notice.

C. Approval Authority Decision. At the end of the 30-day (or extended) comment period and within the 90-day (or extended) period provided for in Subsection A of this Section, the approval authority shall approve or deny the submission based upon the evaluation in Subsection A of this Section and taking into consideration comments submitted during the comment period and the record of the public hearing, if held. Where the approval authority makes a determination to deny the request, the approval authority shall so notify the POTW and each person who has requested individual notice. This notification shall include suggested modifications and the approval authority may allow the requestor additional time to bring the submission into compliance with applicable requirements.

D. EPA Objection to State Administrative Authority's Decision. No POTW pretreatment program or authorization to grant removal allowances shall be approved by the state administrative authority if following the 30-day (or extended) evaluation period provided for in Subparagraph B.1.b of this Section and any hearing held pursuant to Paragraph B.2 of this Section the EPA regional administrator sets forth in writing objections to the approval of such submission and the reasons for such objections. A copy of the EPA regional administrator's objections shall be provided to the applicant, and each person who has requested individual notice. The EPA regional administrator shall provide an opportunity for written comments and may convene a public hearing on his or her objections. Unless retracted, the EPA regional administrator's objections shall constitute a final ruling to deny approval of a POTW

pretreatment program or authorization to grant removal allowances 90 days after the date the objections are issued.

E. Notice of Decision. The approval authority shall notify those persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the submission. In addition, the approval authority shall cause to be published a notice of approval or disapproval in the same newspapers as the original notice of request for approval of the submission was published. The approval authority shall identify in any notice of POTW pretreatment program approval any authorization to modify categorical pretreatment standards which the POTW may make, in accordance with LAC 33:IX.6113, for removal of pollutants subject to pretreatment standards.

F. Public Access to Submission. The approval authority shall ensure that the submission and any comments upon such submission are available to the public for inspection and copying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 33:2170 (October 2007).

§6123. Reporting Requirements for POTWs and Industrial Users

A. Reserved.

B. Reporting Requirements for Industrial Users upon Effective Date of Categorical Pretreatment Standard—Baseline Report. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under LAC 33:IX.6111.A.4, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the control authority a report which contains the information listed in Paragraphs B.1-7 of this Section. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in Paragraphs B.1-5 of this Section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in Paragraphs B.4 and 5 of this Section.

1. Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners.

2. Permits. The user shall submit a list of any environmental control permits held by or for the facility.

3. Description of Operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

4. Flow Measurement

a. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

i. regulated process streams; and

ii. other streams as necessary to allow use of the combined wastestream formula of LAC 33:IX.6111.E (see Subparagraph B.5.d of this Section).

b. The control authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

5. Measurement of Pollutants

a. The user shall identify the pretreatment standards applicable to each regulated process.

b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Paragraph.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of LAC 33:IX.6111.E, in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with LAC 33:IX.6111.E, this adjusted limit along with supporting data shall be submitted to the control authority.

e. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto. Where 40 CFR Part 136 (see LAC 33:IX.4901) does not contain sampling or analytical techniques for the pollutant in

question, or where the administrator determines that the 40 CFR Part 136 (see LAC 33:IX.4901) sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

f. The control authority may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

g. The baseline report shall indicate the time, date, and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

6. Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in Subsection L of this Section) and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

7. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

a. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (LAC 33:IX.6113), the combined wastestream formula (LAC 33:IX.6111.E), and/or a fundamentally different factors variance (LAC 33:IX.6125) at the time the user submits the report required by Subsection B of this Section, the information required by Paragraphs B.6 and 7 of this Section shall pertain to the modified limits.

b. If the categorical pretreatment standard is modified by a removal allowance (LAC 33:IX.6113), the combined wastestream formula (LAC 33:IX.6111.E), and/or a fundamentally different factors variance (LAC 33:IX.6125) after the user submits the report required by Subsection B of this Section, any necessary amendments to the information requested by Paragraphs B.6 and 7 of this Section shall be submitted by the user to the control authority within 60 days after the modified limit is approved.

C. Compliance Schedule for Meeting Categorical Pretreatment Standards. The following conditions shall apply to the schedule required by Paragraph B.7 of this Section.

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

2. No increment referred to in Paragraph C.1 of this Section shall exceed nine months.

3. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

D. Report on Compliance with Categorical Pretreatment Standard Deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the control authority a report containing the information described in Paragraphs B.4-6 of this Section. For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in LAC 33:IX.6111.C, this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

E. Periodic Reports on Continued Compliance

1. Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority or the approval authority, a report indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Paragraph B.4 of this Section except that the control authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the control authority

and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority may agree to alter the months during which the above reports are to be submitted.

2. The control authority may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by the categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions.

a. The control authority may authorize a waiver where the pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

b. The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

c. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Subsection L of this Section, and include the certification statement in LAC 33:IX.6111.A.2.b. Non-detectable sample results may be only used as a demonstration that a pollutant is not present if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

d. Any grant of the monitoring waiver by the control authority must be included as a condition in the user's control mechanism. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the control authority for three years after expiration of the waiver.

e. Upon approval of the monitoring waiver and the revision of the user's control mechanism by the control authority, the industrial user must certify on each report, with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

> "Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR [specify applicable national pretreatment standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since the filing of the last periodic report under LAC 33:IX.6123.E.1."

f. In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of Paragraph E.1 of this Section, or other more frequent monitoring requirements imposed by the control authority, and notify the control authority.

g. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

3. The control authority may reduce the requirement in Paragraph E.1 of this Section to a requirement to report no less than once a year, unless required more frequently in the pretreatment standard or by the approval authority.

a. The industrial user must meet all of the following conditions:

i. the industrial user's total categorical wastewater flow does not exceed any of the following:

(a). 0.01 percent of the design dry weather hydraulic capacity of the POTW or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;

(b). 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

(c). 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed by a POTW in accordance with LAC 33:IX.6109.C and Subsection D of this Section;

ii. the industrial user has not been in significant noncompliance, as defined in LAC 33:IX.6115.F.2.h, for any time in the past two years;

iii. the industrial user does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this industrial user would result in data that are not representative of conditions occurring during the reporting period in accordance with Paragraph G.3 of this Section.

b. An industrial user must notify the control authority immediately of any changes at its facility causing it to no longer meet the conditions of Clause E.3.a.i or ii of this Section. Upon notification, the industrial user must immediately begin complying with the minimum reporting requirements in Paragraph E.1 of this Section.

c. The control authority must retain documentation to support the control authority's determination that a specific industrial user qualifies for reduced reporting requirements under this Paragraph for a period of three years after the expiration of the term of the control mechanism.

4. Where the control authority has imposed mass limitations on industrial users as provided for by LAC 33:IX.6111.D, the report required by Paragraph E.1 of this Section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

5. For industrial users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in LAC 33:IX.6111.C, the report required by Paragraph E.1 of this Section shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by Paragraph E.1 of this Section shall include the user's actual average production rate for the reporting period.

F. Notice of Potential Problems, Including Slug Loading. All categorical and non-categorical industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by LAC 33:IX.6109.B, by the industrial user.

G. Monitoring and Analysis to Demonstrate Continued Compliance

1. Except in the case of non-significant categorical users, the reports required in Subsections B, D, and E of this Section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein that are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the control authority in lieu of the industrial use. Where the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certification required under Paragraph B.6 and Subsection D of this Section. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.

2. If sampling performed by an industrial user indicates a violation, the user shall notify the Office of Environmental Services within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

a. the control authority performs sampling at the industrial user at a frequency of at least once per month; or

b. the control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

3. The reports required in Subsections B, D, E, and H of this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the composting procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

4. For sampling required in support of baseline monitoring and 90-day compliance reports required in Subsections B and D of this Section, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the reports required by Subsections E and H of this Section, the control authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

5. All analyses shall be performed in accordance with procedures established by the administrator pursuant to Section 304(h) of the CWA and contained in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto or with any other test procedures approved by the administrator (see 40 CFR Parts 136.4 and 136.5). Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR Part 136 (see LAC 33:IX.4901) does not include sampling or analytical techniques for the pollutant in question, or where the administrator determines that the 40 CFR Part 136 (see

LAC 33:IX.4901) sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the administrator.

6. If an industrial user subject to the reporting requirement in Subsection E of this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in Paragraph G.5 of this Section, the results of this monitoring shall be included in the report.

H. Reporting Requirements for Industrial Users Not Subject to Categorical Pretreatment Standards. The control authority shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant noncategorical industrial users shall submit to the control authority at least once every six months (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the control authority to determine the compliance status of the user. These reports shall be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR Part 136 (see LAC 33:IX.4901) and amendments thereto. This sampling and analysis may be performed by the control authority in lieu of the significant noncategorical industrial user.

I. Annual POTW Reports. POTWs with approved pretreatment programs shall provide the approval authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section shall be submitted no later than one year after approval of the POTW's pretreatment program, and at least annually thereafter, and shall include, at a minimum, the following:

1. an updated list of the POTW's industrial users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list shall indicate which industrial users are subject to local standards that are more stringent than the categorical pretreatment standards. The POTW shall also list the industrial users that are subject only to local requirement. The list must also identify industrial users subject to categorical pretreatment standards that are subject to reduced reporting requirements under Paragraph E.3 of this Section, and identify which industrial users are non-significant categorical industrial users;

2. a summary of the status of industrial use compliance over the reporting period;

3. a summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period;

4. a summary of changes to the POTW's pretreatment program that have not been previously reported to the approval authority; and

5. any other relevant information requested by the approval authority.

J. Notification of Changed Discharge. All industrial users shall promptly notify the control authority (and the POTW if the POTW is not the control authority) in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Subsection P of this Section.

K. Compliance Schedule for POTWs. The following conditions and reporting requirements shall apply to the compliance schedule for development of an approvable POTW pretreatment program required by LAC 33:IX.6115.

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW pretreatment program (e.g., acquiring required authorities, developing funding mechanisms, acquiring equipment).

2. No increment referred to in Paragraph K.1 of this Section shall exceed nine months.

3. Not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Office of Environmental Services, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Office of Environmental Services.

L. Signatory Requirements for Industrial User Reports. The reports required by Subsections B, D, and E, of this Section shall include the certification statement as set forth in LAC 33:IX.6111.A.2.b, and shall be signed as follows:

1. by a responsible corporate officer, the industrial user submitting the reports required by Subsections B, D, and E of this Section is a corporation. For the purpose of this Section, a responsible corporate officer means:

a. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

b. the manager of one or more manufacturing, production, or operating facilities, provided that the manager

is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions are taken to gather complete and accurate information for control mechanism requirements; and has been assigned or delegated authority to sign documents in accordance with corporate procedures;

2. by a general partner or proprietor if the industrial user submitting the reports required by Subsections B, D, and E of this Section is a partnership or sole proprietorship respectively;

3. by a duly authorized representative of the individual designated in Paragraph L.1 or 2 of this Section if:

a. the authorization is made in writing by the individual described in Paragraph L.1 or 2 of this Section;

b. the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

c. the written authorization is submitted to the control authority; and

4. if an authorization under Paragraph L.3 of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Paragraph L.3 of this Section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

M. Signatory Requirements for POTW Reports. Reports submitted to the approval authority by the POTW in accordance with Subsection I of this Section must be signed by a principal executive officer, ranking elected official, or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the approval authority prior to or together with the report being submitted.

N. Provisions Governing Fraud and False Statements. The reports and other documents required to be submitted or maintained under this Section shall be subject to:

1. the provisions of 18 U.S.C. Section 1001, R.S. 30:2076.2 relating to fraud and false statements;

2. the provisions of Section 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

3. the provisions of Section 309(c)(6) of the Act regarding responsible corporate officers.

O. Recordkeeping Requirements

1. Any industrial user and POTW subject to the reporting requirements established in this Section shall maintain records of all information resulting from any monitoring activities required by this Section, including documentation associated with best management practices. Such records shall include for all samples:

a. the date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

b. the dates analyses were performed;

c. who performed the analyses;

d. the analytical techniques/methods use; and

e. the results of such analyses.

2. Any industrial user or POTW subject to the reporting requirements established in this Section, including requirements for documentation associated with best management practices, shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this Section) and shall make such records available for inspection and copying by the state administrative authority and the EPA regional administrator (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the state administrative authority or the EPA regional administrator.

3. Any POTW to which reports are submitted by an industrial user pursuant to Subsections B, D, E, and H of this Section shall retain such reports for a minimum of three years and shall make such reports available for inspection and copying by the state administrative authority and the EPA regional administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the state administrative authority or the EPA regional administrator.

P.1. The industrial user shall notify the POTW, the EPA Regional Waste Management Division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW,

the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place within 180 days of the effective date of this Rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this Paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharge must be submitted under Subsection J of this Section. The notification requirement in this Section does not apply to pollutants already reported under the self-monitoring requirements of Subsections B, D, and E of this Section.

2. Dischargers are exempt from the requirements of Paragraph P.1 of this Section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

3. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

4. In the case of any notification made under Subsection P of this Section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

Q. Annual Certification by Non-significant Categorical Industrial Users. A facility determined to be a non-significant categorical industrial user in accordance with LAC 33:IX.6105 must annually submit the following certification statement, signed in accordance with the signatory requirements in this Section. This certification must accompany an alternative report required by the control authority.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards in 40 CFR [specify applicable national pretreatment standard part(s)], I certify, to the best of my knowledge and belief, that during the period from [month, day, year] to [month, day, year]:

1. the facility described as [insert facility name] was a non-significant categorical industrial user as described in LAC 33:IX.6105;

2. the facility complied with all applicable pretreatment standards and requirements during this reporting period; and

3. the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information.

[Insert narrative description.]"

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005), LR 32:1038 (June 2006), LR 33:2170 (October 2007).

§6125. Variances from Categorical Pretreatment Standards for Fundamentally Different Factors

A. Definition. The term *requester* means an industrial user or a POTW or other interested person seeking a variance from the limits specified in a categorical pretreatment standard.

B. Purpose and Scope. In establishing categorical pretreatment standards for existing sources, the EPA will take into account all the information it can collect, develop and solicit regarding the factors relevant to pretreatment standards under Section 307(b) of the Act. In some cases, information which may affect these pretreatment standards will not be available or, for other reasons, will not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the limits in categorical pretreatment standards, making them either more or less stringent, as they apply to a certain industrial user within an industrial category or subcategory. This will only be done if data specific to that industrial user indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to an industrial user are fundamentally different from the factors considered during development of a categorical pretreatment standard applicable to that user and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical pretreatment standard, may request a fundamentally different factors variance under this section or such a variance request may be initiated by the EPA.

C. Criteria

1. General Criteria. A request for a variance based upon fundamentally different factors shall be approved only if:

a. there is an applicable categorical pretreatment standard which specifically controls the pollutant for which alternative limits have been requested; and

b. factors relating to the discharge controlled by the categorical pretreatment standard are fundamentally different from the factors considered by EPA in establishing the standards; and

c. the request for a variance is made in accordance with the procedural requirements in Subsections G and H of this Section.

2. Criteria Applicable to Less Stringent Limits. A variance request for the establishment of limits less stringent than required by the standard shall be approved only if:

a. the alternative limit requested is no less stringent than justified by the fundamental difference;

b. the alternative limit will not result in a violation of prohibitive discharge standards prescribed by or established under LAC 33:IX.6109;

c. the alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the pretreatment standards; and

d. compliance with the standards (either by using the technologies upon which the standards are based or by using other control alternatives) would result in either:

i. a removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the standards; or

ii. a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.

3. Criteria Applicable to More Stringent Limits. A variance request for the establishment of limits more stringent than required by the standards shall be approved only if:

a. the alternative limit request is no more stringent than justified by the fundamental difference; and

b. compliance with the alternative limit would not result in either:

i. a removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the standards; or

ii. a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.

D. Factors Considered Fundamentally Different. Factors which may be considered fundamentally different are:

1. the nature or quality of pollutants contained in the raw waste load of the user's process wastewater;

2. the volume of the user's process wastewater and effluent discharged;

3. non-water quality environmental impact of control and treatment of the user's raw waste load;

4. energy requirements of the application of control and treatment technology;

5. age, size, land availability, and configuration as they relate to the user's equipment or facilities; processes employed; process changes; and engineering aspects of the application of control technology; or

6. cost of compliance with required control technology.

E. Factors Which Will Not Be Considered Fundamentally Different. A variance request or portion of such a request under this Section may not be granted on any of the following grounds:

1. the feasibility of installing the required waste treatment equipment within the time the CWA allows;

2. the assertion that the standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factors listed in Subsection D of this Section;

3. the user's ability to pay for the required waste treatment; or

4. the impact of a discharge on the quality of the POTW's receiving waters.

F. State or Local Law. Nothing in this Section shall be construed to impair the right of any state or locality under Section 510 of the Act to impose more stringent limitations than required by federal law.

G. Application Deadline

1. Requests for a variance and supporting information must be submitted in writing to the Office of Environmental Services or to the administrator (or his delegate), as appropriate.

2. In order to be considered, a request for a variance must be submitted no later than 180 days after the date on which a categorical pretreatment standard is published in the Federal Register.

3. Where the user has requested a categorical determination pursuant to LAC 33:IX.6111.A, the user may elect to await the results of the category determination before submitting a variance request under this Section. Where the user so elects, he or she must submit the variance request within 30 days after a final decision has been made on the categorical determination pursuant to LAC 33:IX.6111.A.4.

H. Contents Submission. Written submissions for variance requests, whether made to the administrator (or his delegate) or the state administrative authority, must include:

1. the name and address of the person making the request;

2. identification of the interest of the requester which is affected by the categorical pretreatment standard for which the variance is requested;

3. identification of the POTW currently receiving the waste from the industrial user for which alternative discharge limits are requested;

4. identification of the categorical pretreatment standards which are applicable to the industrial user;

5. a list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;

6. the alternative discharge limits proposed by the requester for each pollutant or pollutant parameter identified in Paragraph H.5 of this Section;

7. a description of the industrial user's existing water pollution control facilities;

8. a schematic flow representation of the industrial user's water system including water supply, process wastewater systems, and points of discharge; and

9. a statement of facts clearly establishing why the variance request should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected and used in developing each pollutant discharge limit in the pretreatment standard.

I. Deficient Requests. The administrator (or his delegate) or the state administrative authority will only act on written requests for variances that contain all of the information required. Persons who have made incomplete submissions will be notified by the administrator (or his delegate) or the state administrative authority that their requests are deficient and unless the time period is extended, will be given up to thirty days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the administrator (or his delegate) or the state administrative authority, the request for a variance shall be denied.

J. Public Notice. Upon receipt of a complete request, the administrator (or his delegate) or the state administrative authority will provide notice of receipt, opportunity to review the submission, and opportunity to comment.

1. The public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the request. Procedures for the circulation of public notice shall include mailing notices to:

a. the POTW into which the industrial user requesting the variance discharges;

b. adjoining states whose waters may be affected; and

c. designated CWA Section 208 planning agencies, federal and state fish, shellfish and wildlife resource agencies; and to any other person or group who has requested individual notice, including those on appropriate mailing lists.

2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request to the Office of Environmental Services.

3. Following the comment period, the administrator (or his delegate) or the state administrative authority will make a determination on the request taking into consideration any comments received. Notice of this final decision shall be provided to the requester (and the industrial user for which the variance is requested if different), the POTW into which the industrial user discharges and all persons who submitted comments on the request.

K. Review of Requests by State

1. Where the state administrative authority finds that fundamentally different factors do not exist, he may deny the request and notify the requester (and industrial user where they are not the same) and the POTW of the denial.

2. Where the state administrative authority finds that fundamentally different factors do exist, he shall forward the request, with a recommendation that the request be approved, to the administrator (or his delegate).

L. Review of Requests by EPA

1. Where the administrator (or his delegate) finds that fundamentally different factors do not exist, he shall deny the request for a variance and send a copy of his determination to the state administrative authority, to the POTW, and to the requester (and to the industrial user, where they are not the same).

2. Where the administrator (or his delegate) finds that fundamentally different factors do exist, and that a partial or full variance is justified, he will approve the variance. In approving the variance, the administrator (or his delegate) will:

a. prepare recommended alternative discharge limits for the industrial user either more or less stringent than those prescribed by the applicable categorical pretreatment standard to the extent warranted by the demonstrated fundamentally different factors;

b. provide the following information in his written determination:

i. the recommended alternative discharge limits for the industrial user concerned;

ii. the rationale for the adjustment of the pretreatment standard (including the reasons for recommending that the variance be granted) and an explanation of how the recommended alternative discharge limits were derived;

iii. the supporting evidence submitted to the administrator (or his delegate); and

iv. other information considered by the administrator (or his delegate) in developing the recommended alternative discharge limits;

c. notify the Office of Environmental Services and the POTW of his or her determination; and

d. send the information described in Subparagraphs L.2.a and b of this Section to the requestor (and to the industrial user where they are not the same).

M. Request for Hearing

1. Within 30 days following the date of receipt of the notice of the decision of the administrator's delegate on a variance request, the requester or any other interested person may submit a petition to the EPA regional administrator for a hearing to reconsider or contest the decision. If such a request is submitted by a person other than the industrial user the person shall simultaneously serve a copy of the request on the industrial user.

2. If the EPA regional administrator declines to hold a hearing and the EPA regional administrator affirms the findings of the administrator's delegate the requester may submit a petition for a hearing to the Environmental Appeals Board (which is described in 40 CFR 1.25) within 30 days of the EPA regional administrator's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:2170 (October 2007), LR 34:74 (January 2008).

§6127. Confidentiality

A. DEQ Authorities. In accordance with R.S 30:2030 and R.S 30: 2074(D), any information submitted to DEQ pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission. If no claim is made at the time of submission, DEQ may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the LEQA and regulations.

B. Effluent Data. Information and data provided to the control authority pursuant to this Chapter which is effluent data shall be available to the public without restriction.

C. State or POTW. All other information which is submitted to the state or POTW shall be available to the public at least to the extent provided by 40 CFR 2.302 and R.S. 30:2030.

D. Additional information concerning nondisclosure of confidential information is found in LAC 33:I.Chapter 5 and LAC 33:IX.6503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§6129. Net/Gross Calculation

A. Application. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this Section. Any industrial user wishing to obtain credit for intake pollutants must make application to the control authority. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water), if the requirements of Subsection B of this Section are met.

B. Criteria

1. Calculations shall be done on a net basis if:

a. the applicable categorical pretreatment standards contained in 40 CFR Subchapter N specifically provide that the standards shall be applied on a net basis; or

b. the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

2. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

3. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this Section.

4. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The control authority may waive this requirement if it finds that no environmental degradation will result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1042 (June 2006).

§6131. Upset Provision

A. Definition. For the purposes of this Section, *upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not

including noncompliance to the extent cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. Effect of an Upset. An upset shall constitute an affirmative defense to a action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection C of this Section are met.

C. Conditions Necessary for a Demonstration of Upset. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. an upset occurred and the industrial user can identify the cause(s) of the upset;

2. the facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

3. the industrial user has submitted the following information to the POTW and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. a description of the indirect discharge and cause of noncompliance;

b. the period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

c. steps being taken and/or planned to reduce eliminate and prevent recurrence of the noncompliance.

D. Burden of Proof. In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

E. Reviewability of Agency Consideration of Claims of Upset. In the usual exercise of prosecutorial discretion, agency enforcement personnel should review any claims that non-compliance was caused by an upset. No determinations made in the course of the review constitute final agency action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

F. User Responsibility in Case of Upset. The industrial user shall control production or all discharges the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where among other things the primary source of power of the treatment facility is reduced, lost or fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:232 (February 2004).

§6133. Bypass

A. Definitions

Severe Property Damage—substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. Bypass Not Violating Applicable Pretreatment Standards or Requirements. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsections C and D of this Section.

C. Notice

1. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, if possible at least 10 days before the date of the bypass.

2. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the control authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive in the written report on a case-by-case basis if the oral report has been received within 24 hours.

D. Prohibition of Bypass

1. Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless:

a. bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

c. the industrial user submitted notices as required under Subsection C of this Section.

2. The control authority may approve an anticipated bypass, after considering is adverse effects, if the control authority determines that it will meet the three conditions listed in Paragraph D.1 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002), repromulgated LR 30:232 (February 2004).

§6135. Modification of POTW Pretreatment Programs

A. General. Either the approval authority or a POTW with an approved POTW pretreatment program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW pretreatment program that differs from the information in the POTW's submission, as approved under LAC 33:IX.6121.

B. Substantial Modifications Defined

1. The following are substantial modifications for purposes of this Section:

a. modifications that relax POTW legal authorities (as described in LAC 33:IX.6115.F.1), except for modifications that directly reflect revision to the general pretreatment regulations, LAC 33:IX.Chapters 61 or 49, and reported in accordance with Subsection D of this Section;

b. modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported in accordance with Subsection D of this Section. Maximum Allowable Industrial Loadings mean the total mass of a pollutant that all industrial users of a POTW (or a subgroup of industrial users identified by the POTW) may discharge in accordance with limits developed under LAC 33:IX.6109.C;

c. changes to the POTW's control mechanism, as described in LAC 33:IX.6115.F.1.c;

d. a decrease in the frequency of self-monitoring or reporting required of industrial users;

e. a decrease in the frequency of industrial user inspections or sampling by the POTW;

f. changes to the POTW's confidentiality procedures; and

g. other modifications designated as substantial modifications by the approval authority on the basis that the modification could have significant impact on the operation of the POTW's pretreatment program, could result in an increase in pollutant loadings at the POTW, or could result in less stringent requirements being imposed on industrial users of the POTW.

C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the Office of Environmental Services a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.6117.B), or such other documents the approval authority determines to be necessary under the circumstances.

2. The approval authority shall approve or disapprove the modification based on the requirements of LAC 33:IX.6115.F, following the procedures in LAC 33:IX.6121.B-F, except as provided in Paragraphs C.3-4 of this Section. The modification shall become effective upon approval by the approval authority.

3. The approval authority need not publish a notice of decision under LAC 33:IX.6121.E, provided the notice of request for approval under LAC 33:IX.6121.B.1 states that the request will be approved if no comments are received by a date specified in the notice, no substantial comments are received, and the request is approved without change.

4. Notices required by LAC 33:IX.6121 may be performed by the POTW, provided that the approval authority finds that the POTW notice otherwise satisfies the requirements of LAC 33:IX.6121.

D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the Office of Environmental Services of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Paragraph C.1 of this Section.

2. Within 45 days after the submission of the POTW’s statement, the approval authority shall notify the POTW of its decision to approve or disapprove the nonsubstantial modification.

3. If the approval authority does not notify the POTW within 45 days of its decision to approve or deny the modification or to treat the modification as substantial under Subparagraph B.1.g of this Section, the POTW may implement the modification.

E. Incorporation in the Permit. All modifications shall be incorporated into the POTW's LPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with LAC 33:IX.2905.A.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:2171 (October 2007).

Chapter 63. Ocean Discharge Criteria

§6301. Scope and Purpose

A. This Chapter establishes guidelines for issuance of LPDES permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6303. Definitions

Irreparable Harm—significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

Marine Environment—territorial seas, the contiguous zone and the oceans.

Mixing Zone—the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge point(s) or to the boundary of the zone of initial dilution as calculated by a plume model approved by the state administrative authority, whichever is greater, unless the state administrative authority determines that the more restrictive mixing zone or another definition of the mixing zone is more appropriate for a specific discharge.

No Reasonable Alternatives—

1. no land-based disposal sites, discharge point(s) within internal waters, or approved ocean dumping sites within a reasonable distance of the site of the proposed discharge the use of which would not cause unwarranted economic impacts on the discharger, or, notwithstanding the availability of such sites;

2. on-site disposal is environmentally preferable to other alternative means of disposal after consideration of:

a. the relative environmental harm of disposal on-site, in disposal sites located on land, from discharge point(s) within internal waters, or in approved ocean dumping sites; and

b. the risk to the environment and human safety posed by the transportation of the pollutants.

Unreasonable Degradation of the Marine Environment—

1. significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities;

2. threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms; or

3. loss of esthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6305. Determination of Unreasonable Degradation of the Marine Environment

A. The state administrative authority shall determine whether a discharge will cause unreasonable degradation of the marine environment based on consideration of:

1. the quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;

2. the potential transport of such pollutants by biological, physical or chemical processes;

3. the composition and vulnerability of the biological communities which may be exposed to such pollutants, including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act, or the presence of those species critical to the structure or function of the ecosystem, such as those important for the food chain;

4. the importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism;

5. the existence of special aquatic sites including, but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

6. the potential impacts on human health through direct and indirect pathways;

7. existing or potential recreational and commercial fishing, including finfishing and shellfishing;

8. any applicable requirements of an approved Coastal Zone Management plan;

9. such other factors relating to the effects of the discharge as may be appropriate;

10. marine water quality criteria developed pursuant to Section 304(a)(1) of the Act.

B. Discharges in compliance with CWA Section 301(g), 301(h), or 316(a) variance requirements or state water quality standards shall be presumed not to cause unreasonable degradation of the marine environment, for

any specific pollutants or conditions specified in the variance or the standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6307. Permit Requirements

A. If the state administrative authority on the basis of available information including that supplied by the applicant pursuant to LAC 33:IX.6309 determines prior to permit issuance that the discharge will not cause unreasonable degradation of the marine environment after application of any necessary conditions specified in LAC 33:IX.6307.D, he may issue a LPDES permit containing such conditions.

B. If the state administrative authority, on the basis of available information including that supplied by the applicant pursuant to LAC 33:IX.6309 determines prior to permit issuance that the discharge will cause unreasonable degradation of the marine environment after application of all possible permit conditions specified in LAC 33:IX.6307.D, he may not issue a LPDES permit which authorizes the discharge of pollutants.

C. If the state administrative authority has insufficient information to determine prior to permit issuance that there will be no unreasonable degradation of the marine environment pursuant to LAC 33:IX.6305, there shall be no discharge of pollutants into the marine environment unless the state administrative authority on the basis of available information, including that supplied by the applicant pursuant to LAC 33:IX.6309 determines that:

1. such discharge will not cause irreparable harm to the marine environment during the period in which monitoring is undertaken; and

2. there are no reasonable alternatives to the on-site disposal of these materials; and

3. the discharge will be in compliance with all permit conditions established pursuant to Subsection D of this Section.

D. All permits which authorize the discharge of pollutants pursuant to Subsection C of this Section shall:

1. require that a discharge of pollutants will:

a. following dilution as measured at the boundary of the mixing zone not exceed the limiting permissible concentration for the liquid and suspended particulate phases of the waste material as described in 40 CFR Parts 227.27(a)(2) and (3), 227.27(b), and 227.27(c) of the Ocean Dumping Criteria; and

b. not exceed the limiting permissible concentration for the solid phase of the waste material or cause an accumulation of toxic materials in the human food chain as described in 40 CFR Parts 227.27(b) and (d) of the Ocean Dumping Criteria;

2. specify a monitoring program, which is sufficient to assess the impact of the discharge on water, sediment, and biological quality including, where appropriate, analysis of the bioaccumulative and/or persistent impact on aquatic life of the discharge;

3. contain any other conditions, such as performance of liquid or suspended particulate phase bioaccumulation tests, seasonal restrictions on discharge, process modifications, dispersion of pollutants, or schedule of compliance for existing discharges, which are determined to be necessary because of local environmental conditions; and

4. contain the following clause:

> "In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the state administrative authority determines that continued discharges may cause unreasonable degradation of the marine environment."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6309. Information Required to be Submitted by Applicant

A. The applicant is responsible for providing information which the state administrative authority may request to make the determination required by this Chapter. The state administrative authority may require the following information as well as any other pertinent information:

1. an analysis of the chemical constituents of any discharge;

2. appropriate bioassays necessary to determine the limiting permissible concentrations for the discharge;

3. an analysis of initial dilution;

4. available process modifications which will reduce the quantities of pollutants which will be discharged;

5. analysis of the location where pollutants are sought to be discharged, including the biological community and the physical description of the discharge facility;

6. evaluation of available alternatives to the discharge of the pollutants including an evaluation of the possibility of land-based disposal or disposal in an approved ocean dumping site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

Chapter 65. Additional Requirements Applicable to the LPDES Program

§6501. Applicability

A. In addition to the requirements in LAC 33:IX.Chapters 23-63, the conditions of this Chapter will apply to the LPDES program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6503. Request for Nondisclosure of Confidential Information

A. Maintenance of Confidential Information. In accordance with R.S. 30:2030 and 30:2074(D), the following shall apply to all requests for nondisclosure of confidential information.

1. Information determined to be confidential by the department shall be segregated from any information determined to be nonconfidential, provided in cases where confidential information cannot be reasonably extracted or separated from nonconfidential information, the whole document shall be confidential. Confidential information shall be maintained in a locked file separate from nonconfidential information. The file shall be labeled "confidential," with access appropriately controlled.

2. Any person who seeks authorization to information that has been determined confidential must qualify under R.S 30:2030(A)(2) and be duly authorized by the administrative authority. The administrative authority shall make the determination to grant such authorization based on a request by such person. The administrative authority may request in writing the requestor's name, affiliation, and the need for access to the information based on the act or applicable federal or state law. Any person authorized under R.S. 30:2030(A)(2) who gains access to a confidential file shall sign an access log that indicates his understanding of the confidential status and his responsibility to protect the information from being disclosed to the public. The person shall also indicate in the access log which file was removed, the date and time the file was removed, the affiliation of the person, if not with the department, and the time and date the file was returned.

3. Except for members of the department staff, authorized persons shall review a confidential file under the supervision of a department staff member. Confidential information shall be removed from the file no longer than is strictly necessary.

B. In accordance with R.S. 30:2030 and 30:2074(D), the department may remove confidential information from its files and return it to the provider when such information is no longer necessary or required for the purposes of the act, these regulations, or any order or under the terms and conditions of any license or permit, and the provider has requested such action in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:233 (February 2004).

§6505. Additional LPDES Permit Application Requirements

A. In addition to the requirements in LAC 33:IX.2501.F, all applicants shall provide the following information to the administrative authority using the application form provided by the department, unless the department determines that such information is not required for the applicant's facility or activity:

1. the street location of the facility for which the application is submitted; and

2. the name and address of the owner, if different from the operator.

B. In addition to the requirements in LAC 33:I.1701 and LAC 33:IX.2501.G.1, H.1, and K.1, all applicants shall provide the following information to the administrative authority using the application form provided by the department, unless the department determines that such information is not required for the applicant's facility or activity:

1. the latitude and longitude to the nearest second;

2. the section, township, and range information or other means acceptable to the department to locate each discharge; and

3. the river mile point of the immediate receiving water body, where applicable. When the discharge is to an unnamed receiving water body, the first named water body, and the approximate distance thereto, shall be indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000), repromulgated LR 30:233 (February 2004).

§6507. Enforcement Actions

A. The department may take enforcement action as prescribed by state law or regulation against any person who:

1. fails to submit an application as required by law;

2. knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the department pursuant to the act or these regulations. Violations of this

provision may subject the violator to the penalties provided for in the act for perjury or false statements;

3. fails to correct deficiencies in the application; or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

4. fails to take necessary action(s) to complete permit issuance such as payment of fees or publication of required notices;

5. fails to comply with any condition of the permit; or

6. fails to pay applicable fees under the provisions of LAC 33:IX.Chapter 13.

B. Exception. In cases where the application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services stating that no discharge or other activity that would require a permit from the Office of Environmental Services is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under Paragraphs A.3 and 4 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), LR 33:2171 (October 2007).

§6509. Additional Requirements for Permit Renewal and Termination

A. The following are causes, in addition to those found in LAC 33:IX.2907, for terminating a permit during its term or for denying a permit renewal:

1. failure to pay applicable fees under the provisions of LAC 33:IX.Chapter 13;

2. due consideration of the facility's history of violations and compliance;

3. change of ownership or operational control (see LAC 33:IX.2901); and/or

4. failure to provide or maintain financial security in accordance with LAC 33:IX.Chapter 67.

B. A notice of intent to terminate as required by LAC 33:IX.3105.C shall be sent to the permittee by certified mail.

C. An applicant may request termination of a permit and the administrative authority may grant this request without the requirement for a hearing.

D. If a permittee has a valid LPDES permit, the state administrative authority may terminate the permittee's LWDPS permit upon its own initiative or at the request of the permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:233 (February 2004).

§6511. Duty to Mitigate

A. In addition to the requirements in LAC 33:IX.2701.D, the permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6513. Inspection and Entry

A. In addition to the requirements in LAC 33:IX.2701.I, the permittee shall allow the administrative authority or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. enter upon the permittee's premises where a discharge source is or might be located or in which monitoring equipment or records required by a permit are kept for inspection or sampling purposes. Most inspections will be unannounced and should be allowed to begin immediately, but in no case shall begin more than 30 minutes after the time the inspector presents his/her credentials and announces the purpose(s) of the inspection. Delay in excess of 30 minutes shall constitute a violation of these regulations. However, additional time may be granted if the inspector or the administrative authority determines that the circumstances warrant such action; and

2. have access to and copy any records that the department or its authorized representative determines are necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day.

B. Sample Collection

1. When the inspector announces that samples will be collected, the permittee may be given an additional 30 minutes to prepare containers in order to collect duplicates. If the permittee cannot obtain and prepare sample containers within this time, he is considered to have waived his right to

collect duplicate samples and the sampling shall proceed immediately. Further delay on the part of the permittee in allowing initiation of the sampling shall constitute a violation of these regulations.

2. At the discretion of the administrative authority, sample collection shall proceed immediately (without the additional 30 minutes described in LAC 33:IX.6513.A.1) and the inspector shall supply the permittee with a duplicate sample.

C. It shall be the responsibility of the permittee to ensure that a facility representative familiar with provisions of its wastewater discharge permit, including any other conditions or limitations, be available either by phone or in person at the facility during all hours of operation. The absence of such personnel on-site who are familiar with the permit shall not be grounds for delaying the initiation of an inspection except in situations as described in LAC 33:IX.6513.A.2. The permittee shall be responsible for providing witnesses/escorts during inspections. Inspectors shall abide by all company safety rules and shall be equipped with standard safety equipment (hard hat, safety shoes, safety glasses) normally required by industrial facilities.

D. Upon written request copies of field notes, drawings, etc., taken by department personnel during an inspection shall be provided to the permittee after the final inspection report has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000), repromulgated LR 30:233 (February 2004).

§6515. Monitoring and Recordkeeping

A. In addition to the requirements in LAC 33:IX.2701.J.3, records of monitoring information shall include:

1. the time(s) analyses were begun; and

2. the results of all quality control procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6517. Additional Requirements for Bypass and Upset Conditions

A. Bypass. In the case of an unanticipated bypass, notice shall be submitted within 24 hours (LAC 33:IX.2701.M.3.b) unless an earlier notice is required in R.S. 30:2025(J).

B. Upset. Upon becoming aware of an upset, notice shall be submitted within 24 hours (LAC 33:IX.2701.N.3.c) unless an earlier notice is required in R.S. 30:2025(J) and/or 30:2076(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6519. Fact Sheets

A. In addition to the requirements in LAC 33:IX.3111, the following information is required in all fact sheets:

1. the name of the applicant and location of the facility or activity; and

2. the name of the water body to which the discharge is made or is proposed to be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§6521. Public Notice and Availability of Information

A. In addition to the requirements in LAC 33:IX.3113, publication of the notice one time in the newspaper(s) specified by the department and submission of proof of publication will be required. The costs of publication shall be borne by the applicant.

B. All recorded information (completed permit application forms, fact sheets, draft permits, or any public document) not classified as confidential information under R.S. 30:2030(A) and 30:2074(D) and designated as such in accordance with these regulations (LAC 33:IX.2323 and 2763) shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000), repromulgated LR 30:233 (February 2004).

Chapter 67. Financial Security

§6701. Applicability

A. This Subsection shall be applicable to the following actions, for privately-owned sewage treatment facilities regulated by the Public Service Commission, when taken after July 1, 1999:

1. issuance of a new discharge permit;

2. renewal of an existing discharge permit;

3. modification of an existing discharge permit; and

4. transfer of an existing discharge permit to a different permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:233 (February 2004).

§6703. Acceptable Form of Financial Security

A. Financial security required by R.S. 30:2075.2 may be established by any one or a combination of the following mechanisms.

1. Surety Bond. The requirements of this Section may be satisfied by obtaining a surety bond that conforms to the following requirements:

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division, Box 4313, Baton Rouge, LA 70821-4313;

b. the bond must be executed by the permittee and a corporate surety licensed to do business in Louisiana. The surety must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and be approved by the administrative authority;

c. under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond;

d. under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority at the address indicated in Subparagraph A.1.a of this Section. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts; and

e. the wording of the surety bond must be identical to the following, except that material in brackets is to be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND

Date bond was executed:_____

Effective date:_____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:_____

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility permit number, facility address, amount for each facility guaranteed by this bond]

Total penal sum of bond: $_____

Surety's bond number: _____

Know All Persons By These Presents That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us and, for all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, La. R.S. 30:2001 et seq., to have a permit in order to discharge wastewater from the facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for the conditions specified in LAC 33:IX.Chapter 67, as a condition of the permit; and

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform, in a timely manner, the requirements of LAC 33:IX applicable to the facility for which this bond guarantees the requirements of LAC 33:IX, in accordance with the other requirements of the permit as such permit may be amended and pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide other financial assurance as specified in LAC 33:IX.Chapter 67 and obtain written approval of the administrative authority of such assurance within 90 days after the date of notice of cancellation of this bond is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the requirements of LAC 33:IX or of its permit, for the facility for which this bond guarantees performances of the requirements of LAC 33:IX.Chapter 67, the Surety shall either perform the requirements of LAC 33:IX.Chapter 67, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to permit, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed, beginning on the date that both the Principal and the administrative authority received the notice of cancellation as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.6703.A.1, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

CORPORATE SURETY

[Name and address]

State of incorporation:_____

Liability limit: $_____

[Signature(s)]

[Name(s) and title(s)]

[For every cosurety, provide signature(s) and other information in the same manner as for Surety above.]

Bond premium: $_____

2. Letter of Credit. The requirements of this Section may be satisfied by obtaining a Letter of Credit that conforms to the following requirements:

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division, Box 4313, Baton Rouge, LA 70821-4313;

b. the issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency;

c. the letter of credit must be irrevocable and issued for a period of at least one year, unless at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority at the address indicated in Subparagraph A.2.a of this Section by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts; and

d. the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Office of Environmental Services
Water and Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the conditions specified in LAC 33:IX.Chapter 67 for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars $_____ upon presentation of:

(1). A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

(2). A statement, signed by the administrative authority, declaring that the amount of the draft is payable pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:IX.6703.A.2, effective on the date shown immediately below.

[Signature(s) and title(s) of
official(s) of issuing
institution(s)]

[date]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005).

§6705. Amount of Required Financial Security

A. The amount of the financial security must be equal to or greater than $1 per gallon of wastewater discharge per day from the facility, as determined by the administrative authority, up to a maximum of $25,000.

B. The secretary may, in his discretion, allow a single financial security instrument to satisfy the requirements of this Chapter for up to four permits held by the same permittee, if the amount of financial security provided by

that instrument is large enough to satisfy the requirements of Subsection A of this Section for the facility with the greatest amount of wastewater discharge per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:48 (January 2001), repromulgated LR 30:233 (February 2004).

§6707. Conditions for Forfeiture

A. The secretary or his designee may enter an order requiring forfeiture of all or part of the financial security, if he determines that:

1. the continued operation or lack of operation and maintenance of the facility covered by this Subsection represents a threat to public health, welfare, or the environment because the permittee is unable or unwilling to adequately operate and maintain the facility or the facility has been actually or effectively abandoned by the permittee. Evidence justifying such determination includes, but is not limited to:

a. the discharge of pollutants exceeding limitations imposed by applicable permits;

b. failure to utilize or maintain adequate disinfection facilities;

c. failure to correct overflows or backups from the collection system;

d. a declaration of a public health emergency by the state health officer; and

e. a determination by the Public Service Commission that the permittee is financially unable to properly operate or maintain the system;

2. reasonable and practical efforts under the circumstances have been made to obtain corrective actions from the permittee; and

3. it does not appear that corrective actions can or will be taken within an appropriate time as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:48 (January 2001), repromulgated LR 30:233 (February 2004).

§6709. Use of Proceeds

A. The proceeds of any forfeiture shall be used by the secretary, or by any receiver appointed by a court under R.S. 30:2075.3, to address or correct the deficiencies at the facility or to maintain and operate the system, as deemed necessary by the secretary under LAC 33:IX.6707.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:49 (January 2001), repromulgated LR 30:233 (February 2004).

Chapter 71. Appendices

§7101. Appendix A—Primary Industry Categories

A. Any permit issued after June 30, 1981 to dischargers in the following categories shall include effluent limitations and a compliance schedule to meet the requirements of Section 301(b)(2)(A), (C), (D), (E) and (F) of the CWA, whether or not applicable effluent limitations guidelines have been promulgated. See LAC 33:IX.2707 and 2711.

Adhesives and Sealants

Aluminum Forming

Auto and Other Laundries

Battery Manufacturing

Coal Mining

Coil Coating

Copper Forming

Electrical and Electronic Components

Electroplating

Explosives Manufacturing

Foundries

Gum and Wood Chemicals

Inorganic Chemicals Manufacturing

Iron and Steel Manufacturing

Leather Tanning and Finishing

Mechanical Products Manufacturing

Nonferrous Metals Manufacturing

Ore Mining

Organic Chemicals Manufacturing

Paint and Ink Formulation

Pesticides

Petroleum Refining

Pharmaceutical Preparations

Photographic Equipment and Supplies

Plastics Processing

Plastic and Synthetic Materials Manufacturing

Porcelain Enameling

Printing and Publishing

Pulp and Paper Mills

Rubber Processing

Soap and Detergent Manufacturing

Steam Electric Power Plants

Textile Mills

Timber Products Processing

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7103. Appendix B—Criteria for Determining a Concentrated Animal Feeding Operation—Reserved

§7105. Appendix C—Criteria for Determining a Concentrated Aquatic Animal Production Facility

A. A hatchery, fish farm, or other facility is a concentrated aquatic animal production facility for purposes of LAC 33:IX.2507 if it contains, grows, or holds aquatic animals in either of the following categories:

1. cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year but does not include:

a. facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and

b. facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding;

2. warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:

a. closed ponds which discharge only during periods of excess runoff; or

b. facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

B. *Cold Water Aquatic Animals*—include, but are not limited to, the *Salmonidae* family of fish; e.g., trout and salmon.

C. *Warm Water Aquatic Animals*—include, but are not limited to, the *Ameiuride*, *Centrarchidae* and *Cyprinidae* families of fish; e.g., respectively, catfish, sunfish and minnows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7107. Appendix D—Permit Application Testing Requirements (LAC 33:IX.2501)

Table I.

Testing Requirements for Organic Toxic Pollutants by Industrial Category for Existing Dischargers

	GC/MS Fraction[1]			
Industrial Category	**Volatile**	**Acid**	**Base/Neutral**	**Pesticides**
Adhesives and Sealants	*	*	*	
Aluminum Forming	*	*	*	
Auto and Other Laundries	*	*	*	*
Battery Manufacturing	*		*	
Coal Mining	*	*	*	*
Coil Coating	*	*	*	
Copper Forming	*	*	*	
Electric and Electronic Components	*	*	*	*
Electroplating	*	*	*	
Explosives Manufacturing		*	*	
Foundries	*	*	*	
Gum and Wood Chemicals	*	*	*	*
Inorganic Chemicals Manufacturing	*	*	*	
Iron and Steel Manufacturing	*	*	*	
Leather Tanning and Finishing	*	*	*	*
Mechanical Products Manufacturing	*	*	*	
Nonferrous Metals Manufacturing	*	*	*	*
Ore Mining	*	*	*	*
Organic Chemicals Manufacturing	*	*	*	*
Paint and Ink Formulation	*	*	*	*
Pesticides	*	*	*	*
Petroleum Refining	*	*	*	*
Pharmaceutical Preparations	*	*	*	
Photographic Equipment and Supplies	*	*	*	*
Plastic and Synthetic Materials Manufacturing	*	*	*	*
Plastic Processing	*			
Porcelain Enameling	*		*	*
Printing and Publishing	*	*	*	*
Pulp and Paper Mills	*	*	*	*
Rubber Processing	*	*	*	
Soap and Detergent Manufacturing	*	*	*	

Table I.				
Testing Requirements for Organic Toxic Pollutants by Industrial Category for Existing Dischargers				
	GC/MS Fraction[1]			
Industrial Category	**Volatile**	**Acid**	**Base/Neutral**	**Pesticides**
Steam Electric Power Plants	*	*	*	
Textile Mills	*	*	*	*
Timber Products Processing	*	*	*	*

[1] The toxic pollutants in each fraction are listed in Table II.
* Testing required.

Table II	
Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)	
Volatiles	
1V	Acrolein
2V	Acrylonitrile
3V	Benzene
5V	Bromoform
6V	Carbon tetrachloride
7V	Chlorobenzene
8V	Chlorodibromomethane
9V	Chloroethane
10V	2-chloroethyl vinyl ether
11V	Chloroform
12V	Dichlorobromomethane
14V	1,1-dichloroethane
15V	1,2-dichloroethane
16V	1,1-dichloroethylene
17V	1,2-dichloropropane
18V	1,3-dichloropropylene
19V	Ethylbenezene
20V	Methyl bromide
21V	Methyl chloride
22V	Methylene chloride
23V	1,1,2,2-tetrachloroethane
24V	Tetrachloroethylene
25V	Toluene
26V	1,2-trans-dichloroethylene
27V	1,1,1-trichloroethane
28V	1,1,2-trichloroethane
29V	Trichloroethylene
31V	Vinyl chloride
Acid Compounds	
1A	2-chlorophenol
2A	2,4-dichlorophenol
3A	2,4-dimethylphenol
4A	4,6-dinitro-o-cresol
5A	2,4-dinitrophenol
6A	2-nitrophenol
7A	4-nitrophenol
8A	p-chloro-m-cresol
9A	Pentachlorophenol
10A	Phenol
11A	2,4,6-trichlorophenol
Pesticides	

Table II	
Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)	
1P	Aldrin
2P	Alpha-BHC
3P	Beta-BHC
4P	Gamma-BHC
5P	Delta-BHC
6P	Chlordane
7P	4,4'-DDT
8P	4,4'-DDE
9P	4,4'-DDD
10P	Dieldrin
11P	Alpha-endosulfan
12P	Beta-endosulfan
13P	Endosulfan sulfate
14P	Endrin
15P	Endrin aldehyde
16P	Heptachlor
17P	Heptachlor epoxide
18P	PCB-1242
19P	PCB-1254
20P	PCB-1221
21P	PCB-1232
22P	PCB-1248
23P	PCB-1260
24P	PCB-1016
25P	Toxaphene
Base/Neutral Compounds	
1B	Acenaphthene
2B	Acenaphthylene
3B	Anthracene
4B	Benzidine
5B	Benzo(a)anthracene
6B	Benzo(a)pyrene
7B	3,4-benzofluoranthene
8B	Benzo(ghi)perylene
9B	Benzo(k)fluoranthene
10B	Bis(2-chloroethoxy)methane
11B	Bis(2-chloroethyl)ether
12B	Bis(2-chloroisopropyl)ether
13B	Bis(2-ethylhexyl)phthalate
14B	4-bromophenyl phenyl ether
15B	Butylbenzyl phthalate
16B	2-chloronaphthalene
17B	4-chlorophenyl phenyl ether
18B	Chrysene
19B	Dibenzo(a,h)anthracene
20B	1,2-dichlorobenzene
21B	1,3-dichlorobenzene
22B	1,4-dichlorobenzene
23B	3,3'-dichlorobenzidine
24B	Diethyl phthalate
25B	Dimethyl phthalate
26B	Di-n-butyl phthalate

Table II	
Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)	
27B	2,4-dinitrotoluene
28B	2,6-dinitrotoluene
29B	Di-n-octyl phthalate
30B	1,2-diphenylhydrazine (as azobenzene)
31B	Fluoranthene
32B	Fluorene
33B	Hexachlorobenzene
34B	Hexachlorobutadiene
35B	Hexachlorocyclopentadiene
36B	Hexachloroethane
37B	Indeno (1,2,3-cd)pyrene
38B	Isophorone
39B	Naphthalene
40B	Nitrobenzene
41B	N-nitrosodimethylamine
42B	N-nitrosodi-n-propylamine
43B	N-nitrosodiphenylamine
44B	Phenanthrene
45B	Pyrene
46B	1,2,4-trichlorobenzene

Table III
Other Toxic Pollutants (Metals and Cyanide) and Total Phenols
Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total
Nickel, Total
Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

Table IV
Conventional and Nonconventional Pollutants
Required To Be Tested by Existing Dischargers if Expected to be Present
Bromide
Chlorine, Total Residual
Color
Fecal Coliform
Fluoride
Nitrate-Nitrite
Nitrogen, Total Organic
Oil and Grease
Phosphorous, Total

Table IV
Conventional and Nonconventional Pollutants
Required To Be Tested by Existing Dischargers if Expected to be Present
Radioactivity
Sulfate
Sulfide
Sulfite
Surfactants
Aluminum, Total
Barium, Total
Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Tin, Total
Titanium, Total

Table V
Toxic Pollutants and Hazardous Substances
Required To Be Identified by Existing Dischargers if Expected To Be Present
Toxic Pollutants
Asbestos
Hazardous Substances
Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D (2,4-Dichlorophenoxy acetic acid)
Diazinon
Dicamba
Dichlobenil
Dichlone
2,2-Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dinitrobenzene
Diquat

Table V
Toxic Pollutants and Hazardous Substances
Required To Be Identified by Existing Dischargers if Expected To Be Present
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde
Furfural
Guthion
Isoprene
Isopropanolamine Dodecylbenzenesulfonate
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
Parathion
Phenolsulfanate
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strontium
Strychnine
Styrene
2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
TDE (Tetrachlorodiphenylethane)
2,4,5-TP[2- (2,4,5-Trichlorophenoxy) propanoic acid]
Trichlorfon
Triethanolamine Dodecylbenzenesulfonate
Triethylamine
Trimethylamine
Uranium
Vanadium
Vinyl Acetate
Xylene
Xylenol
Zirconium
[Note 1: The Environmental Protection Agency has suspended the requirements of 40 CFR 122.21(g)(7)(ii)(A) and Table I of Appendix D

Table V
Toxic Pollutants and Hazardous Substances
Required To Be Identified by Existing Dischargers if Expected To Be Present
(LAC 33:IX.2501.G.7.b.i and LAC 33:IX.7107.Appendix D.Table I) as they apply to certain industrial categories. The suspensions are as follows.
a. At 46 FR 2046, January 8, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(ii)(A) (LAC 33:IX.2501.G.7.b.i) as it applies to coal mines.
b. At 46 FR 22585, April 20, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(ii)(A) (LAC 33:IX.2501.G.7.b.i) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to:
1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low water use processing of 40 CFR Part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.
2. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (Subpart B of 40 CFR Part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.
3. Testing and reporting for all four GC/MS fractions in the Porcelain Enameling industry.
c. At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(ii)(A) (LAC 33:IX.2501.G.7.b.i) and the corresponding portions of Item V-C of the NPDES application Form 2c as they apply to:
1. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory (Subpart D) and Rosin-Based Derivatives Subcategory (Subpart F) of the Gum and Wood Chemicals industry (40 CFR Part 454), and testing and reporting for the pesticide and base/neutral fractions in all other subcategories of this industrial category.
2. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.
3. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.
4. Testing and reporting for the pesticide fraction in the Papergrade Sulfite subcategories (Subparts J and U) of the Pulp and Paper industry (40 CFR Part 430); testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink (Subpart Q), Dissolving Kraft (Subpart F), and Paperboard from Waste Paper (Subpart E); testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft (Subpart H), Semi-Chemical (Subparts B and C), and Nonintegrated-Fine Papers (Subpart R); and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft (Subpart I), Dissolving Sulfite Pulp (Subpart K), Groundwood-Fine Papers (Subpart O), Market Bleached Kraft (Subpart G), Tissue from Wastepaper (Subpart T), and Nonintegrated-Tissue Papers (Subpart S).
5. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category. This revision continues these suspensions. "See Note 1"]
Editorial Note: The words "This revision" refers to the document published at 48 FR 14153, April 1, 1983.

For the duration of the suspensions, therefore, Table 1 effectively reads:

Table 1. Testing Requirements for Organic Toxic Pollutants by Industry Category				
	GC/MS Fraction[1]			
Industrial Category	**Volatile**	**Acid**	**Base/Neutral**	**Pesticides**
Adhesives and Sealants	*	*	*	
Aluminum Forming	*	*	*	
Auto and Other Laundries	*	*	*	*
Battery Manufacturing	*		*	
Coal Mining				
Coil Coating	*	*	*	
Copper Forming	*	*	*	
Electric and Electronic Components	*	*	*	*
Electroplating	*	*	*	
Explosives Manufacturing		*	*	
Foundries	*	*	*	
Gum and Wood (All Subparts except D and F)	*	*		
Subpart D—tall oil rosin	*	*	*	
Subpart F—rosin-based derivatives	*	*	*	
Inorganic Chemicals Manufacturing	*	*	*	
Iron and Steel Manufacturing	*	*	*	
Leather Tanning and Finishing	*	*	*	
Mechanical Products and Manufacturing	*	*	*	
Nonferrous Metal Manufacturing	*	*	*	*
Ore Mining (Applies to the base and precious metals/Subpart B)		*		
Organic Chemicals Manufacturing	*	*	*	*
Paint and Ink Formulation	*	*	*	
Pesticides	*	*	*	*
Petroleum Refining	*			
Pharmaceutical Preparations	*	*	*	
Photographic Equipment and Supplies	*	*	*	
Plastic and Synthetic Materials Manufacturing	*	*	*	*
Plastic Processing	*			
Porcelain Enameling				
Printing and Publishing	*	*	*	*
Pulp and Paper Mills (See Table 1.A below)				
Rubber Processing	*	*	*	

Table 1. Testing Requirements for Organic Toxic Pollutants by Industry Category				
	GC/MS Fraction[1]			
Industrial Category	**Volatile**	**Acid**	**Base/Neutral**	**Pesticides**
Soap and Detergent Manufacturing	*	*	*	
Steam Electric Power Plants	*	*		
Textile Mills (Subpart C—Griege Mills are exempt from this table)	*	*	*	
Timber Products Processing	*	*	*	*

[1] The pollutants in each fraction are listed in Item V-C in the NPDES permit application.
*Testing required.

Table 1.A Pulp and Paperboard Mills - Exceptions				
	GC/MS Fraction[1]			
40 CFR Part 430 Subpart	**Volatile**	**Acid**	**Base/Neutral**	**Pesticide**
A	†	*	†	*
B	†	*	†	†
C	†	*	†	†
D	†	*	†	†
E	*	*	†	*
F	*	*	†	†
G	*	*	†	†
H	*	*	†	†
I	*	*	†	†
J	*	*	*	†
K	*	*	†	†
L	*	*	†	†
M	*	*	†	†
N	*	*	†	†
O	*	*	†	†
P	*	*	†	†
Q	*	*	†	*
R	†	*	†	†
S	*	*	†	*
T	*	*	†	*
U	*	*	*	†

[1] The pollutants in each fraction are listed in Item V-C in the NPDES permit application.
*Testing required.
†Do not test unless "reason to believe" it is discharged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1852 (October 2006).

§7109. Appendix E—Rainfall Zones of Louisiana—Reserved

§7111. Appendix F—Incorporated Places with Populations Greater than 250,000

According to Latest Decennial Census for the State of Louisiana by the Bureau of Census

Incorporated Place	New Orleans

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7113. Appendix G—Incorporated Places with Populations Greater than 100,000 and Less than 250,000

According to Latest Decennial Census for the State of Louisiana by the Bureau of Census

Incorporated Place	Baton Rouge
	Shreveport

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7115. Appendix H—Parishes with Unincorporated Urbanized Areas with a Population of 250,000 or More

According to the Latest Decennial Census for the State of Louisiana by the Bureau of Census

No Listings for Louisiana

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7117. Appendix I—Parishes with Unincorporated Urbanized Areas Greater than 100,000, But Less than 250,000

According to the Latest Decennial Census for the State of Louisiana by the Bureau of Census

Unincorporated Urbanized Parish	Jefferson
Population	140,836

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7119. Appendix J—65 Toxic Pollutants—Reserved

§7121. Appendix K—Industrial Categories Subject to National Categorical Pretreatment Standards—Reserved

§7123. Appendix L—Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula

A. The following industrial subcategories considered to have dilute wastestreams for purposes of the combined wastestream formula. They either were or could have been excluded from categorical pretreatment standards pursuant to Paragraph 8 of the Natural Resources Defense Council Inc. et al v. Costle Consent Decree (the decree) for one or more of the following four reasons:

1. the pollutants of concern are not detectable in the effluent from the industrial user (Paragraph 8(a)(iii) of the decree);

2. the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (Paragraph 8(a)(iii) of the decree);

3. the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the administrator or the state administrative authority (Paragraph 8(a)(iii) of the decree); or

4. the wastestream contains only pollutants which are compatible with the POTW (Paragraph 8(b)(i) of the decree). In some instances, different rationale were given for exclusion under Paragraph 8 of the decree. However, EPA has reviewed these subcategories and has determined that exclusion could have occurred due to one of the four reasons listed in this Appendix.

B. This list includes all subcategories that have been excluded for the above-listed reasons as of October 9, 1986. It will be updated periodically for the convenience of the reader.

Auto and Other Laundries Industry (40 CFR Part 444)
Carpet and Upholstery Cleaners
Coin-Operated Laundries and Dry Cleaning
Diaper Services
Dry Cleaning Plants except Rug Cleaning
Industrial Laundries
Laundry and Garment Services, (not elsewhere classified)
Linen Supply
Power Laundries, Family and Commercial
Electrical and Electronic Components (1) (40 CFR Part 469)
Capacitors (Fluid Fill)
Carbon and Graphite Products
Dry Transformers
Ferrite Electronic Devices
Fixed Capacitors
Fluorescent Lamps

Fuel Cells
Incandescent Lamps
Magnetic Coatings
Mica Paper Dielectric
Motors, Generators, Alternators
Receiving and Transmitting Tubes
Resistance Heaters
Resistors
Switchgear
Transformer (Fluid Fill)
Metal Molding and Casting (40 CFR Part 464)
Nickel Casting
Tin Casting
Titanium Casting
Gum and Wood Chemicals (40 CFR Part 454)
Char and Charcoal Briquettes
Inorganic Chemicals Manufacturing Industry (40 CFR Part 415)
Ammonium Chloride
Ammonium Hydroxide
Barium Carbonate
Calcium Carbonate
Carbon Dioxide
Carbon Monoxide and Byproduct Hydrogen
Hydrochloric Acid
Hydrogen Peroxide (Organic Process)
Nitric Acid
Oxygen and Nitrogen
Potassium Iodide
Sodium Chloride (Brine Mining Process)
Sodium Hydrosulfide
Sodium Hydrosulfite
Sodium Metal
Sodium Silicate
Sodium Sulfite
Sodium Thiosulfate
Sulfur Dioxide
Sulfuric Acid
Leather Industries (40 CFR Part 425)
Gloves
Luggage
Paving and Roofing (40 CFR Part 443)
Asphalt Concrete
Asphalt Emulsion
Linoleum
Printed Asphalt Felt
Roofing
Pulp, Paper, Paperboard, and Builders' Paper and Board Mills (40 CFR Parts 430 and 431)
Groundwood-Chemi-Mechanical
Rubber Manufacturing (40 CFR Part 428)
Tire and Inner Tube Production
Emulsion Crumb Rubber
Solution Crumb Rubber
Latex Rubber
Small-sized General Molded, Extruded and Fabricated Rubber Plants (2)
Medium-sized General Molded, Extruded and Fabricated Rubber Plants (2)
Large-sized General Molded, Extruded and Fabricated Rubber Plants (2)
Wet Digestion and Reclaimed Rubber
Pan, Dry Digestion, and Mechanical Reclaimed Rubber
Latex Dipped, Latex-Extruded, and Latex-Molded Rubber (3)
Latex Foam (4)
Soap and Detergent Manufacturing (40 CFR Part 417)
Soap Manufacture by Batch Kettle
Fatty Acid Manufacture by Fatty Acid Neutralization
Soap Manufacture by Fatty Acid Neutralization
Glycerine Concentration
Glycerine Distillation
Manufacture of Soap Flakes and Powders
Manufacture of Bar Soaps
Manufacture of Liquid Soaps
Manufacture of Spray Dried Detergents
Manufacture of Liquid Detergents
Manufacture of Dry Blended Detergents
Manufacture of Drum Dried Detergents
Manufacture of Detergent Bars and Cakes
Textile Mills (40 CFR Part 410)
Apparel Manufacturing
Cordage and Twine
Padding and Upholstery Filling
Timber Products Processing (40 CFR Part 429)
Barking Process
Finishing Processes
Hardboard-Dry Process
Footnotes:
(1) The Paragraph 8 of the Natural Resources Defense Council Inc. et al v. Costle Consent Decree exemption for the manufacture of products in the Electrical and Electronic components Category is for operations not covered by Electroplating/Metal Finishing pretreatment regulations (40 CFR 413/433).
(2) Except for production attributed to leadsheathed hose manufacturing operations.
(3) Except for production attributed to chromic acid form-cleaning operations.
(4) Except for production that generates zinc as a pollutant in discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7125. Appendix M—Sampling Procedures

I. COMPOSITE METHOD

A. It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow

since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

B. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the approval authority requires detention time compensation. The approval authority may require that each effluent sample is taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

II. GRAB METHOD

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:233 (February 2004).

§7127. Appendix N—Pollutants Eligible for a Removal Credit

I. Regulated Pollutants in 40 CFR Part 503 Eligible for a Removal Credit

Pollutants	Use or Disposal Practice		
	LA	SD	I
Arsenic	X	X	X
Beryllium			X
Cadmium	X		X
Chromium		X	X
Copper	X		
Lead	X		X
Mercury	X		X
Molybdenum	X		
Nickel	X	X	X
Selenium	X		
Zinc	X		
Total hydrocarbons			X[1]

Key:

LA = land application

SD = surface disposal site without a liner and leachate collection system

I = firing of sewage sludge in a sewage sludge incinerator

[1] = The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons or carbon monoxide in Subpart E in 40 CFR Part 503 are met when sewage sludge is fired in a sewage sludge incinerator:

Acrylonitrile
Aldrin/Dieldrin (total)
Benzene
Benzidine
Benzo(a)pyrene
Bis(2-chloroethyl)ether
Bis(2-ethylhexyl)phthalate
Bromodichloromethane
Bromoethane
Bromoform
Carbon tetrachloride
Chlordane
Chloroform
Chloromethane
DDD
DDE
DDT
Dibromochloromethane
Dibutyl phthalate
1,2-dichloroethane
1,1-dichloroethylene
2,4-dichlorophenol
1,3-dichloropropene
Diethyl phthalate
2,4-dinitrophenol
1,2-diphenylhydrazine
Di-n-butyl phthalate
Endosulfan
Endrin
Ethylbenzene
Heptachlor
Heptachlor epoxide
Hexachlorobutadiene
Alpha-hexachlorocyclohexane
Beta-hexachlorocyclohexane
Hexachlorocyclopentadiene
Hexachloroethane
Hydrogen cyanide
Isophorone
Lindane
Methylene chloride
Nitrobenzene
N-Nitrosodimethylamine
N-Nitrosodi-n-propylamine
Pentachlorophenol
Phenol
Polychlorinated biphenyls
2,3,7,8-tetrachlorodibenzo-p-dioxin
1,1,2,2,-tetrachloroethane
Tetrachloroethylene
Toluene
Toxaphene
Trichloroethylene
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
2,4,6-Trichlorophenol

II. Additional Pollutants Eligible for a Removal Credit (milligrams per kilogram-dry weight basis)

Pollutant	Use or Disposal Practice			
	LA	SD		I
		Unlined[1]	Lined[2]	
Arsenic			[3]100	
Aldrin/Dieldrin (Total)	2.7			
Benzene	[3]16	140	3400	
Benzo(a)pyrene	15	[3]100	[3]100	
Bis(2-ethylhexyl)phthtlate		[3]100	100	
Cadmium		[3]100	[3]100	
Chlordane	86	[3]100	[3]100	
Chromium (total)	[3]100		[3]100	
Copper		[3]46	100	1400
DDD, DDE, DDT (Total)	1.2	2000	2000	
2,4 Dichlorophenoxy-acetic acid		7	7	
Fluoride	730			
Heptachlor	7.4			
Hexachlorobenzene	29			
Hexachlorobutadiene	600			
Iron	[3]78			
Lead		[3]100	[3]100	
Lindane	84	[3]28	[3]28	
Malathion		0.63	0.63	
Mercury		[3]100	[3]100	
Molybdenum		40	40	
Nickel			[3]100	
N-Nitrosodimethylamine	2.1	0.088	0.088	
Pentachlorophenol	30			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10	[3]26	[3]26	
Trichloroethylene	[3]10	9500	[3]10	
Zinc		4500	4500	4500

Key:
LA = land application
SD = surface disposal
I = incineration.
[1]Active sewage sludge unit without a liner and leachate collection system.
[2]Active sewage sludge unit with a liner and leachate collection system.
[3]Value expressed in grams per kilogram-dry weight basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), LR 23:959 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2765 (December 2000), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1042 (June 2006).

§7129. Appendix O—LPDES Permit Testing Requirements for Publicly Owned Treatment Works (LAC 33:IX.2501.J)

Table 1A—Effluent Parameters for All POTWS
Biochemical oxygen demand (BOD-5 or CBOD-5)
Fecal coliform
Design flow rate

Table 1A—Effluent Parameters for All POTWS
PH
Solids, total suspended
Temperature

Table 1—Effluent Parameters for All POTWS with a Flow Equal to or Greater than 0.1 MGD	
Name	CAS #
Ammonia (as N)	7664-41-7
Chlorine (total residual, TRC)	7782-50-5
Dissolved oxygen	
Nitrate/Nitrite	
Kjeldahl nitrogen	
Oil and grease	
Phosphorus	7723-14-0
Solids, total dissolved	

Table 2—Effluent Parameters for Selected POTWS		
Common Name	Universal Name	CAS #
Hardness		
Metals (total recoverable), Cyanide and Total Phenols		
Antimony		7440-36-0
Arsenic		7440-38-2
Beryllium		7440-41-7
Cadmium		7440-43-9
Chromium		7440-47-3
Copper		7440-50-8
Lead		7439-92-1
Mercury		7439-97-6
Nickel		7440-02-0
Selenium		7782-49-2
Silver		7440-22-4
Thallium		7440-28-0
Zinc		7440-66-6
Cyanide		57-12-5
Total phenolic compounds		
Volatile Organic Compounds		
Acrolein		107-02-8
Acrylonitrile		107-13-1
Benzene		71-43-2
Bromoform		75-25-2
Carbon tetrachloride		56-23-5
Chlorobenzene	Phenyl chloride	108-90-7
Chlorodibromomethane		124-48-1
Chloroethane	Ethyl chloride	75-00-3
2-choloroethyl vinyl ether	2-chloroethyl vinyl ether	110-75-8
Chloroform	Trichloromethane	67-66-3
Dichlorobromomethane		75-27-4
1,1-dichloroethane		75-34-3
1,2-dichloroethane		107-06-2
Trans-1,2-dichloroethylene	Trans-1,2-dichloroethene	156-60-5
1,1-dichloroethylene	Vinylidene chloride	75-35-4
1,2-dichloropropane	Propylene dichloride	78-87-5
1,3-dichloropropylene	1,3-dichloropropene	542-75-6
Ethylbenzene	Ethyl benzene	100-41-4
Methyl bromide		74-83-9
Methyl chloride		74-87-3
Methylene chloride	Dichloromethane	75-09-2
1,1,2,2-tetrachloroethane		79-34-5
Tetrachloroethylene		127-18-4
Toluene		108-88-3
1,1,1-trichloroethane		71-55-6
1,1,2-trichloroethane		79-00-5
Trichloroethylene		79-01-6
Vinyl chloride		75-01-4

Table 2—Effluent Parameters for Selected POTWS		
Common Name	**Universal Name**	**CAS #**
Acid-Extractable Compounds		
P-chloro-m-cresol	4-chloro-3-methylphenol	59-50-7
2-chlorophenol		95-57-8
2,4-dichlorophenol		120-83-2
2,4-dimethylphenol		105-67-9
4,6-dinitro-o-cresol	Dinitro-o-cresol	534-52-1
2,4-dinitrophenol		51-28-5
2-nitrophenol		88-75-5
4-nitrophenol		100-02-7
Pentachlorophenol	pentachloro-Phenol	87-86-5
Phenol		108-95-2
2,4,6-trichlorophenol		88-06-2
Base-Neutral Compounds		
Acenaphthene		83-32-9
Acenaphthylene		208-96-8
Anthracene		120-12-7
Benzidine		92-87-5
Benzo(a)anthracene	Benzo[a]anthracene	56-55-3
Benzo(a)pyrene	Benzo[a]pyrene	50-32-8
3,4-benzofluoranthene	Benzo[b]fluoranthene	205-99-2
Benzo(ghi)perylene	Benzo[g,h,i]perylene	191-24-2
Benzo(k)fluoranthene	Benzo[k]fluoranthene	207-08-9
Bis (2-chloroethoxy) methane		111-91-1
Bis (2-chloroethyl) ether	2,2,'-dichlorodiethylether	111-44-4
Bis (2-chloroisopropyl) ether	bis-chloroisopropyl ether	108-60-1
Bis (2-ethylhexyl) phthalate	di-sec-octyl phthalate	117-81-7
4-bromophenyl phenyl ether		101-55-3
Butyl benzyl phthalate		85-68-7
2-chloronaphthalene		91-58-7
4-chlorophenyl phenyl ether	1-chloro-4-phenoxybenzene	7005-72-3
Chrysene		218-01-9
Di-n-butyl phthalate	Dibutyl phthalate	84-74-2
Di-n-octyl phthalate	Bis(n-octyl) phthalate	117-84-0
Dibenzo(a,h)anthracene	Dibenz[a,h]anthracene	53-70-3
1,2-dichlorobenzene	o-dichlorobenzene	95-50-1

Table 2—Effluent Parameters for Selected POTWS		
Common Name	**Universal Name**	**CAS #**
1,3-dichlorobenzene	m-dichlorobenzene	541-73-1
1,4-dichlorobenzene	para-Dichlorobenzene	106-46-7
3,3,'-dichlorobenzidine		91-94-1
Diethyl phthalate		84-66-2
Dimethyl phthalate		131-11-3
2,4-dinitrotoluene		121-14-2
2,6-dinitrotoluene		606-20-2
1,2-diphenylhydrazine		122-66-7
Fluoranthene		206-44-0
Fluorene		86-73-7
Hexachlorobenzene		118-74-1
Hexachlorobutadiene		87-68-3
Hexachlorocyclo-pentadiene	Hexachlorocyclopentadiene	77-47-4
Hexachloroethane		67-72-1
Indeno(1,2,3-cd)pyrene	Indeno[1,2,3-cd]pyrene	193-39-5
Isophorone		78-59-1
Naphthalene		91-20-3
Nitrobenzene	nitro-Benzene	98-95-3
N-nitrosodi-n-propylamine	N-nitrosodipropylamine	621-64-7
N-nitrosodimethylamine		62-75-9
N-nitrosodiphenylamine		86-30-6
Phenanthrene		85-01-8
Pyrene		129-00-0
1,2,4-trichlorobenzene		120-82-1

[NOTE: If no universal name is listed, the common name and the universal name are the same.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2765 (December 2000), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004).

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 3. Louisiana Sewage Sludge and Biosolids Program
Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids
Subchapter A. Program Requirements

§7301. General Provisions

A. Purpose and Applicability

1. Purpose

a. This Chapter establishes standards for the use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works and of domestic septage (hereafter referred to collectively as *sewage sludge* for the purposes of this Chapter), biosolids, and grease that was pumped or removed from a food service facility and mixed with sewage sludge.

b. The standards established in this Chapter include:

i. general requirements and other requirements for bulk biosolids, general management practices and other management practices for bulk biosolids, pollutant limits, pathogen and vector attraction reduction requirements, and operational standards;

ii. sampling and monitoring requirements, recordkeeping and reporting requirements, specific exclusions, and prohibitions and restrictions regarding the use and disposal of sewage sludge and biosolids;

iii. the siting, operation, and financial assurance requirements for commercial preparers of sewage sludge or land appliers of biosolids; and

iv. requirements and standards for transporters and vehicles utilized for the transporting of sewage sludge.

c. This Chapter establishes requirements for the person who prepares sewage sludge that is disposed in a landfill.

d. In addition, this Chapter contains specific prohibitions and restrictions regarding the use and disposal of sewage sludge and biosolids.

2. Applicability

a. This Chapter applies to any person who:

i. prepares sewage sludge or biosolids, including the dewatering and solidification of sewage sludge;

ii. applies biosolids to the land;

iii. prepares sewage sludge, including the dewatering and solidification of sewage sludge, that is disposed in a landfill;

iv. owns/operates a surface disposal site; and

v. owns/operates a sewage sludge incinerator.

b. This Chapter also applies to:

i. biosolids that are applied to the land and sewage sludge that is disposed at a surface disposal site or at a landfill;

ii. sewage sludge fired in a sewage sludge incinerator, a sewage sludge incinerator and the exit gas from a sewage sludge incinerator, land where biosolids are applied, and a surface disposal site; and

iii. grease that is pumped or removed from a food service facility and is mixed with sewage sludge.

B. General Definitions. The following terms used in this Chapter shall have the meanings listed below, unless the context clearly indicates otherwise, or the term is specifically redefined in a particular Section.

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

Air Operations Area—any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. *Air operations areas* include paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft, in addition to its associated runways, taxiways, or aprons.

Apply Biosolids or *Biosolids Applied to the Land*—land application of biosolids.

Base Flood—a flood that has a 1 percent chance of occurring in any given year (i.e., a flood with a magnitude equaled once in 100 years).

Beneficial Use—the use of biosolids for the purpose of soil conditioning or crop or vegetative fertilization in a manner that does not pose a danger of adverse effects upon human health or the environment or cause any deterioration of land surfaces, soils, surface waters, or groundwater.

Biosolids—sewage sludge, or material derived from sewage sludge, that is nonhazardous, has a PCB concentration of less than 50 mg/kg of total solids (dry weight), and is prepared to meet one of the pollutant requirements of LAC 33:IX.7303.E, one of the pathogen requirements in LAC 33:IX.7309.C, and one of the vector attraction reduction requirements in LAC 33:IX.7309.D.

Bulk Biosolids—biosolids that are not sold or given away in a bag or other container for application to the land.

Class B Biosolids—biosolids that do not meet one or more of the following requirements:

a. the pollutant concentrations in Table 3 of LAC 33:IX.7303.E;

b. the pathogen requirements in LAC 33:IX.7309.C.1;

c. one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e; and/or

d. a PCB concentration of less than 10 mg/kg of total solids (dry weight basis).

Class I Sludge Management Facility—for the purposes of this Chapter:

a. any *publicly owned treatment works (POTW)* or *privately owned sanitary wastewater treatment facility (POSWTF)*, as defined in this Subsection, regardless of its ownership, that is used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage;

b. any person who prepares sewage sludge or biosolids, including a commercial preparer of sewage sludge and pumper of sewage sludge who prepares sewage sludge or biosolids;

c. an owner/operator of a sewage sludge incinerator; and

d. an applier of biosolids to the land, including a commercial land applier of biosolids.

Commercial Land Applier of Biosolids—any person who applies biosolids to the land for monetary profit or other financial consideration and the biosolids were obtained from a facility or facilities not owned by or associated with the person.

Commercial Preparer of Sewage Sludge—any person who prepares sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the person. *Commercial preparer of sewage sludge* includes a pumper of sewage sludge that prepares sewage sludge received from other pumpers of sewage sludge and/or a pumper of sewage sludge that prepares sewage sludge received from his pumping/hauling operation. *Commercial preparer of sewage sludge* does not include a *publicly owned treatment works* or a *privately owned sanitary wastewater treatment* facility which does not receive hauled sewage sludge.

Container—any stationary or portable device in which sewage sludge or biosolids are stored or transported.

Contaminate an Aquifer—to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the groundwater, or that causes the existing concentration of nitrate in groundwater to increase when the existing concentration exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

Cover Crop—a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Domestic Septage—liquid or solid material removed from a septic tank, holding tank or similar device, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. *Domestic septage* does not include liquid or solid material removed from a septic tank, holding tank or similar device, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater, and does not include grease removed from a grease trap at a *food service facility*, as defined in this Subsection.

Domestic Sewage—waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry Weight Basis—calculated on the basis of having been dried at 105°C until reaching a constant mass (i.e., essentially 100 percent solids content).

Exceptional Quality Biosolids—biosolids that are nonhazardous and meet the ceiling concentrations in Table 1 of LAC 33:IX.7303.E, the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the pathogen requirements in LAC 33:IX.7309.C.1, and one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e, and that have a PCB concentration of less than 10 mg/kg of total solids (dry weight).

Feed Crop—a crop produced primarily for consumption by animals.

Feedstock—primarily biologically decomposable organic material that is blended, mixed, or composted with sewage sludge.

Fiber Crops—crops such as flax and cotton.

Food Crops—crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

Food Service Facility—any facility that prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. *Food service facilities* include, but are not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and other similar facilities.

Free Air Space, n—air-filled pore volume of an as-received compost material. Express *free air space* as a percentage, volume of *free air space* per unit volume of compost (% v v, ±0.1 %).

Grease—a material, either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. The terms *fats, oils, and grease*; *oil and grease*; and *oil and grease substances* shall all be included within this definition.

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

Industrial Park—an area that is legally zoned for the purpose of the construction and operation of a group of industries and businesses and entered as legally zoned for such purpose in the public records of the state, parish, city, town, or community where the park is located.

Industrial Wastewater—wastewater generated in a commercial or industrial process.

Institution—the building or buildings that are utilized to house an established organization or foundation, especially one dedicated to public service or to culture. An *institution* includes, but is not limited to, an established school, hospital, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, place of worship, or restaurant/food establishment.

Land Application—the beneficial use of biosolids by either spraying or spreading onto the land surface, injection below the land surface, or incorporation into the soil.

Material Derived from Sewage Sludge—biosolids that are produced when sewage sludge is prepared with other solid waste materials, feedstocks, supplements, and industrial sludges that are approved to be prepared with sewage sludge under these regulations.

Other Container—an open or closed receptacle, including, but not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of 1 metric ton or less.

Owner or Operator—the owner or operator of any facility or activity subject to these regulations.

Permitting Authority—EPA or a state with an EPA-approved sludge management program.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state, commissions, and interstate bodies.

Person Who Prepares Sewage Sludge—the person who generates sewage sludge during the treatment of domestic sewage in a treatment works, the person who treats sewage sludge, or the person who derives a material from sewage sludge.

Pollutant—an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the administrative authority, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either the affected organism or offspring of the organism.

Pollutant Limit—a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

Private Land Applier—anyone who applies biosolids to the land for private benefit purposes, where the land application is not for monetary profit or other financial consideration, and either the applier did not generate or prepare the sewage sludge or material derived from sewage sludge, or the facility or facilities from which the biosolids were obtained are not owned by or associated with the *private land applier*.

Privately Owned Sanitary Wastewater Treatment Facility (POSWTF)—a privately owned treatment works that is utilized to treat sanitary wastewater and is not a *publicly owned treatment works (POTW)*, as defined in this Subsection.

Publicly Owned Treatment Works (POTW)—a *treatment works*, as defined by Section 212 of the Clean Water Act, that is owned by a *state* or *municipality*, as defined by Section 502(3) and (4) of the Clean Water Act. This includes all devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW; and the *municipality*, as defined by Section 502(4) of the Clean Water Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Pumper of Sewage Sludge—a person who removes sludge from a sanitary wastewater treatment facility; domestic septage from a residential septic tank, mechanical treatment plant, or dump station for recreational vehicles and watercrafts or vessels; residuals from a portable toilet; or grease from a food service facility that is mixed with sewage sludge.

Qualified Groundwater Scientist—an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering, who has sufficient training and experience in groundwater hydrology, subsurface geology, and/or a related field, as may be demonstrated by state registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding groundwater monitoring, pollutant fate and transport, and corrective action.

Responsible Official—a person who meets any of the following criteria:

a. for a corporation—a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall

operation of one or more manufacturing, production, or operating facilities;

b. for a partnership or sole proprietorship—a general partner or the proprietor, respectively; or

c. for a municipality or a state, federal, or other public agency—either a principal executive officer or ranking elected official. For the purposes of this Subpart, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Runoff—rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

Sewage Sludge—any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Sludge-Only Facility—any facility whose methods of sewage sludge use or disposal are subject to regulations promulgated in accordance with Section 405(d) of the Clean Water Act, and that is required to obtain a permit under Subsection D of this Section.

Storage Facility—an area of land or constructed facility committed to hold sewage sludge or biosolids until the material may be used or disposed at on- or off-site locations.

Storage of Sewage Sludge or Biosolids—the temporary placement of sewage sludge or biosolids in a container, storage facility, tank, or directly on the land. *Storage of sewage sludge or biosolids* does not pertain to a container or tank that is utilized for the *treatment of sewage sludge*, as defined in this Subsection.

Supplements—materials blended, composted, or mixed with sewage sludge or other feedstock and sewage sludge in order to raise the moisture level and/or adjust the carbon-to-nitrogen ratio, and materials added during composting or to compost to provide attributes required by customers for certain compost products.

Surface Disposal—a use or disposal of sewage sludge on the land that does not meet the criteria of *land application*, as defined in this Subsection. *Surface disposal* does not include the disposal of sewage sludge in a landfill permitted to receive sewage sludge.

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

Transporter of Sewage Sludge—a person who pumps or moves sewage sludge off-site by means of land-based vehicles, barges, ships, rails, pipelines, or other modes of transportation. For oxidation ponds/lagoons/surface impoundments, this includes the removal of the sewage sludge from the oxidation ponds/lagoons/surface impoundments to the levees surrounding the oxidation ponds/lagoons/surface impoundments.

Treatment of Sewage Sludge—the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, blending, mixing, composting, thickening, stabilization, and dewatering and solidification of sewage sludge. This does not include storage of sewage sludge.

Treatment Works—a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

TSCA—Toxic Substances Control Act.

C. Compliance Period

1. Compliance with Standards. Except as otherwise specified in this Chapter and in Paragraph C.3 of this Section, compliance with the standards in this Chapter shall be achieved as expeditiously as practicable, but in no case later than February 19, 1994. When compliance with the standards requires construction of new pollution control facilities, compliance with the standards shall be achieved as expeditiously as practicable, but in no case later than February 19, 1995.

2. Frequency of Monitoring, Recordkeeping, and Reporting. The requirements for frequency of monitoring, recordkeeping, and reporting in this Chapter for total hydrocarbons in the exit gas from a sewage sludge incinerator are effective February 19, 1994, or if compliance with the operational standard for total hydrocarbons in this Chapter requires the construction of new pollution control facilities, February 19, 1995. All other requirements for frequency of monitoring, recordkeeping, and reporting in this Chapter are effective on July 20, 1993.

3. Compliance with Requirements

a. Unless otherwise specified in LAC 33:IX.7311, compliance with the requirements in LAC 33:IX.7311.B, LAC 33:IX.7311.D.3, 4, and 5, F.5, 6, 7, 8.d, and 10, G.1.a and c, G.3, and H.2.e shall be achieved as expeditiously as practicable, but in no case later than September 5, 2000. When new pollution control facilities must be constructed to comply with the revised requirements in LAC 33:IX.7311, compliance with the revised requirements shall be achieved as expeditiously as practicable, but no later than September 4, 2001.

b. Compliance with the requirements in Paragraphs G.2, 3, and 4 of this Section shall be achieved as follows.

i. A facility presently meeting all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph G.2 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

ii. A facility that does not meet all of the requirements for surface disposal in 40 CFR 503, Subpart C, must comply with the requirements in Paragraph G.2 of this Section by December 30, 2005.

iii. All facilities must comply with the requirements in Paragraphs G.3 and 4 of this Section as expeditiously as practicable, but in no case later than September 1, 2007.

D. Permits and Permitting Requirements

1. Except as exempted in Paragraph D.2 of this Section, no person shall prepare sewage sludge or biosolids, dispose of sewage sludge in a permitted landfill, apply biosolids to the land, or own or operate a sewage sludge incinerator without first obtaining a permit in accordance with the deadlines set forth in Subparagraphs D.1.a-c of this Section. The permit shall identify and regulate the specific use or disposal practice, the storage, the treatment, and the appropriate transportation requirements of sewage sludge described in the permit application.

a. As of December 30, 2005, the following permitting requirements apply.

i. Those persons who have been granted an exemption under LAC 33:Part VII for any form of use or disposal of sewage sludge will have 180 days to submit an application for permit coverage under these regulations.

ii. Those persons who have been issued a standard solid waste permit under LAC 33:Part VII for the use, disposal, treatment, or processing of sewage sludge, with the exception of a standard solid waste permit issued for a type of *surface disposal*, as defined in Subsection B of this Section, may continue operations under the standard solid waste permit until such time as a permit has been reissued under these regulations by the administrative authority or for a period not to exceed five years, whichever is less. This time period may be reduced by the administrative authority if deemed necessary for the protection of human health and/or the environment.

iii. Those persons who have been issued a standard solid waste permit for a type of *surface disposal*, as defined in Subsection B of this Section, shall comply with the requirements in Subparagraph C.3.b of this Section.

b. As of June 1, 2006, facilities not addressed under Subparagraph D.1.a of this Section shall apply for a permit as follows.

i. All sanitary wastewater treatment facilities that receive domestic septage and/or portable toilet waste into their systems shall apply for a permit within 180 days of June 1, 2006.

ii. All treatment facilities that are for the sole purpose of preparing sewage sludge or sewage sludge mixed with grease that is pumped or removed from a food service facility shall apply for a permit within 180 days of June 1, 2006.

iii. All treatment facilities that prepare sewage sludge for land application, and all land appliers of biosolids who are not presently operating under an effective standard solid waste permit, shall apply for a permit within 180 days of June 1, 2006.

iv. All major sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than three years from June 1, 2006.

v. All minor sanitary wastewater treatment facilities that do not receive domestic septage and/or portable toilet waste into their systems shall apply for a permit as expeditiously as practicable, but in no case later than January 1, 2013.

c. At least 180 days prior to the expiration of a permit issued under these regulations, the owner/operator of the facility or the land applier shall submit an application for permit issuance under this Chapter if the owner/operator or land applier intends to continue operations after that date.

d. A person who prepares sewage sludge or land-applies biosolids shall use the appropriate sewage sludge and biosolids use or disposal permit application form. The owner/operator of a sewage sludge incinerator shall apply for a permit in accordance with LAC 33:III.Chapter 5 and shall utilize both the Air Quality Permit Application and the sewage sludge and biosolids use or disposal permit application forms. The forms can be accessed through the department's website or by contacting the Office of Environmental Services.

e. Except as allowed in this Paragraph, all permits issued in accordance with these regulations shall be effective for a period not to exceed five years. The standard five-year permit period may be reduced to a period of less than five years if deemed necessary by the administrative authority for the protection of human health and/or the environment.

2. Exempt Status for Those Applying Biosolids to the Land

a. A person who applies bagged *biosolids*, as defined in Subsection B of this Section, to the land shall be exempted from obtaining a permit.

b. A person who applies bulk biosolids to the land, if the biosolids were obtained from a facility that is permitted to treat sewage sludge to an Exceptional Quality biosolids level, shall be exempted from obtaining a permit.

c. The administrative authority may exempt any other person who applies biosolids to the land from the requirement of obtaining a permit, on a case-by-case basis, after determining that human health and the environment will not be adversely affected by the application of biosolids to the land.

3. A person who prepares sewage sludge, a person who applies biosolids to the land, and the owner and/or operator of a sewage sludge incinerator who desires to maintain a permit shall obtain adequate training and

certification in the processing, treatment, land application, and incineration of sewage sludge.

a. To maintain certification, a minimum of 16 contact hours of continuous education are required for each certificate held during the previous two-year certification period.

b. Classes, seminars, conferences, or conventions used for units shall be approved by the administrative authority.

4. Closure of oxidation ponds, lagoons, and/or surface impoundments utilized for sewage sludge disposal, preparation of sewage sludge, or treatment of sanitary wastewater shall comply with the following:

a. The liquid portion must be removed in a manner that meets the requirements of LAC 33:IX.Chapters 23-71.

b. After removal of the liquid, the sewage sludge shall be used or disposed through one of the options in Clause D.4.b.i or ii of this Section as follows:

i. the submittal of a closure plan to the Office of Environmental Services for the total removal of the sewage sludge and subsequent disposal of the sewage sludge in a permitted landfill. Approval or disapproval of the closure plan shall be rendered by the Office of Environmental Services after receipt and review of the plan. The closure plan shall include the following:

(a). the name, mailing address, physical address, and contact person of the facility that is proposed for closure;

(b). an aerial photograph showing the location of the facility that is proposed for closure;

(c). the approximate amount of sewage sludge that will be removed and disposed at a permitted landfill;

(d). sampling and analysis for the following parameters:

(i). toxicity characteristics leaching procedure (TCLP) and the presence of PCBs;

(ii). paint filter liquids test; and

(iii).any other parameter required by the chosen permitted landfill;

(e). either a schematic drawing or an aerial photograph that indicates where the samples for the parameters in Subclause D.4.b.i.(d) of this Section were taken in the facility;

(f). the laboratory methods utilized for the sampling and analysis of the parameters in Subclause D.4.b.i.(d) of this Section;

(g). the name of the laboratory where the samples for the parameters in Subclause D.4.b.i.(d) of this Section were analyzed;

(h). the name, location, and contact person of the site where the sewage sludge will be disposed; and

(i). any other information the department may require; or

ii. obtaining approval for a permit for the land application of the sewage sludge as a Class B biosolid by submittal of a sewage sludge and biosolids use or disposal permit application to the Office of Environmental Services utilizing the application form that can be accessed on the department's website or by contacting the Office of Environmental Services.

c. Upon completion of the use or disposal option selected in either Clause D.4.b.i or ii of this Section, if the facility is a pond/lagoon/surface impoundment, the levees shall be broken and leveled and the pond/lagoon/surface impoundment shall be filled with soil that includes a minimum of at least 6 inches of topsoil to support vegetative growth.

5. Environmental Assessment Statement. In addition to the requirements of this Chapter, all sewage sludge and biosolids use or disposal permit application forms for a new permit for a commercial preparer of sewage sludge or a major modification to a permit for a commercial preparer of sewage sludge must include a response to each of the following:

a. a detailed discussion demonstrating that the potential and real adverse environmental effects of the proposed facility have been avoided to the maximum extent possible;

b. a cost-benefit analysis that balances the environmental impact costs against the social and economic benefits of the facility and demonstrates that the latter outweigh the former;

c. a discussion and description of possible alternative projects that would offer more protection to the environment than the proposed facility without unduly curtailing non-environmental benefits;

d. a detailed discussion of possible alternative sites that would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits; and

e. a discussion and description of mitigating measures that would offer more protection to the environment than the facility as proposed without unduly curtailing non-environmental benefits.

E. Sewage Sludge Disposed in a Landfill

1. A landfill where sewage sludge is disposed must possess a legal and effective permit.

2. A person who disposes of sewage sludge in a landfill shall provide the necessary information to the owner/operator of the landfill where the sewage sludge is to be disposed to assure that the landfill will be in compliance with its permit requirements.

3. The person who prepares sewage sludge that is disposed in a landfill shall provide the following to the Office of Environmental Services on a form specified by the

administrative authority on or before February 19 of each year, or at a frequency designated in the permit:

a. proof that the sewage sludge is being disposed at an approved landfill, by furnishing the name, address, and permit number of the landfill; and

b. results of sampling and laboratory analyses of the sewage sludge for hazardous characteristics or the presence of PCBs, of the results of the Paint Filter Liquids Test (if required in the permit), and of any other analysis required by the owner/operator of the landfill.

F. Registration Requirements and Standards for Transporters of Sewage Sludge and Standards for Vehicles and/or Containers Used in the Transport of Sewage Sludge

1. Registration Requirements

a. A transporter of sewage sludge and/or grease mixed with sewage sludge shall not transport any sewage sludge and/or grease mixed with sewage sludge without first registering such activity with the Office of Environmental Services in writing and paying all associated fees.

b. Registration shall be through a form obtained from the Office of Environmental Services or through the department's website. All the information required by the form shall be provided. The method of payment of fees shall be in accordance with LAC 33:IX.1309.

c. The registration period shall be for one state fiscal year period of July 1 to June 30. All registrations shall expire on June 30 of each year. If a person wishes to continue the operation of transporting sewage sludge, he or she shall apply for re-registration to the Office of Environmental Services on or before May 1 of each year.

d. The fee for registration shall be an annual fee of $100.

e. The Office of Environmental Services shall be notified prior to any modification to the information submitted for registration, including, but not limited to, the following:

i. the removal and/or addition of information about the facility to which the sewage sludge is being transported; and

ii. the removal and/or addition of a vehicle that will be utilized for the transporting of sewage sludge.

2. Standards for All Transporters of Sewage Sludge

a. All transporters of sewage sludge and/or grease mixed with sewage sludge shall transport the sewage sludge and/or grease mixed with sewage sludge only to a facility permitted to receive sewage sludge or mixtures thereof, and shall maintain a daily log or record of activities containing the following information regarding the sewage sludge and/or grease mixed with sewage sludge:

i. the date the transported material was obtained, pumped, or removed;

ii. the origin or source of the material;

iii. the volume of material generated at each site;

iv. the transfer and/or disposal site; and

v. the total amount of material that was transported or disposed.

b. Transporters of sewage sludge and/or grease mixed with sewage sludge shall provide a summary of the information required in Subparagraph F.2.a. of this Section to the Office of Environmental Services on or before February 19 of each year on a form specified by the administrative authority.

c. Standards Applicable to Vehicles and/or Containers Used to Transport Sewage Sludge

i. The bodies of vehicles and/or containers transporting sewage sludge must be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the sewage sludge, inhibits access by disease vectors, prevents the sewage sludge from falling or blowing from the vehicle and/or container, minimizes escape of odors, and does not create a nuisance.

ii. The bodies of vehicles and/or containers that are utilized to transport liquefied sewage sludge or a sewage sludge that is capable of producing a leachate shall be constructed and/or enclosed with an appropriate material that will completely prevent the leakage or spillage of the liquid.

iii. The exterior and interior of the body of a vehicle and/or container that is transporting sewage sludge shall be washed, at a designated washdown area, as often as needed to ensure against accumulation of sewage sludge and/or biosolids, and for the prevention of odors and disease vector attraction.

iv. The vehicle and/or container washdown area shall be designed, constructed, and operated to prevent groundwater contamination and stormwater run-on and runoff.

v. All water and leachate generated at the designated washdown area shall be contained and discharged in accordance with all applicable state and federal regulations or hauled off-site for proper treatment and/or disposal.

d. Standards for Sewage Sludge Pipelines and Containment Areas

i. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

ii. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

e. Other Standards. The administrative authority may provide appropriate standards for transporters of sewage sludge that utilize modes of transportation not covered by Subparagraphs F.2.c and d of this Section.

f. These regulations do not relieve the transporter from the responsibility of complying with other applicable regulations and licensing requirements, including, but not limited to, those of the Louisiana Department of Transportation and Development, and with applicable ordinances governing types, sizes, and weights of vehicles used to transport sewage sludge on roads and streets that must be traveled during the transporting of the sewage sludge and with any other applicable requirements.

G. Prohibitions, Restrictions, and Additional or More Stringent Requirements

1. Use or Disposal of Sewage Sludge

a. No person shall use or dispose of sewage sludge or biosolids through any practice for which requirements have not been established in this Chapter.

b. No person shall use or dispose of sewage sludge or biosolids except in accordance with the requirements in this Chapter.

2. Surface Disposal Prohibited. *Surface disposal*, as defined in Subsection B of this Section, is prohibited as a use or disposal method of sewage sludge or biosolids.

3. Storage of Sewage Sludge or Biosolids

a. Except as allowed in Subparagraph G.3.b of this Section, the *storage of sewage sludge or biosolids*, as defined in Subsection B of this Section, is allowed for a period not to exceed six consecutive months when:

i. it is necessary for the upgrade, repair, or maintenance of a treatment works or sludge-only facility, or for agricultural storage purposes when the sewage sludge or biosolids are to be used for *beneficial use*, as defined in Subsection B of this Section;

ii. notification has been made by the person who wishes to store the sewage sludge or biosolids to the administrative authority; and

iii. subsequent approval by the administrative authority has been received.

b. An extension for storage for greater than six months may be granted by the administrative authority if storage for the extended period will have no adverse affect on human health or the environment.

c. A request for an extension for storage for greater than six months must be submitted in writing to the Office of Environmental Services at least 60 days prior to the expiration of the first six-month storage period and shall include, but not be limited to, the following information:

i. the name and address of the person who prepared the sewage sludge or biosolids;

ii. the name and address of the person who either owns or leases the land where the sewage sludge or biosolids are to be stored, if different from the person who prepared the sewage sludge;

iii. the location, by either street address (physical address) or latitude and longitude, where the sewage sludge or biosolids will be stored;

iv. an explanation of why the sewage sludge or biosolids need to be stored for longer than a six month period;

v. an explanation of why human health and the environment will not be affected;

vi. the approximate date and length of time the sewage sludge or biosolids will be stored; and

vii. the final use and disposal method after the storage period has expired.

d. The administrative authority shall make a determination as to whether or not the information submitted is complete and shall issue the determination within 30 days of having received the request.

i. If the information is deemed incomplete, the administrative authority shall issue a notice of deficiency. The preparer or land applier of sewage sludge shall have 45 days, thereafter, to respond to the notice of deficiency.

ii. If the information is deemed complete, the administrative authority shall make and issue a determination to grant or deny the request for the storage of sewage sludge within 30 days after deeming the information complete.

4. Use of Ponds or Lagoons to Treat Sewage Sludge

a. The use of a pond or lagoon is allowed for the *treatment of sewage sludge*, as defined in Subsection B of this Section, only after a permit has been granted under these regulations and the applicable air and water discharge permits have been applied for and granted by the administrative authority.

b. The person who makes use of a pond or lagoon for the treatment of sewage sludge shall:

i. provide documentation to the Office of Environmental Services that indicates the final use or disposal method for the sewage sludge;

ii. apply for the appropriate permit for the chosen final use or disposal in accordance with this Chapter; and

iii. provide documentation by a qualified groundwater scientist to the Office of Environmental Services that indicates the area where the pond or lagoon is located and if it will adequately protect against potential groundwater contamination either by natural soil conditions or by a constructed soil or synthetic liner that has a hydraulic conductivity of $1x10^{-7}$ centimeters per second or less, and adequately protect from the potential to *contaminate an aquifer*, as defined in Subsection B of this Section.

5. Solid wastes other than those listed below are prohibited from being prepared with sewage sludge and must be disposed of in the manner provided in LAC 33:VII.Subpart 1:

a. residential and commercial food waste;

b. twigs, branches, leaves, crushed or chipped wood, logs, or trees;

c. wood chips or sawdust;

d. ground or crushed cardboard boxes;

e. paper;

f. fly ash, kiln dust, or other solid waste material that has been approved by the Environmental Protection Agency for the alkaline treatment/stabilization of sewage sludge; and

g. industrial sludges that are shown to contain only the pollutants that are listed in Table 1 of LAC 33:IX.7303.E and are demonstrated to be of benefit to the soil and/or crops through soil conditioning and/or crop fertilization, or are utilized as a form of alkaline treatment/stabilization of the sewage sludge.

6. Materials prohibited from being prepared with sewage sludge are as follows:

a. hazardous waste;

b. materials listed in Table 1 of LAC 33:IX.7301.G; and

c. other material whose use has a potential to adversely affect human health or the environment, as determined by the administrative authority.

Table 1 of LAC 33:IX.7301.G	
Materials Prohibited from Preparation with Sewage Sludge	
Antifreeze	Pesticides
Automotive (lead-acid) batteries	Photographic supplies
Brake fluid	Propane cylinders
Cleaners (drain, oven, toilet)	Treated wood containing the preservatives CCA and/or PCP
Gasoline and gasoline cans	Tubes and buckets of adhesives, caulking, etc.
Herbicides	Swimming pool chemicals
Household (dry cell) batteries	Unmarked containers
Oil-based paint	Used motor oil

7. A material prepared with sewage sludge must be sampled and analyzed on an annual basis to determine if the material is nonhazardous by a hazardous waste determination in accordance with LAC 33:Part V. Results of the sampling and analysis must be submitted to the administrative authority on an annual basis.

8. Sewage sludge composting operations shall not be located on airport property unless an exemption or approval is granted by the U.S. Department of Transportation's Federal Aviation Administration. If an exemption or approval is granted by the U. S. Department of Transportation's Federal Aviation Administration to allow a sewage sludge composting operation to be located on airport property, the location restrictions in LAC 33:IX.7305.B.1.h and i for off-airport property operations shall apply.

9. The use of raw or untreated sewage sludge as daily, interim, or final cover at a municipal solid waste landfill is prohibited. The use of treated sewage sludge as daily, interim, or final cover at a municipal solid waste landfill is allowed only if the sewage sludge meets the requirements and is used in accordance with the requirements in LAC 33:IX.7303.

10. Except as exempted in LAC 33:IX.7303.M, sewage sludge mixed with grease shall be disposed of in a permitted landfill and shall not be:

a. introduced into any part of a treatment works, including its collection system; or

b. applied to the land.

11. On a case-by-case basis, the permitting authority may impose requirements in addition to or more stringent than the requirements in this Chapter when necessary to protect human health and the environment from any adverse effect of a pollutant in the sewage sludge.

H. Exclusions

1. Co-Firing of Sewage Sludge

a. Except for the co-firing of sewage sludge with *auxiliary fuel*, as defined in LAC 33:IX.7311.B, this Chapter does not establish requirements for sewage sludge co-fired in an incinerator with other wastes or for the incinerator in which sewage sludge and other wastes are co-fired.

b. This Chapter does not establish requirements for sewage sludge co-fired with auxiliary fuel if the auxiliary fuel exceeds 30 percent of the dry weight of the sewage sludge and auxiliary fuel mixture.

2. Sludge Generated at an Industrial Facility. This Chapter does not establish requirements for the use or disposal of sludge generated at an industrial facility during the treatment of industrial wastewater, including sewage sludge generated during the treatment of industrial wastewater combined with domestic sewage.

3. Hazardous Sewage Sludge. This Chapter does not establish requirements for the use or disposal of sewage sludge or a material derived from sewage sludge that is hazardous in accordance with LAC 33:Part V.

4. Sewage Sludge Containing PCBs. This Chapter does not establish requirements for the use or disposal of sewage sludge containing polychlorinated biphenyls (PCBs) that are regulated by the TSCA.

5. Incinerator Ash. This Chapter does not establish requirements for the use or disposal of ash generated during the firing of sewage sludge in a sewage sludge incinerator.

6. Grit and Screenings. This Chapter does not establish requirements for the use or disposal of grit (e.g., sand, gravel, cinders, or other materials with a high specific gravity) or screenings (e.g., relatively large materials such as rags) generated during preliminary treatment of domestic sewage in a treatment works.

7. Drinking Water Treatment Sludge. This Chapter does not establish requirements for the use or disposal of sludge generated during the treatment of either surface water or groundwater used for drinking water.

8. Treatment Processes. This Chapter does not establish requirements for processes used to treat *domestic sewage*, as defined in Subsection B of this Section, or for processes used to treat sewage sludge prior to final use or disposal, except as provided in LAC 33:IX.7309.

9. Selection of a Use or Disposal Practice. This Chapter does not require the selection of a sewage sludge use or disposal practice. The determination of the manner in which sewage sludge is used or disposed is to be made by the person who prepares sewage sludge.

I. Sampling and Analysis

1. Sampling

a. The permittee shall collect and analyze representative samples of sewage sludge or biosolids that are applied to the land and sewage sludge fired in a sewage sludge incinerator at the frequency specified in the permit.

b. The permittee shall create and maintain records of sampling and monitoring information for the period specified in the permit. The sampling and monitoring records shall include:

i. the date, exact place, and time of sampling or measurements;

ii. the individual(s) who performed the sampling or measurements;

iii. the date(s) analyses were performed;

iv. the individual(s) who performed the analysis;

v. the analytical techniques or methods used; and

vi. the results of such analysis.

2. Methods. The materials listed below are incorporated by reference in this Chapter. The materials are incorporated as they exist on the date of approval, and notice of any change in these materials will be published in the *Louisiana Register*. They are available for inspection at the Office of the Federal Register, 7th Floor, Suite 700, 800 North Capitol Street, NW, Washington, DC, and at the Office of Water Docket, Room L-102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. Copies may be obtained from the standard producer or publisher listed in the regulation. Information regarding other sources of these documents is available from the Department of Environmental Quality, Office of Environmental Services. Methods in the materials listed below (or in 40 CFR Part 136) shall be used to analyze samples of sewage sludge.

a. Enteric Viruses. ASTM Designation: D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludges," 1992 Annual Book of ASTM Standards: Section 11—Water and Environmental Technology, ASTM, 1916 Race Street, Philadelphia, PA 19103-1187.

b. Fecal Coliform. Part 9221 E, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or EPA Method 1680 (http://www.epa.gov/waterscience/methods/biosolids/EPA.Method.1680.July2006.pdf) for *Exceptional Quality biosolids* and Part 9221 E or Part 9222 D "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or EPA Method 1680 or 1681 (http://www.epa.gov/waterscience/methods/biosolids/EPA.Method.1681.July2006.pdf) for *Class B Biosolids*.

c. Helminth Ova. Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB 88-154273/AS).

d. Inorganic Pollutants. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987). Second Edition with Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB-87-120-291). Third Edition with Revision I are available from Superintendent of Documents, Government Printing Office, 941 North Capitol Street, NE, Washington, DC 20002 (Document Number 955-001-00000-1).

e. *Salmonella sp*. Bacteria. Part 9260 D, "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005; or EPA Method 1682 (http://www.epa.gov/waterscience/methods/biosolids/EPA.Method.1682.July2006.pdf); or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas Aeruginosa," Journal of the Water Pollution Control Federation, Vol. 46, No. 9, September 1974, pp. 2163-2171. Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314.

f. Specific Oxygen Uptake Rate. Part 2710, B. Standard Methods for the Examination of Water and Wastewater, 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

g. Total, Fixed, and Volatile Solids. Part 2540, G. Standard Methods for the Examination of Water and Wastewater, 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW, Washington, DC 20005.

h. Incineration of Sewage Sludge—Standards of Performance and Particulate Matter. Materials and Methods at 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003.

i. Incineration of Sewage Sludge—National Emission Standards for Beryllium and for Mercury.

Materials, Methods, and Standards at 40 CFR Part 61 as incorporated by reference at LAC 33:III.5116.

j. Composting of Sewage Sludge. *Test Methods for the Examination of Composting and Compost*, The US Composting Council Research and Education Foundation and USDA, TMECC Website: http://tmecc.org/tmecc/index.html.

k. Nutrients—*Methods of Soil Analysis*, Soil Science Society of America Series (Most Recent Editions).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2366 (November 2007), repromulgated LR 34:1028 (June 2008), amended LR 35:927 (May 2009), LR 37:2992 (October 2011).

§7303. Land Application

A. Applicability

1. This Section applies to:

a. any person who prepares sewage sludge or biosolids that are applied to the land;

b. any person who applies biosolids to the land;

c. sewage sludge or biosolids that are applied to the land; and

d. the land on which sewage sludge or biosolids are applied.

2. The general requirements in Subsection C of this Section, the other requirements for bulk biosolids in Subsection F of this Section, the general management practices in Subsection D of this Section, and the other management practices for bulk biosolids in Subsection G of this Section do not apply when bulk *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, are applied to the land and the preparer has received and maintained a permit to prepare sewage sludge as Exceptional Quality biosolids in accordance with requirements in Subsection L of this Section.

3. The administrative authority may apply any or all of the general requirements in Subsection C of this Section, the other requirements for bulk biosolids in Subsection F of this Section, the general management practices in Subsection D of this Section, and the other management practices for bulk biosolids in Subsection G of this Section to the bulk biosolids in Paragraph A.2 of this Section on a case-by-case basis after determining that any or all of the requirements or management practices are needed to protect human health and the environment from any reasonably anticipated adverse effect that may occur from the application of the bulk biosolids to the land.

4. The general requirements in Subsection C of this Section and the general management practices in Subsection D of this Section do not apply if the biosolids sold or given away in a bag or other container are *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, and the preparer has received and maintained a permit to prepare sewage sludge as Exceptional Quality biosolids in accordance with the requirements in Subsection L of this Section.

5. The administrative authority may apply any or all of the general requirements in Subsection C of this Section and the general management practices in Subsection D of this Section to the biosolids in Paragraph A.4 of this Section on a case-by-case basis after determining that the requirements or the management practices are needed to protect human health and the environment from any reasonably anticipated adverse effect that may occur from the application of the biosolids to the land.

B. Special Definitions

Agricultural Land—land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

Agronomic Rate—

a. the whole biosolids application rate (dry weight basis) designed:

i. to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land; and

ii. to minimize the amount of nitrogen in the biosolids that are not utilized by the crop or vegetation grown on the land and either passes below the root zone to the groundwater or gets into surface waters during storm events;

b. agronomic rate may be extended to include phosphorus to application sites that are located within the drainage basin of water bodies that have been determined by the administrative authority to be impaired by phosphorus.

Annual Pollutant Loading Rate—the maximum amount of a pollutant that can be applied to a unit area of land during a 365-day period.

Annual Whole Biosolids Application Rate—the maximum amount of biosolids (dry weight basis) that can be applied to a unit area of land during a 365-day period.

Cumulative Pollutant Loading Rate—the maximum amount of an inorganic pollutant that can be applied to an area of land.

Forest—a tract of land thick with trees and underbrush.

Monthly Average—the arithmetic mean of all measurements taken during the month.

Pasture—land on which animals feed directly on feed crops such as legumes, grasses, grain stubble, or stover.

Public Contact Site—land with a high potential for contact by the public. This includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

Range Land—open land with indigenous vegetation.

Reclamation Site—drastically disturbed land that is reclaimed using biosolids. This includes, but is not limited to, strip mines and construction sites.

C. General Requirements

1. When a person who prepares sewage sludge provides the sewage sludge to another person who prepares the sewage sludge, the person who receives the sewage sludge shall comply with the requirements in this Chapter.

2. The person who provides the sewage sludge shall provide the person who receives the sewage sludge with the following information:

a. the name, mailing address, and location of the facility or facilities of the person providing the sewage sludge;

b. the total dry metric tons being provided per 365-day period; and

c. a description of any treatment processes occurring at the providing facility or facilities, including blending, composting, or mixing activities and the treatment to reduce pathogens and/or vector attraction reduction.

3. No person shall apply biosolids to the land except in accordance with the requirements in this Chapter.

4. Biosolids shall not be applied to the land until the site has been approved by the administrative authority with a finding that the land application site is a legitimate beneficial use site.

D. General Management Practices

1. Land Application Restrictions

a. Biosolids applied to agricultural land, forest, a public contact site, or a reclamation site shall only be applied at a whole biosolids application rate that is equal to or less than the agronomic rate for the biosolids, unless, in the case of a reclamation site, otherwise specified by the permitting authority.

b. Biosolids shall be applied to the land in accordance with the slope requirements in Table 1 of LAC 33:IX.7303.D.

c. Biosolids having a concentration of PCBs equal to or greater than 10 mg/kg of total solids (dry wt.) must be incorporated into the soil regardless of slope.

2. Buffer Zones. When biosolids are applied to agricultural land, forest, or a reclamation site, buffer zones shall be established as follows for each application area, unless otherwise specified by the administrative authority.

a. For all sites, the following buffer zone requirements apply:

i. a private potable water supply well—300 feet, unless special permission is granted by the private potable water supply owner;

ii. a public potable water supply well, surface water intake, treatment plant, or public potable water supply elevated or ground storage tank—300 feet, unless special permission is granted by the Department of Health and Hospitals; and

iii. a property boundary—100 feet, unless special permission is granted by the property owner(s).

b. For new or first-time-permitted sites, the following buffer zone requirements apply:

i. an established *institution*, as defined in LAC 33:IX.7301.B—1,000 feet, unless special permission is granted by the responsible official of the established institution. The permission must be in the form of a notarized affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the application area be located less than 200 feet from an institution; and

ii. an occupied residential home or structure—500 feet, unless special permission is granted by the owner and/or lessee of the occupied residential home or structure. The permission must be in the form of a notarized affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall land application of sewage sludge be conducted less than 200 feet from the occupied residential home or structure.

3. Water Table Levels. Biosolids shall not be applied to agricultural land, forest, or a reclamation site during the months when the water table is less than or at 2 feet below the soil surface as indicated in the Parish Soil Surveys or the Water Features Data published by the Natural Resources Conservation Service (NRCS); or some form of monitoring device shall be provided to ensure that the annual high water table is greater than 2 feet below the soil surface.

4. Nutrient Management Plan and Soil Sampling. The person who applies biosolids to agricultural or forest land shall:

a. provide proof to the administrative authority that a full nutrient management plan has been developed for the agricultural or forest land where the biosolids are applied. The full nutrient management plan shall be developed by the Natural Resource Conservation Service, a certified soil scientist, a certified crop advisor, or a local LSU Agricultural Center Cooperative Extension Service agent; or

b. sample the soil at the site or sites where biosolids are land-applied on an annual basis, or, if double cropping is practiced, prior to the planting of each crop, for the following parameters:

i. total Kjeldahl nitrogen;

ii. total nitrates;

iii. total nitrites;

iv. total phosphorus;

v. total potassium; and

vi. pH.

5. Biosolids Sold or Given Away in a Bag or Other Container

a. Biosolids sold or given away in a bag or other container shall not be applied to the land at a rate that would cause any of the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded.

b. The permittee shall either affix a label to the bag or other container holding biosolids that are sold or given away for application to the land, or provide an information sheet to the person who receives biosolids sold or given away in a bag or other container for application to the land. The label or information sheet shall contain the following information:

i. the information required in Clauses L.1.f.i-ix of this Section, and if the biosolids are compost, the information in Clauses L.1.g.i-vi of this Section; and

ii. the annual whole biosolids application rate that does not cause any of the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded.

Table 1 of LAC 33:IX.7303.D	
Slope Limitations for Land Application of Biosolids	
Slope Percent	**Application Restriction**
0-3	None, except drainage to prevent standing water shall be provided.
3-6	A 100-foot vegetated runoff area should be provided at the down slope end of the application area if a liquid is applied. Measures should be taken to prevent erosion.
6-12	Liquid material must be injected into the soil. Solid material must be incorporated into the soil if the site is not covered with vegetation. A 100-foot vegetated runoff area is required at the down slope end of the application area for all applications. Measures must be taken to prevent erosion. Terracing may be required if deemed a necessity by the administrative authority to prevent runoff from the land application site and erosion.
>12	Unsuitable for application unless terraces are constructed and a 200-foot vegetated buffer area with a slope of less than 3 percent is provided at the down slope edge of the application area and the material is incorporated (solid material) and injected (liquid material) into the soil. Measures must be taken to prevent runoff from the land application site and to prevent erosion.

E. Pollutant Limits

1. Sewage Sludge and Biosolids

a. Bulk biosolids or biosolids sold or given away in a bag or other container shall not be applied to the land if the concentration of any pollutant in the biosolids exceeds the ceiling concentration for the pollutant in Table 1 of LAC 33:IX.7303.E.

b. If bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site, either:

i. the cumulative loading rate for each pollutant in the biosolids shall not exceed the cumulative pollutant loading rate for the pollutant in Table 2 of LAC 33:IX.7303.E; or

ii. the concentration of each pollutant in the biosolids shall not exceed the concentration for the pollutant in Table 3 of LAC 33:IX.7303.E.

c. If biosolids are applied to a lawn or a home garden, the concentration of each pollutant in the biosolids shall not exceed the ceiling concentrations in Table 1 of LAC 33:IX.7303.E and the pollutant concentrations for each pollutant listed in Table 3 of LAC 33:IX.7303.E, and the concentration of PCBs must be less than 10 mg/kg of total solids (dry wt.).

d. If biosolids are sold or given away in a bag or other container for application to the land, either:

i. the concentration of each pollutant in the biosolids shall not exceed the ceiling concentration for the pollutant in Table 1 of LAC 33:IX.7303.E and the concentration for the pollutant in Table 3 of LAC 33:IX.7303.E, and the concentration of PCBs must be less than 10 mg/kg of total solids (dry wt.); or

ii. the product of the concentration of each pollutant in the biosolids and the annual whole biosolids application rate for the sewage sludge shall not cause the annual pollutant loading rate for the pollutant in Table 4 of LAC 33:IX.7303.E to be exceeded, and the concentration of PCBs must be less than 10 mg/kg of total solids (dry wt.). The procedure used to determine the annual whole biosolids application rate is presented in LAC 33:IX.7397.Appendix K.

e. The administrative authority may require that the biosolids meet more stringent pollutant limits or limits for additional pollutants than those listed in the Tables of LAC 33:IX.7303.E on a case-by-case basis after determining that the more stringent pollutant limits or limits for additional pollutants are needed to protect human health and the environment from any reasonably anticipated adverse effect that may occur from the application of the biosolids to the land.

2. Pollutant Concentrations and Loading Rates—Biosolids

a. Ceiling Concentrations

Table 1 of LAC 33:IX.7303.E	
Ceiling Concentrations	
Pollutant	**Ceiling Concentration (milligrams per kilogram)[1]**
Arsenic	75
Cadmium	85
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500
[1]Dry weight basis	

b. Cumulative Pollutant Loading Rates

Table 2 of LAC 33:IX.7303.E
Cumulative Pollutant Loading Rates

Pollutant	Cumulative Pollutant Loading Rate (kilograms per hectare)
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

c. Pollutant Concentrations

Table 3 of LAC 33:IX.7303.E	
Pollutant Concentrations	
Pollutant	Monthly Average Concentration (milligrams per kilogram)[1]
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800
[1]Dry weight basis	

d. Annual Pollutant Loading Rates

Table 4 of LAC 33:IX.7303.E	
Annual Pollutant Loading Rates	
Pollutant	Annual Pollutant Loading Rate (kilograms per hectare per 365-day period)
Arsenic	2.0
Cadmium	1.9
Copper	75
Lead	15
Mercury	0.85
Nickel	21
Selenium	5.0
Zinc	140

F. Other Requirements for Bulk Biosolids

1. The person who prepares bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall provide the person who applies the bulk biosolids with written notification of the concentration, on a dry weight basis, of total nitrogen, ammonia (as N), nitrates, potassium, and phosphorus in the bulk biosolids.

2. When a person who prepares bulk sewage sludge provides the bulk biosolids to a person who applies the bulk biosolids to the land, the person who prepares the bulk sewage sludge shall provide the person who applies the bulk biosolids with notice and necessary information to comply with the requirements in this Chapter.

3. The person who applies bulk biosolids to the land shall provide the owner or leaseholder of the land on which the bulk biosolids are applied with notice and necessary information to comply with the requirements in this Chapter.

4. No person shall apply bulk biosolids subject to the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E to the land without first contacting the administrative authority to determine if bulk biosolids subject to the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E have been applied to the land since July 20, 1993.

5. No person shall apply bulk biosolids subject to the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E to agricultural land, forest, a public contact site, or a reclamation site if any of the cumulative pollutant loading rates in Table 2 of LAC 33:IX.7303.E has been reached.

6. If bulk biosolids have not been applied to a site since July 20, 1993, the cumulative amount for each pollutant listed in Table 2 of LAC 33:IX.7303.E may be applied to the site in accordance with Clause E.1.b.i of this Section.

7. If bulk biosolids have been applied to the site since July 20, 1993, and the cumulative amount of each pollutant applied to the site in the bulk biosolids since that date is known, the cumulative amount of each pollutant applied to the site shall be used to determine the additional amount of each pollutant that can be applied to the site in accordance with Clause E.1.b.i of this Section.

8. If bulk biosolids have been applied to the site since July 20, 1993, and the cumulative amount of each pollutant applied to the site in the bulk biosolids since that date is not known, an additional amount of each pollutant shall not be applied to the site in accordance with Clause E.1.b.i of this Section.

G. Other Management Practices for Bulk Biosolids

1. Bulk biosolids shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act or its designated critical habitat.

2. Bulk biosolids shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk biosolids enter a *wetland* or other *waters of the state*, as defined in LAC 33:IX.2313, except as provided in a permit issued in accordance with Section 402 or 404 of the CWA or LAC 33:IX.Chapters 23-71.

3. Bulk biosolids shall not be applied to agricultural land, forest, or a reclamation site that is 33 feet (10 meters) or less from any *waters of the state*, as defined in LAC 33:IX.2313, unless otherwise specified by the permitting authority.

4. Bulk biosolids shall not be applied to the land if it would affect a property that either is listed on, or is eligible for listing on, the National Historic Register.

H. Operational Standards—Pathogens and Vector Attraction Reduction

1. Pathogens

a. The Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 or the Class B pathogen requirements and site restrictions in

LAC 33:IX.7309.C.2 shall be met when bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site.

b. The Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 shall be met when biosolids are applied to a lawn or a home garden.

c. The Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 shall be met when biosolids are sold or given away in a bag or other container for application to the land.

2. Vector Attraction Reduction

a. One of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g shall be met when bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e shall be met when biosolids are applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e shall be met when biosolids are sold or given away in a bag or other container for application to the land.

I. Frequency of Monitoring

1. The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3, and Table 4 of LAC 33:IX.7303.E; the frequency of monitoring for pathogen density requirements in LAC 33:IX.7309.C.1 and 2.b; and the frequency of monitoring for vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e shall be the frequency specified in Table 1 of LAC 33:IX.7303.I.

Table 1 of LAC 33:IX.7303.I	
Frequency of Monitoring—Land Application	
Amount of Biosolids[1] (metric tons per 365-day period)	**Frequency**
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year)
Equal to or greater than 15,000	Once per month (12 times per year)
[1]Either the amount of bulk biosolids applied to the land (on a dry weight basis) or the amount of biosolids that are bagged and sold or given away for application to the land (on a dry weight basis).	

2. After the biosolids have been monitored for two years at the frequency in Table 1 of LAC 33:IX.7303.I, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in LAC 33:IX.7309.C.1.e.ii and iii.

J. Recordkeeping

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.7301.B, that prepare sewage sludge shall keep a record of the following for a period of five years:

a. annual production of sewage sludge (i.e., dry tons or dry metric tons);

b. the sewage sludge management practice used;

c. sampling results for hazardous characteristics; and

d. sampling results for PCBs.

2. Additional Recordkeeping

a. The recordkeeping requirements for the person who prepares the sewage sludge or biosolids that are land applied and meet the criteria in Paragraphs A.2 and 4 of this Section are those indicated in Paragraph L.9 of this Section.

b. For bulk biosolids that are applied to agricultural land, forest, a public contact site, or a reclamation site and that meet the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1, and the vector attraction reduction requirements in either LAC 33:IX.7309.D.2.f or g:

i. the person who prepares the bulk biosolids shall develop the following information and shall retain the information for five years:

(a). the concentration of each pollutant listed in Table 3 of LAC 33:IX.7303.E;

(b). a description of how the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 are met; and

(c). the following certification statement:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the bulk biosolids to the land shall develop the following information and shall retain the information for five years:

(a). a description of how the general management practices in Paragraphs D.1-4 of this Section and the other management practices for bulk biosolids in Subsection G of this Section are met for each site on which bulk biosolids are applied;

(b). a description of how the vector attraction reduction requirements in either LAC 33:IX.7309.D.2.f or g are met for each site on which bulk biosolids are applied; and

(c). the following certification statement:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4, the other management practices for bulk biosolids in LAC 33:IX.7303.G, and the vector attraction reduction requirement in [insert either LAC 33:IX.7309.D.2.f or g] was

prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

c. For bulk biosolids that are applied to agricultural land, forest, a public contact site, or a reclamation site and that meet the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the Class B pathogen requirements in LAC 33:IX.7309.C.2, and the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g:

i. the person who prepares the bulk biosolids shall develop the following information and shall retain the information for five years:

(a). the concentration of each pollutant listed in Table 3 of LAC 33:IX.7303.E;

(b). a description of how the Class B pathogen requirements in LAC 33:IX.7309.C.2 are met;

(c). a description of how one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g is met; and

(d). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Class B pathogen requirements in LAC 33:IX.7309.C.2 and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the bulk biosolids to the land shall develop the following information and shall retain the information for five years:

(a). a description of how the general management practices in Paragraphs D.1-4 of this Section and the other management practices for bulk biosolids in Subsection G of this Section are met for each land site on which bulk biosolids are applied;

(b). a description of how the site restrictions in LAC 33:IX.7309.C.2.e are met for each land site on which bulk biosolids are applied;

(c). when the vector attraction reduction requirement in either LAC 33:IX.7309.D.2.f or g is met, a description of how the requirement is met;

(d). the date bulk biosolids are applied to each site; and

(e). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4, the other management practices for bulk biosolids in LAC 33:IX.7303.G, the site restrictions in LAC 33:IX.7309.C.2.e, and the vector attraction reduction requirement in [insert either LAC 33:IX.7309.D.2.f or g] was prepared for each site on which bulk biosolids are applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

d. For bulk biosolids applied to the land that is agricultural land, forest, a public contact site, or a reclamation site whose cumulative loading rate for each pollutant does not exceed the cumulative pollutant loading rate for each pollutant in Table 2 of LAC 33:IX.7303.E and that meet the Exceptional Quality biosolids or Class B pathogen requirements in LAC 33:IX.7309.C, and the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g:

i. the person who prepares the bulk biosolids shall develop the following information and shall retain the information for five years:

(a). the concentration of each pollutant listed in Table 1 of LAC 33:IX.7303.E in the bulk biosolids;

(b). a description of how the Exceptional Quality biosolids or Class B pathogen requirements in LAC 33:IX.7309.C are met;

(c). a description of how one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g is met; and

(d). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in [insert either LAC 33:IX.7309.C.1 or 2] and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the bulk biosolids to the land shall develop the following information, retain the information in Subclauses J.2.d.ii.(a)-(g) of this Section indefinitely, and retain the information in Subclauses J.2.d.ii.(h)-(m) of this Section for five years:

(a). the location, by either street address or latitude and longitude, of each land site on which bulk biosolids are applied;

(b). the number of hectares or acres in each site on which bulk biosolids are applied;

(c). the date bulk biosolids are applied to each land site;

(d). the cumulative amount of each pollutant (i.e., kilograms) listed in Table 2 of LAC 33:IX.7303.E in the bulk biosolids applied to each land site, including the amount in Paragraph F.7 of this Section;

(e). the amount of biosolids (i.e., tons or metric tons) applied to each land site;

(f). a description of how the information was obtained in order to comply with Subsection F of this Section;

(g). the following certification statement:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the requirements in LAC 33:IX.7303.F was prepared for each land site on which bulk biosolids were applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.";

(h). a description of how the general management practices in Paragraphs D.1-4 of this Section and the other management practices for bulk biosolids in Subsection G of this Section are met for each land site on which bulk biosolids are applied;

(i). the following certification statement:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4 and the other management practices for bulk biosolids in LAC 33:IX.7303.G was prepared for each land site on which bulk biosolids were applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.";

(j). a description of how the site restrictions in LAC 33:IX.7309.C.2.e are met for each land site on which Class B bulk biosolids are applied;

(k). the following certification statement when the bulk biosolids meet the Class B pathogen requirements in LAC 33:IX.7309.C.2:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the site restrictions in LAC 33:IX.7309.C.2.e for each land site on which Class B biosolids were applied was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.";

(l). if the vector attraction reduction requirements in either LAC 33:IX.7309.D.2.f or g are met, a description of how the requirements are met; and

(m). the following certification statement when the vector attraction reduction requirement in either LAC 33:IX.7309.D.2.f or g is met:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the vector attraction reduction requirement in [insert either LAC 33:IX.7309.D.2.f or g] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

e. For biosolids sold or given away in a bag or other container for application to the land meeting the requirement at Clause E.1.d.ii of this Section, the Exceptional Quality biosolids pathogen requirements at LAC 33:IX.7309.C.1, and the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e:

i. the person who prepares the biosolids that are sold or given away in a bag or other container shall develop the following information and shall retain the information for five years:

(a). the annual whole biosolids application rate for the biosolids that does not cause the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded;

(b). the concentration of each pollutant listed in Table 4 of LAC 33:IX.7303.E in the biosolids;

(c). a description of how the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 are met;

(d). a description of how one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e is met;

(e). a description of how the general management practice in Subparagraph D.5.b of this Section was met; and

(f). the following certification statement:

> "I certify, under penalty of law, that the information that will be used to determine compliance with the general management practice in LAC 33:IX.7303.D.5.b, the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1, and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."; and

ii. the person who applies the biosolids that are given away or sold in a bag or other container to the land that is agricultural land, forest, a public contact site, or a

reclamation area shall develop the following information and shall retain the information for five years:

(a). a description of how the general management practices in Paragraphs D.1-4 and Subparagraph D.5.a of this Section are met for each site on which the biosolids given away or sold in a bag or other container are applied; and

(b). the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the general management practices in LAC 33:IX.7303.D.1-4 and D.5.a was prepared for each site on which biosolids given away or sold in a bag or other container are applied under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including fine and imprisonment."

K. Reporting

1. All *Class I sludge management facilities*, as defined in LAC 33:IX.7301.B, that prepare sewage sludge shall submit the information in Paragraph J.1 of this Section to the administrative authority on or before February 19 of each year.

2. Additional Reporting Requirements

a. Reporting requirements for a person who prepares *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, from sewage sludge, having a permit to do so, are as indicated in Paragraph L.10of this Section.

b. All other *Class I sludge management facilities*, as defined in LAC 33:IX.7301.B, that apply bulk biosolids to the land and are required to obtain a permit under LAC 33:IX.7301.D, shall submit the information in Paragraph J.2 of this Section, for the appropriate requirements, to the administrative authority as follows.

i. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per year, the reporting period and the report due date shall be as specified in Table 1 of LAC 33:IX.7303.K.

Table 1 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period (Once per Year)	**Report Due Date**
January - December	February 19

ii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per quarter (four times per year), the reporting period and the report due date shall be as specified in Table 2 of LAC 33:IX.7303.K.

Table 2 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period[1] (Once per Quarter)	**Report Due Date**
January, February, March	August 19
April, May, June	
July, August, September	February 19
October, November, December	
[1]Separate reports must be submitted for each monitoring period.	

iii. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per 60 days (six times per year), the reporting period and the report due date shall be as specified in Table 3 of LAC 33:IX.7303.K.

Table 3 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period[1] (Once per 60 Days)	**Report Due Date**
January, February	June 19
March, April	
May, June	October 19
July, August	
September, October	February 19
November, December	
[1]Separate reports must be submitted for each monitoring period.	

iv. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.I of once per month (12 times per year), the reporting period and the report due date shall be as specified in Table 4 of LAC 33:IX.7303.K.

Table 4 of LAC 33:IX.7303.K	
Reporting—Land Application	
Monitoring Period[1] (Once per Month)	**Report Due Date**
January	May 19
February	
March	
April	August 19
May	
June	
July	November 19
August	
September	
October	February 19
November	
December	
[1]Separate reports must be submitted for each monitoring period.	

3. The administrative authority may require any facility indicated in Subparagraph K.2.a of this Section to report any or all of the information required in Subparagraph K.2.b of this Section if deemed necessary for the protection of human health or the environment.

L. Requirements for Persons Who Prepare Sewage Sludge as Exceptional Quality Biosolids

1. A person who prepares sewage sludge as Exceptional Quality biosolids must prepare the sewage sludge in a manner that will assure that the sewage sludge meets all of the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, and shall forward to the administrative authority a sewage sludge and biosolids use or disposal permit application form having the following information:

a. the laboratory analysis of the metals in Tables 1 and 3 of LAC 33:IX.7303.E;

b. the laboratory analysis for percent dry solids, percent ammonia nitrogen, percent nitrate, percent nitrite, percent nitrogen, percent phosphorus, percent potassium, and percent organic matter and, if the sewage sludge or biosolids underwent or were subjected to any type of alkaline stabilization and/or alkaline treatment, the pH of the sewage sludge or biosolids;

c. the laboratory results for polychlorinated biphenyls (PCBs);

d. the Exceptional Quality biosolids pathogen requirement in LAC 33:IX.7309.C.1 that will be utilized;

e. the vector attraction reduction requirement in LAC 33:IX.7309.D.2.a-e that will be utilized;

f. an example of the label or information sheet that will accompany biosolids that are sold or given away either in bulk or in a bag, containing the following information:

i. the name and address of the preparer;

ii. the concentration (by volume) of each metal in Table 3 of LAC 33:IX.7303.E;

iii. percent nitrogen;

iv. percent ammonia nitrogen;

v. percent phosphorus;

vi. percent potassium;

vii. pH;

viii. the concentration of PCBs in mg/kg of total solids (dry wt.); and

ix. application instructions and a statement that application of the biosolids to the land is prohibited except in accordance with the instructions on the label or information sheet; and

g. in addition to the label requirements in Clauses L.1.f.i-ix of this Section, an example of the label that must accompany all compost sold or given away either in bulk or in a bag or other container, having the following information:

i. soluble salt content;

ii. water holding capacity;

iii. bulk density (lbs/yd^3);

iv. particle size;

v. moisture content; and

vi. percent organic matter content.

2. The administrative authority may require that the biosolids meet more stringent pollutant limits, or limits for additional pollutants than those listed in Subparagraphs L.1.a-e of this Section, on a case-by-case basis after determining that the more stringent pollutant limits or limits for additional pollutants are needed to protect human health and the environment from any reasonably-anticipated adverse effect that may occur from the application of the biosolids to the land.

3. Samples required to be collected in accordance with Subparagraphs L1.a-c of this Section shall be from at least four representative samplings of the biosolids taken at least 60 days apart within the 12 months prior to the date of the submittal of the sewage sludge and biosolids use or disposal permit application form.

4. All permits issued to persons who prepare sewage sludge as Exceptional Quality biosolids shall have a term of not more than five years.

5. For the term of the permit, the preparer of the biosolids shall conduct continued sampling at a frequency of monitoring indicated in Table 1 of LAC 33:IX.7303.L. The samples shall be analyzed for the parameters specified in Subparagraphs L.1.a-c of this Section, and for the pathogen and vector attraction reduction requirements in Subparagraphs L.1.d and e of this Section, as required by LAC 33:IX.7309.

Table 1 of LAC 33:IX.7303.L
Frequency of Monitoring—Exceptional Quality Biosolids

Amount of Biosolids[1] (metric tons per 365-day period)	Frequency
Greater than zero but less than 15,000	Once per quarter (four times per year)
Equal to or greater than 15,000	Once per month (12 times per year)

[1]The amount of biosolids sold or given away either in bulk or in a bag or other container.

6. If results of the sampling indicate that the biosolids are no longer *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B, then the preparer must cease any land application of the biosolids as Exceptional Quality biosolids.

7. If biosolids that are no longer Exceptional Quality biosolids are used or disposed, the exemption for Exceptional Quality biosolids no longer applies, and the biosolids must meet all the requirements and restrictions of this Chapter that apply to biosolids that are no longer Exceptional Quality biosolids.

8. Biosolids shall not be applied to the land as Exceptional Quality biosolids until the sample analyses have shown that the biosolids meet the criteria for *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

9. The person who prepares the biosolids shall develop the following information and shall retain the information for five years:

a. the results of the sample analysis required in Paragraph L.5 of this Section; and

b. the following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Exceptional Quality biosolids pathogen requirements in LAC 33:IX.7309.C.1 and

the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e] was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

10. The person who prepares Exceptional Quality biosolids shall forward the information required in Paragraph L.9 of this Section to the administrative authority as follows.

a. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.L of once per quarter (four times per year), the reporting periods and the report due dates shall be as specified in Table 2 of LAC 33:IX.7303.L.

Table 2 of LAC 33:IX.7303.L	
Reporting—Exceptional Quality Biosolids	
Monitoring Period[1] (Once per Quarter)	**Report Due Date**
January, February, March	August 19
April, May, June	
July, August, September	February 19
October, November, December	
[1]Separate reports must be submitted for each monitoring period.	

b. For facilities having a frequency of monitoring in Table 1 of LAC 33:IX.7303.L of once per month (12 times per year), the reporting periods and the report due dates shall be as specified in Table 3 of LAC 33:IX.7303.L.

Table 3 of LAC 33:IX.7303.L	
Reporting—Exceptional Quality Biosolids	
Monitoring Period[1] (Once per Month)	**Report Due Date**
January	May 19
February	
March	
April	August 19
May	
June	
July	November 19
August	
September	
October	February 19
November	
December	
[1]Separate reports must be submitted for each monitoring period.	

M. Any person subject to these regulations who prepares sewage sludge may petition the administrative authority to allow the land application of sewage sludge that is mixed with grease that was pumped or removed from a food service facility.

1. The administrative authority may grant temporary approval, for a period not to exceed one year, for the land application of sewage sludge that is mixed with grease that was pumped or removed from a food service facility, along with the appropriate monitoring, sampling and analysis, recordkeeping, and reporting requirements, when petitions for such are deemed appropriate after consideration of the factors enumerated in Paragraph M.2 of this Section as well as any other pertinent factors.

2. Each petition for the allowance of land application of sewage sludge that is mixed with grease that was pumped or removed from a food service facility shall:

a. be submitted in writing to the administrative authority;

b. be accompanied by evidence of public notice in the state journal and in the local journal; and

c. contain the following information:

i. documentation to prove that the preparation or treatment process will be the composting process to further reduce pathogens described in LAC 33:IX.7399.Appendix L;

ii. documentation to prove that the facility owner/operator has successfully completed a department-approved composting facility operator training course; and

iii. documentation to satisfy the requirements in Subsection L of this Section and LAC 33:IX.7305 and 7307.

3. If the owner/operator wishes to continue operation of the compost facility, he or she shall submit to the administrative authority a completed sewage sludge and biosolids use or disposal permit application form at least 180 days prior to the expiration date of the approval. The decision to grant or deny a permit for continuation of the compost operation shall be based on the information provided in the permit application, the monitoring and sampling and analysis results submitted during the one-year approval period, and any comments or other information received during the standard permit public notice period.

N. Procedure for the Addition or Removal of Land Application Sites

1. If a person who possesses a sewage sludge and biosolids use or disposal permit wishes to add a land application site or sites to the permit, the person shall submit a request package to the administrative authority at least 180 days prior to the anticipated date by which authorization is needed containing the following information:

a. evidence of notification of the landowners bordering the proposed land application site or sites. The notification shall be in the form of a public notice placed in the local newspaper being circulated in the area of the proposed site or sites, certified letters of notification that were either hand delivered or mailed to the landowners bordering the proposed site or sites, or signed agreements of the landowners bordering the proposed site or sites to application of biosolids to the site or sites;

b. signed agreement(s) to the application of biosolids from the landowner(s) of the proposed site or sites; and

c. a completed sewage sludge and biosolids use or disposal permit application form.

2. If a person who possesses a sewage sludge and biosolids use or disposal permit wishes to remove a land application site or sites from the permit, the person shall

submit a request package to the administrative authority at least 90 days prior to the removal of the site or sites containing the following information:

a. aerial photographs showing the location of the land application site or sites that are being proposed to be removed;

b. certification that all biosolids that were stored at the site or sites have either been land applied in accordance with the permit requirements or totally removed and used at another site in accordance with the permit requirements or removed and disposed at a permitted landfill; and

c. signed agreements from the landowner(s) of the site or sites for the site or sites to be removed from the land application of biosolids.

3. After receipt and review of the request package required in Paragraph N.1 of this Section for the addition of a land application site or sites or the request package required in Paragraph N.2 of this Section for the removal of a land application site or sites, a decision shall be rendered by the administrative authority regarding the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:785 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2374 (November 2007), LR 35:929 (May 2009), LR 37:2994 (October 2011).

§7305. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge

A. Exemptions.

1. A *publicly owned treatment works (POTW)*, as defined in LAC 33:IX.7301.B, shall be exempted from the siting requirements in Subsection B of this Section and the facility closure requirements in Paragraph C.3 of this Section if the POTW prepares only sewage sludge generated at the POTW or sewage sludge generated at a facility that is owned or operated by the POTW and the POTW's sewage sludge treatment facility is located within the POTW's boundary or perimeter.

2. An existing facility that has been issued a sewage sludge and biosolids use or disposal permit shall be exempted from the siting requirements in Subsection B of this Section.

B. Siting

1. Location Characteristics

a. Facilities shall not be located less than 200 feet from a property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowners and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property.

b. Facilities shall not be located less than 300 feet from a private potable water supply or a private water supply elevated storage tank or ground storage tank unless special permission is granted by the private potable water supply owner.

c. Facilities shall not be located less than 300 feet from a public potable water supply or a public water supply elevated storage tank or ground storage tank unless special permission is granted by the Department of Health and Hospitals.

d. Facilities shall not be located less than 100 feet from wetlands, surface waters (streams, ponds, lakes), or areas historically subject to overflow from floods.

e. Facilities shall only be located in a hydrologic section where the historic high water table is at a minimum of a 3-foot depth below the surface, or the water table at the facility shall be controlled to a minimum of a 3-foot depth below this zone.

f. Untreated sewage sludge, other materials, feedstock, or supplements to be utilized at a facility shall not be located less than 25 feet from a subsurface drainage pipe or drainage ditch that discharges directly to waters of the state.

g. New or first-time-permitted facilities that are not located within the boundaries of a legally zoned and established industrial park:

i. shall not be located less than 1,000 feet from an established institution, as defined in LAC 33:IX.7301.B, unless special permission is granted by the owner of the institution. The permission must be in the form of an affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the facility be located less than 200 feet from such an institution; and

ii. shall not be located less than 500 feet from an established home residence unless special permission has been granted by the owner and/or lessee of the established home residence in the form of an affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall the facility be located less than 200 feet from an established home residence.

h. Facilities that prepare or compost only sewage sludge or blend, mix, or compost sewage sludge and have only woodchips or yard waste (e.g., leaves, lawn clippings, or branches) as feedstock or supplements shall not be located closer than the greater of the following distances from an airport:

i. 1,200 feet from the *air operations area*, as defined in LAC 33:IX.7301.B; or

ii. the distance called for by the U.S. Department of Transportation Federal Aviation Administration's airport design requirements.

i. Facilities that blend, mix, or compost sewage sludge that include food or other municipal solid waste as feedstock or supplements shall not be located closer than:

i. 5,000 feet from any airport property boundary (including the air operations area) if the airport does not sell Jet-A fuel and serves only piston-powered aircraft; or

ii. 10,000 feet from any airport property boundary (including the air operations area) if the airport sells Jet-A fuel and serves turbine-powered aircraft, or sells Jet-A fuel and is designed to serve turbine-powered and/or piston-powered aircraft.

j. Storage and processing of sewage sludge or biosolids is prohibited within any of the buffer zones indicated in Subparagraphs B.1.a-i of this Section.

k. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations.

l. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the area from adverse impacts of operations at the facility.

m. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

2. Facility Characteristics

a. Perimeter Barriers, Security, and Signs

i. All facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

ii. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

iii. During non-operating hours, each facility entry point shall be locked.

iv. All facilities that receive sewage sludge, other materials, feedstock, or supplements from off-site sources shall post readable signs that list the types of sewage sludge, other materials, feedstock, or supplements that can be received at the facility.

b. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care with access gates that are wide enough to allow easy access for emergency vehicles, or such services shall be provided internally.

3. Facility Surface Hydrology

a. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the facility to adjoining areas during a 24-hour/25-year storm event. When rainfall records are not available, the design standard shall be 12 inches of rainfall below 3l degrees north latitude and 9 inches of rainfall above 3l degrees north latitude. If the 24-hour/25-year storm event level is lower, the design standard shall be required.

b. Storm water run-on shall be prevented from entering the receiving, processing, curing, and storage areas by the use of berms or other physical barriers.

c. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

d. All storm water and wastewater from a facility must conform to applicable requirements of LAC 33:IX.Chapters 23-67.

4. Facility Geology

a. Except as provided in Subparagraph B.4.c of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing strata that would provide conduits to such an aquifer.

b. The natural soil surface must be capable of supporting heavy equipment operation during and after prolonged periods of rain.

c. A design for surfacing natural soils that do not meet the requirements in Subparagraphs B.4.a and b of this Section shall be prepared under the supervision of a professional engineer, licensed in the state of Louisiana with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subparagraphs B.4.a and b of this Section shall be provided.

5. Facility Plans and Specifications. Facility plans and specifications represented and described in the permit applications or permit modifications for all facilities must be prepared under the supervision of, and certified by, a professional engineer, licensed in the state of Louisiana.

6. Notification of Completion. Within 10 days of completion of the facility or completion of a facility modification, the owner of the facility shall submit a notification of completion to the administrative authority. The notification of completion shall include a certification statement by a professional engineer, licensed in the state of Louisiana, that the facility meets the plans and specifications as described in the sewage sludge and biosolids use or disposal permit application.

7. Initial Start-Up Inspection

a. Upon issuance of a permit or modification to an existing facility, or construction of a newly permitted facility, a start-up inspection may be made after the permit holder submits the notification of completion and construction certification to the administrative authority.

b. Upon renewal of an existing permit where no physical changes are required, no certification of

construction shall be required to be submitted, and no start-up inspection shall be initiated. The owner of the facility may continue use of the facility upon the effective date of the renewal permit.

c. If the administrative authority determines a start-up inspection is required pursuant to Subparagraph B.7.a of this Section, the start-up inspection shall be initiated within 15 working days of receipt of certification by the Office of Environmental Services unless a longer time period is set by mutual agreement.

d. Within 15 working days after a new, existing, or modified facility has undergone an initial start-up inspection, or within 30 days of receipt of the construction certification, the administrative authority shall either issue an approval of the construction or a notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

C. Operations

1. Operational Requirements for All Preparers of Sewage Sludge

a. Facility Operations and Maintenance Manual

i. A facility operations and maintenance manual shall be developed and forwarded with the permit application to the administrative authority.

ii. The facility operations and maintenance manual shall describe, in specific detail, how the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge (if applicable) will be managed during all phases of the preparation process and, if applicable, the land application process. At a minimum, the manual shall address the following:

(a). preparation facility site and project description;

(b). regulatory interfaces;

(c). preparation process management plan;

(d). odor management plan;

(e). methods utilized for managing the biological conditions during the composting procedure (i.e., carbon/nitrogen ratio, moisture, O_2 levels, free air space), when composting is utilized as a preparation process;

(f). worker health and safety management plan;

(g). housekeeping and nuisance management plan;

(h). emergency preparedness plan;

(i). security, community relations, and public access plan;

(j). regulated chemicals (list and location of regulated chemicals kept on-site);

(k). monitoring, sampling, recordkeeping, and reporting procedures;

(l). feedstock, supplements, and process management;

(m). product distribution records;

(n). pollutant reduction plan (for land application of biosolids);

(o). pathogen treatment plan (for land application of biosolids);

(p). vector attraction reduction plan (for land application of biosolids);

(q). site application records (for land application of biosolids);

(r). description of how the land application management practices are met (for land application of biosolids);

(s). description of how the land application site and soil restrictions are met (for land application of biosolids);

(t). operator certification; and

(u). administration of the operations and maintenance manual.

iii. The facility operations and maintenance manual shall be keep on-site and readily available to employees and, if requested, to the administrative authority or his/her duly authorized representative.

b. Facility Operational Standards

i. The facility must include a receiving area, a mixing area, a curing area, a compost storage area for composting operations, drying and screening areas, and a truck wash area, which shall be located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

ii. All containers shall provide containment of the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge, and thereby control litter and other pollution of adjoining areas.

iii. Provisions shall be made for the daily cleanup of the facility, including equipment and waste-handling areas.

iv. Treatment facilities for washdown and contaminated water shall be provided, or the wastewater contained, collected, and transported off-site to an approved wastewater treatment facility.

v. Leachate produced in the composting process:

(a). shall be collected and disposed off-site at a permitted facility; or

(b). shall be collected, treated, and discharged on-site in accordance with LAC 33:IX.Chapters 23-67; or

(c). may be reused in the composting process as a source of moisture.

vi. Sufficient equipment shall be provided and maintained at all facilities to meet their operational needs.

vii. Odor Management

(a). The production of odor shall be minimized.

(b). Processed air and other sources of odor shall be contained and, if necessary, treated in order to remove odor before discharging to the atmosphere.

viii. Receiving and Monitoring Sewage Sludge, Other Materials, Feedstock, or Supplements Used

(a). Any facility used to prepare sewage sludge shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the sewage sludge, other materials, feedstock, or supplements to be mixed with the sewage were generated in-state or out-of-state), and types of other materials, feedstock, or supplements. The facility shall also be equipped with a device or method to control entry of sewage sludge, other materials, feedstock, or supplements coming on-site and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, industrial, unauthorized, or unpermitted solid waste).

(b). Other feedstock and supplements that are blended, composted, or mixed with sewage sludge shall be treated for the effective removal of sharps including, but not limited to, sewing needles, straight pins, hypodermic needles, telephone wires, and metal bracelets.

(c). Any facility used to prepare sewage sludge shall be equipped with a central control and recordkeeping system for tabulating the information required in Subclause C.1.b.viii.(a) of this Section.

ix. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

2. Additional Operational Requirements for Composters

a. The composting procedure shall begin within 24 hours of receipt of the material to be prepared as a compost.

b. Adequate covers shall be provided for windrows during the curing stage to protect the compost from rainwater.

c. Covered areas shall be provided where feedstock is prepared.

d. Any compost made from sewage sludge that cannot be used according to these regulations shall be reprocessed or disposed of in an approved facility.

e. Composted sewage sludge shall be used, sold, or disposed of at a permitted disposal facility within 36 months of completion of the composting process.

f. The final composted product shall be stable and mature. In addition to meeting the applicable time and temperature for pathogen and vector attraction reduction requirements, proof of the stability and maturity of the final composted product shall be provided by utilizing the applicable methods in the source referenced in LAC 33:IX.7301.I.2.j.

3. Facility Closure Requirements

a. Notification of Intent to Close a Facility. All permit holders shall notify the administrative authority in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

i. the date of planned closure;

ii. changes, if any, requested in the approved closure plan; and

iii. the closure schedule and estimated cost.

b. Closure Requirements

i. An insect and rodent inspection is required before closure. Extermination measures, if required, must be provided.

ii. All remaining untreated and unprepared sewage sludge, other materials, feedstock, and supplements shall be dewatered, removed, and disposed of in a permitted facility within 10 days of ceasing operations.

iii. All biosolids shall be used or disposed of in accordance with the provisions set forth in these regulations within 10 days of ceasing operations.

c. Additional Closure Requirements. Additional closure requirements for commercial preparers of sewage sludge who utilize composting as the process to prepare the sewage sludge and for all other commercial preparers of sewage sludge who prepare an amount of sewage sludge equal to or greater than 15,000 metric tons per year are as follows.

i. The permit holder shall verify that the soils within the facility boundary have not been contaminated in the operation of the facility.

ii. If contamination exists, in order to satisfy the closure requirements of this Section the permit holder must utilize the Risk Evaluation/Corrective Action Program (RECAP) standards in accordance with LAC 33:I.Chapter 13 to the fullest extent possible. Any residual contamination must meet the RECAP standards approved by the administrative authority, including any residual contamination in the underlying and surrounding soils and/or groundwater. Otherwise, the permit holder shall enter into a cooperative agreement with the administrative authority to perform corrective action (i.e., additional closure activities including site investigation, remedial investigation, a corrective action study, and/or remedial action).

d. Closure Inspection. After the closure requirements have been met, the permit holder shall file a request for a closure inspection with the Office of Environmental Services.

e. Release of Closure Funds. After the closure inspection and subsequent determination by the administrative authority that a facility has completed closure, the administrative authority shall release the closure fund to the permit holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2382 (November 2007), LR 35:930 (May 2009), LR 37:2995 (October 2011).

§7307. Financial Assurance Requirements for Commercial Preparers of Sewage Sludge and Commercial Land Appliers of Biosolids

A. Purpose and Applicability. The purpose of this Section is to establish the financial assurance (the word *security* may be used interchangeably with *assurance*) requirements for:

1. commercial preparers of sewage sludge for meeting the requirements applicable during operation and closure; and

2. commercial land appliers of biosolids during operation and closure.

B. This Section shall be applicable to the entities listed in Subsection A of this Section when the following actions are taken by the department:

1. issuance of a new permit;

2. renewal of an existing permit;

3. modification of an existing permit; and

4. transfer of an existing permit to a different permittee.

C. Financial assurance mechanisms and instruments shall be submitted as follows.

1. The permit holder must submit to the administrative authority for approval a financial assurance mechanism drafted in accordance with this Section to cover the cost estimate for the closure requirements in LAC 33:IX.7305.C.3. The financial assurance mechanism shall be submitted with the application under separate cover and be approved by the administrative authority as part of the permit issuance process. The financial assurance mechanism must be approved by the administrative authority prior to the permit holder's operating the facility.

2. All instruments used in this Section shall be submitted in the following manner.

a. The instrument shall be addressed to the Office of Environmental Services.

b. The original instrument shall be submitted.

c. The instrument shall be accompanied with a cover letter identifying the facility, agency interest number, and any other identifying information deemed necessary by the administrative authority.

D. Commercial preparers of sewage sludge and commercial land appliers of biosolids, hereinafter referred to in this Section as *affected persons*, have the following liability insurance responsibilities while their facilities are in operation.

1. All affected persons shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $1 million per occurrence and $1 million annual aggregate, per site, exclusive of legal defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Commercial preparers of sewage sludge and commercial land appliers of biosolids are exempt from these requirements if the amount of sewage sludge prepared or the amount of biosolids applied to the land is less than 15,000 metric tons per year. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services. This financial assurance may be established by any one or a combination of the following mechanisms.

a. Insurance. Evidence of liability insurance may consist of either a signed duplicate original of a liability endorsement in favor of the affected person, or a certificate of insurance. The wording of a liability endorsement shall be identical to the wording in LAC 33:IX.7395.Appendix A, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The wording of a certificate of insurance shall be identical to the wording in LAC 33:IX.7395.Appendix B, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. All liability endorsements and certificates of insurance must include:

i. a statement of coverage relative to environmental risks;

ii. a statement of all exclusions to the policy; and

iii. a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any provisions of the policy inconsistent with Subclauses D.1.a.iii.(a)-(f) of this Section are amended to conform with said Subclauses:

(a). bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(b). the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Subparagraphs D.1.b-d of this Section;

(c). whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

(d). cancellation of the policy, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services;

(e). any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services; and

(f). the insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

b. Letter of Credit. An affected person may satisfy the requirements of this Subsection by obtaining an irrevocable letter of credit that conforms to all of the following requirements and submitting the letter to the administrative authority.

i. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

ii. An affected person who uses a letter of credit to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

iii. The letter of credit must be accompanied by a letter from the affected person referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

(a). the agency interest number;

(b). the site name, if applicable;

(c). the facility name;

(d). the facility permit number; and

(e). the amount of funds assured for liability coverage of the facility by the letter of credit.

iv. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the affected person and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the affected person and the Office of Environmental Services receive the notice, as evidenced by the return receipts.

v. The wording of the letter of credit shall be identical to the wording in LAC 33:IX.7395.Appendix C, except that the instructions in brackets are to be replaced with the relevant information (i.e., type of affected person), and the brackets deleted.

c. Financial Test

i. To meet this test, the affected person or parent corporation (corporate guarantor) of the affected person must submit to the Office of Environmental Services the documents required by Subparagraph E.2.h of this Section demonstrating that the requirements of Subparagraph E.2.h of this Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the affected person or parent corporation (corporate guarantor). If the affected person or parent corporation is using the financial test to demonstrate liability coverage and closure, only one letter from the chief financial officer is required.

ii. The assets of the parent corporation of the affected person shall not be used to determine whether the affected person satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as authorized in Subparagraph D.1.d of this Section.

iii. The wording of the financial test shall be as specified in Clause E.2.h.iv of this Section.

d. Corporate Guarantee

i. An affected person may meet the requirements of Paragraph D.1 of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a *corporate guarantee*. The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in this Subsection and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Clauses E.2.h.ii and iv of this Section. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

(a). the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Subparagraph E.2.h of this Section;

(b). the guarantor is the parent corporation of the affected person to be covered by the guarantee, and the guarantee extends to certain facilities;

(c). if the affected person fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

(d). the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services and to the affected person, that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the affected person, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the affected person has done so;

(e). the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

(f). the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of closure, he or she shall establish alternate financial assurance as specified in this Subsection in the name of the affected person unless the affected person has done so;

(g). the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following: amendment or modification of the permit, or any other modification or alteration of an obligation of the affected person in accordance with these regulations;

(h). the guarantor agrees to remain bound under the guarantee for as long as the affected person must comply with the applicable financial assurance requirements of Paragraph E.2 of this Section for the facilities covered by the guarantee, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the affected person. Such a cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the affected person, as evidenced by the return receipts;

(i). the guarantor agrees that if the affected person fails to provide alternate financial assurance, as specified in this Subsection, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the affected person;

(j). the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the affected person. The guarantor also expressly waives notice of amendments or modifications of the facility permit; and

(k). the wording of the corporate guarantee shall be as specified in Clause E.2.h.ix of this Section.

ii. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services that a corporate guarantee is a legally valid and enforceable obligation in that state.

2. The use of a particular financial assurance mechanism is subject to the approval of the administrative authority.

3. Affected persons must submit evidence of financial assurance in accordance with this Section at least 60 days before the date on which sewage sludge, other materials, feedstock, or supplements are first received for processing.

E. Financial Assurance for Closure for Commercial Preparers of Sewage Sludge and Commercial Land Appliers of Biosolids

1. Commercial preparers of sewage sludge and commercial land appliers of biosolids, hereinafter referred to in this Section as *affected persons*, shall maintain financial assurance in the amount of $25,000 per site for closure if the amount of sewage sludge prepared or the amount of biosolids applied to the land is less than 15,000 metric tons per year. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services. This financial assurance may be established by any one or a combination of the methods in Subparagraph E.2.b of this Section. If these requirements cannot be met, an alternative financial assurance mechanism shall be submitted for review and approval by the administrative authority. Such an alternative financial assurance mechanism shall not result in a value of financial assurance that is less than the amount provided as a written cost estimate for closure of the facility in the permit application.

2. All affected persons not covered in Paragraph E.1 of this Section shall establish and maintain financial assurance for closure in accordance with LAC 33:IX.7305.C.3, and shall submit to the Office of Environmental Services the estimated closure date and the estimated cost of closure in accordance with the following requirements.

a. The affected person must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these regulations. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan.

i. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared, on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business*, or a re-estimation of the closure costs in

accordance with Subparagraph E.2.a of this Section. The affected person must revise the cost estimate whenever a change in the closure plan increases or decreases the cost of the closure plan. The affected person must submit a written notice of any such adjustment to the Office of Environmental Services within 15 days following such adjustment.

ii. For trust funds, the first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure cost estimate and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

b. Financial Assurance Instruments. The financial assurance instrument must be one or a combination of the following: a trust fund, a financial guarantee bond ensuring closure funding, a performance bond, a letter of credit, an insurance policy, or the financial test. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

i. Except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of the creation of the financial assurance mechanism into which the proceeds of such mechanism could be transferred should such funds be necessary for closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

ii. An affected person may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within the state of Louisiana and are specifically identified in the mechanism.

iii. The amount covered by the financial assurance mechanisms must equal the total of the current closure cost estimate for each facility covered.

iv. When all closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanisms.

c. Trust Funds. An affected person may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally-signed duplicate of the trust agreement to the Office of Environmental Services.

i. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

ii. Trusts must be accomplished in accordance with and subject to the laws of the state of Louisiana. The beneficiary of the trust shall be the administrative authority.

iii. Trust fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the affected person upon approval of the administrative authority.

iv. The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the affected person.

v. The affected person may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The affected person must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Clause E.2.a.ii of this Section.

vi. If the affected person establishes a trust fund after having used one or more of the alternate instruments specified in this Section, the first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of Clause E.2.a.ii of this Section.

vii. After the pay-in period is completed, whenever the current cost estimate changes, the affected person must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the affected person, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.

viii. After beginning final closure, an affected person or any other person authorized by the affected person to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the affected person is no longer required to maintain financial assurance.

ix. The wording of the trust agreement shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The trust agreement shall be accompanied by a formal

certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

d. Surety Bonds. An affected person may satisfy the requirements of this Subsection by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

i. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and be approved by the administrative authority.

ii. The affected person who uses a surety bond to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The standby trust agreement shall be accompanied by a formal certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

iii. The bond must guarantee that the affected person will:

(a). fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;

(b). fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued; or

(c). provide alternate financial assurance, as specified in this Section, and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the affected person and the administrative authority of a notice of cancellation of the bond from the surety.

iv. The terms of the bond must provide that the surety will become liable on the bond obligation when the affected person fails to perform as guaranteed by the bond.

v. The penal sum of the bond must be at least equal to the current closure cost estimate.

vi. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the affected person, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

vii. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the affected person and to the Office of Environmental Services. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the affected person and the administrative authority have received the notice of cancellation, as evidenced by the return receipts.

viii. The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:IX.7395.Appendix E, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

e. Performance Bonds. An affected person may satisfy the requirements of this Subsection by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

i. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and be approved by the administrative authority.

ii. The affected person who uses a surety bond to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust agreement shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The standby trust agreement shall be accompanied by a formal certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

iii. The bond must guarantee that the affected person will:

(a). perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

(b). provide alternate financial assurance, as specified in this Section, and obtain the administrative authority's written approval of the assurance provided, within 90 days after the date both the affected person and the administrative authority receive notice of cancellation of the bond from the surety.

iv. The terms of the bond must provide that the surety will become liable on the bond obligation when the affected person fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the affected person has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

v. The penal sum of the bond must be at least equal to the current closure cost estimate.

vi. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the affected person, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

vii. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the affected person and to the Office of Environmental Services. Cancellation may not occur before 120 days have elapsed, beginning on the date that both the affected person and the administrative authority have received the notice of cancellation, as evidenced by the return receipts.

viii. The wording of the performance bond shall be identical to the wording in LAC 33:IX.7395.Appendix F, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

f. Letter of Credit. An affected person may satisfy the requirements of this Subsection by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services.

i. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

ii. The affected person who uses a letter of credit to satisfy the requirements of this Subsection must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The standby trust agreement shall be accompanied by a formal certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

iii. The letter of credit must be accompanied by a letter from the affected person referring to the letter of credit by number, issuing institution, and date, and providing the following information:

(a). the agency interest number;

(b). the site name, if applicable;

(c). the facility name;

(d). the facility permit number; and

(e). the amount of funds assured for closure of the facility by the letter of credit.

iv. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the affected person and the Office of Environmental Services by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the affected person and the administrative authority have received the notice, as evidenced by the return receipts.

v. The letter of credit must be issued in an amount at least equal to the current closure cost estimate.

vi. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the affected person, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate upon written approval of the administrative authority.

vii. Following a determination by the administrative authority that the affected person has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit.

viii. The wording of the letter of credit shall be identical to the wording in LAC 33:IX.7395.Appendix G, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

g. Insurance. An affected person may satisfy the requirements of this Subsection by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services.

i. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess- or surplus-lines insurer in one or more states, and authorized to transact insurance business in the state of Louisiana.

ii. The insurance policy must be issued for a face amount at least equal to the current closure cost estimate.

iii. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

iv. The insurance policy must guarantee that funds will be available to close the facility. The policy must also guarantee that, once final closure begins, the insurer will be

responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies.

v. After beginning final closure, an affected person or any other person authorized by the affected person to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

vi. The affected person must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the affected person.

vii. Each policy must contain a provision allowing assignment of the policy to a successor of an affected person. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

viii. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the affected person and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the affected person have received the notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

(a). the administrative authority deems the facility abandoned;

(b). the permit is terminated or revoked or a new permit is denied;

(c). closure is ordered;

(d). the affected person is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(e). the premium due is paid.

ix. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the affected person, within 60 days after the increase, must either increase the face amount to at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

x. The wording of the certificate of insurance shall be identical to the wording in LAC 33:IX.7395.Appendix H, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

h. Financial Test. An affected person or a parent corporation of the affected person, which will be responsible for the financial obligations, may satisfy the requirements of this Section by demonstrating that a financial test as specified in this Subparagraph is met. The assets of the parent corporation of the affected person shall not be used to determine whether the affected person satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in Subparagraph D.1.d and/or Clause E.2.h.ix of this Section.

i. To pass this test, the affected person or parent corporation of the affected person must meet either of the following criteria:

(a). the affected person or parent corporation of the affected person must have:

(i). tangible net worth of at least six times the sum of the current closure cost estimate to be demonstrated by this test and the amount of liability coverage to be demonstrated by this test;

(ii). tangible net worth of at least $10 million; and

(iii).assets in the United States amounting to either at least 90 percent of its total assets, or at least six times the sum of the current closure cost estimate, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test; or

(b). the affected person or parent corporation of the affected person must have:

(i). a current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;

(ii). tangible net worth of at least $10 million; and

(iii).assets in the United States amounting to either 90 percent of its total assets or at least six times the sum of the current closure cost estimate, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

ii. To demonstrate that this test is met, the affected person or parent corporation of the affected person must submit the following three items to the Office of Environmental Services:

(a). a letter signed by the chief financial officer of the affected person or parent corporation demonstrating and certifying the criteria in Clause E.2.h.i of this Section and including the information required by Clause E.2.h.iv of

this Section. If the financial test is provided to demonstrate both assurance for closure and liability coverage, a single letter to cover both forms of financial assurance is required;

(b). a copy of the report of the independent certified public accountant (CPA) on the financial statements of the affected person or parent corporation of the affected person for the latest completed fiscal year; and

(c). a special report from the independent CPA to the affected person or parent corporation of the affected person stating that:

(i). the CPA has computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements; and

(ii). in connection with that procedure, no matters came to his attention that caused him to believe that the specified data should be adjusted.

iii. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor) or affected person. The affected person or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

iv. The affected person or parent corporation (if a corporate guarantor) of the affected person shall provide to the Office of Environmental Services a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:IX.7395.Appendix I, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The letter shall certify the following information:

(a). a list of facilities, whether in the state of Louisiana or not, owned or operated by the affected person of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

(b). a list of facilities, whether in the state of Louisiana or not, owned or operated by the affected person, for which financial assurance for the closure is demonstrated through the use of a financial test or self-insurance by the affected person, including the cost estimates for the closure of each facility;

(c). a list of the facilities, whether in the state of Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure for each facility and the amount of annual aggregate liability coverage for each facility; and

(d). a list of facilities, whether in the state of Louisiana or not, for which financial assurance for closure is not demonstrated through the financial test, self-insurance, or other substantially equivalent state instruments, including the estimated cost of closure of such facilities.

v. For the purposes of this Subsection the phrase *tangible net worth* shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

vi. The phrase *current closure cost estimate*, as used in Clause E.2.h.i of this Section, includes the cost estimate required to be shown in Division E.2.h.i.(a).(i) of this Section.

vii. After initial submission of the items specified in Clause E.2.h.ii of this Section, the affected person or parent corporation of the affected person must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Clause E.2.h.ii of this Section.

viii. The administrative authority may, on the basis of a reasonable belief that the affected person or parent corporation of the affected person may no longer meet the requirements of this Subparagraph, require reports of financial condition at any time in addition to those specified in Clause E.2.h.ii of this Section. If the administrative authority finds, on the basis of such reports or other information, that the affected person or parent corporation of affected person no longer meets the requirements of Clause E.2.h.ii of this Section, the affected person or parent corporation of the affected person must provide alternate financial assurance as specified in this Subsection within 30 days after notification of such a finding.

ix. An affected person may meet the requirements of this Subparagraph for closure by obtaining a written guarantee, hereafter referred to as a *corporate guarantee*. The guarantor must be the parent corporation of the affected person. The guarantor must meet the requirements and submit all information required for affected persons in Clauses E.2.h.i-viii of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Clauses E.2.h.ii and iv of this Section. The wording of the corporate guarantee must be identical to the wording in LAC 33:IX.7395.Appendix J, except that instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

(a). the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting

requirements for guarantors as specified in Clauses E.2.h.ii and iv of this Section;

(b). the guarantor is the parent corporation of the affected person of the facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

(c). *closure plans*, as used in the guarantee, refers to the plans maintained as required by the state of Louisiana regulations for the closure of facilities, as identified in the guarantee;

(d). for value received from the affected person, the guarantor guarantees to the Office of Environmental Services that the affected person will perform closure of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the affected person fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph E.2.c of this Section, in the name of the affected person, in the amount of the current closure cost estimate or as specified in Clause E.2.b.ii of this Section;

(e). the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services and to the affected person that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the affected person, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the affected person has done so;

(f). the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

(g). the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that the guarantor is disallowed from continuing as a guarantor of closure, the guarantor will establish alternate financial assurance as specified in this Subsection in the name of the affected person, unless the affected person has done so;

(h). the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure, or any other modification or alteration of an obligation of the affected person in accordance with these regulations;

(i). the guarantor agrees to remain bound under the guarantee for as long as the affected person must comply with the applicable financial assurance requirements of this Subsection for the facilities covered by the corporate guarantee, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services and the affected person. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the affected person, as evidenced by the return receipts;

(j). the guarantor agrees that if the affected person fails to provide alternative financial assurance as specified in this Subsection, and to obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the affected person; and

(k). the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the affected person. The guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit.

i. Local Government Financial Test. An affected person that is a local government and that satisfies the requirements of Clauses E.2.i.i-iii of this Section may demonstrate financial assurance up to the amount specified in Clause E.2.i.iv of this Section.

i. Financial Component

(a). The affected person must satisfy the following conditions, as applicable:

(i). if the affected person has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, he must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds; or

(ii). the affected person must have a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05 and a ratio of annual debt service to total expenditures less than or equal to 0.20 based on the affected person's most recent audited annual financial statement.

(b). The affected person must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have the financial statements audited by an independent certified public accountant (or appropriate state agency).

(c). A local government is not eligible to assure its obligations under this Subparagraph if it:

(i). is currently in default on any outstanding general obligation bonds;

(ii). has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

(iii). operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

(iv). receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subclause E.2.i.i.(b) of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

(d). The following terms used in this Paragraph are defined as follows.

(i). *Deficit*—total annual revenues minus total annual expenditures.

(ii). *Total Revenues*—revenues from all taxes and fees, but not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(iii). *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

(iv). *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(v). *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

ii. Public Notice Component. The local government affected person must place a reference to the closure costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of sewage sludge, other feedstock, or supplements at the facility, whichever is later. Disclosure must include the nature and source of closure requirements, the reported liability at the balance sheet date, and the estimated total closure cost remaining to be recognized. For closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

iii. Recordkeeping and Reporting Requirements

(a). The local government affected person must place the following items in the facility's operating record:

(i). a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Clause E.2.i.iv of this Section. It must provide evidence that the local government meets the conditions of Subclauses E.2.i.i.(a)-(c) of this Section, and certify that the local government meets the conditions of Subclauses E.2.i.i.(a)-(c) and Clauses E.2.i.ii and iv of this Section;

(ii). the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years, and unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor, who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

(iii). a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed-upon procedures engagement relative to the financial ratios required by Division E.2.i.i.(a).(i) of this Section, if applicable, and the requirements of Subclause E.2.i.i.(b) and Divisions E.2.i.i.(c).(i)-(iv) of this Section. The report by the certified public accountant or state agency should state the procedures performed and the findings of the certified public accountant or state agency; and

(iv). a copy of the comprehensive annual financial report (CAFR) used to comply with Clause E.2.i.ii of this Section (certification that the requirements of *General Accounting Standards Board Statement 18* have been met).

(b). The items required in Subclause E.2.i.iii.(a) of this Section must be placed in the facility operating record, in the case of closure, either before the effective date of this Section or prior to the initial receipt of sewage sludge, other feedstock, or supplements at the facility, whichever is later.

(c). After the initial placement of the items in the facility's operating record, the local government affected person must update the information and place the updated information in the operating record within 180 days following the close of the affected person's fiscal year.

(d). The local government affected person is no longer required to meet the requirements of Subclause E 2.i.iii.(c) of this Section when:

(i). the affected person substitutes alternate financial assurance, as specified in this Section; or

(ii). the affected person is released from the requirement of maintaining financial assurance in accordance with this Section.

(e). A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government affected person no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the affected person's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services that the affected person no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(f). The administrative authority, based on a reasonable belief that the local government affected person

may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the affected person no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

iv. Calculation of Costs to be Assured. The portion of the closure and corrective action costs that a local government affected person can assure under Subparagraph E.2.i of this Section is determined as follows:

(a). if the local government affected person does not assure other environmental obligations through a financial test, it may assure closure and corrective action costs that equal up to 43 percent of the local government's total annual revenue; or

(b). if the local government assures other environmental obligations through a financial test, including those associated with underground injection control (UIC) facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, or hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, or any applicable corresponding state program, it must add those costs to the closure and corrective action costs it seeks to assure under this Subparagraph, and the total that may be assured must not exceed 43 percent of the local government's total annual revenue; and

(c). the affected person must obtain an alternate financial assurance instrument for those costs that exceed the limits set in this Clause.

j. Local Government Guarantee. An affected person may demonstrate financial assurance for closure, as required by this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subparagraph E.2.i of this Section, and must comply with the terms of a written guarantee.

i. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of sewage sludge, other material, feedstock, or supplements or before the effective date of this Section, whichever is later, in the case of closure. The guarantee must provide that:

(a). if the affected person fails to perform closure of a facility covered by the guarantee, the guarantor will:

(i). perform closure, or pay a third party to perform closure; or

(ii). establish a fully funded trust fund as specified in Subparagraph E.2.c of this Section in the name of the affected person; and

(b). the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the affected person and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the affected person and the administrative authority, as evidenced by the return receipts. If a guarantee is canceled, the affected person must, within 90 days following receipt of the cancellation notice by the affected person and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services. If the affected person fails to provide alternate financial assurance within the 90-day period, then the guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services.

ii. Recordkeeping and Reporting

(a). The affected person must place a certified copy of the guarantee, along with the items required under Clause E.2.i.iii of this Section, into the facility's operating record before the initial receipt of sewage sludge, other material, feedstock, or supplements or before the effective date of this Section, whichever is later.

(b). The affected person is no longer required to maintain the items specified in Subclause E.2.j.ii.(a) of this Section when:

(i). the affected person substitutes alternate financial assurance as specified in this Section; or

(ii). the affected person is released from the requirement of maintaining financial assurance in accordance with this Section.

(c). If a local government guarantor no longer meets the requirements of Subparagraph E.2.i of this Section, the affected person must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services. If the affected person fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

k. Use of Multiple Instruments. An affected person may demonstrate financial assurance for closure and corrective action, as required by this Section, by establishing more than one financial mechanism per facility, except that instruments guaranteeing performance, rather than payment, may not be combined with other instruments. The instruments must be as specified in Subparagraphs E.2.c-h of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure and/or corrective action may be provided by a combination of instruments, rather than a single mechanism.

l. Discounting. The administrative authority may allow discounting of closure cost estimates in this Subsection up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

i. the administrative authority determines that cost estimates are complete and accurate and the affected person has submitted a statement from a registered professional engineer to the Office of Environmental Services so stating;

ii. the state finds the facility in compliance with applicable and appropriate permit conditions;

iii. the administrative authority determines that the closure date is certain and the affected person certifies that there are no foreseeable factors that will change the estimate of site life; and

iv. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

F. Incapacity of Affected Persons, Guarantors, or Financial Institutions

1. All affected persons subject to this Section must notify the Office of Environmental Services by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the affected person as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in Subparagraph D.1.d or Clause E.2.h.ix of this Section must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee set forth in LAC 33:IX.7395.Appendix J.

2. An affected person who fulfills the requirements of Subsection D or E of this Section by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The affected person must establish other financial assurance or liability coverage within 60 days after such an event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2386 (November 2007), LR 35:931 (May 2009) , LR 37:2995 (October 2011).

§7309. Pathogens and Vector Attraction Reduction

A. Scope. This Section contains the following:

1. the requirements for a sewage sludge to be classified either as Exceptional Quality or Class B biosolids with respect to pathogens;

2. the site restrictions for land on which Class B biosolids are applied; and

3. the alternative vector attraction reduction requirements for biosolids that are applied to the land.

B. Special Definitions. In addition to the terms referenced and defined at LAC 33:IX.7301.B, the following definitions apply to this Section.

Aerobic Digestion—the biochemical decomposition of organic matter in sewage sludge into carbon dioxide and water by microorganisms in the presence of air.

Anaerobic Digestion—the biochemical decomposition of organic matter in sewage sludge into methane gas and carbon dioxide by microorganisms in the absence of air.

Density of Microorganisms—the number of microorganisms per unit mass of total solids (dry weight) in the sewage sludge.

Land with a High Potential for Public Exposure—land that the public uses frequently. This includes, but is not limited to, a public contact site and a reclamation site located in a populated area (e.g., a construction site located in a city).

Land with a Low Potential for Public Exposure—land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest, and a reclamation site located in an unpopulated area (e.g., a strip mine located in a rural area).

Pathogenic Organisms—disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

pH—the logarithm of the reciprocal of the hydrogen ion concentration measured at 25°C or measured at another temperature and then converted to an equivalent value at 25°C.

Specific Oxygen Uptake Rate (SOUR)—the mass of oxygen consumed per unit time per unit mass of total solids (dry weight basis) in the sewage sludge.

Total Solids—the materials in sewage sludge that remain as residue when the sewage sludge is dried to a constant weight at 103° to 105°C.

Unstabilized Solids—organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Vector Attraction—the characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

Volatile Solids—the amount of the total solids in sewage sludge lost when the sewage sludge is combusted at 550°C in the presence of excess air.

C. Pathogens

1. Exceptional Quality Biosolids

a. The requirement in Subparagraph C.1.b of this Section, and the requirements in Subparagraph C.1.c, d, e, f, g, or h of this Section, must be met for biosolids classified as Exceptional Quality biosolids with respect to pathogens.

b. The Exceptional Quality biosolids pathogen requirements in Subparagraphs C.1.c-h of this Section must

be met either prior to meeting or at the same time that the vector attraction reduction requirements in Subsection D of this Section, except the vector attraction reduction requirements in Subparagraphs D.2.d-e.ii of this Section, are met.

c. Exceptional Quality Biosolids—Alternative 1

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. The temperature of the sewage sludge that is used or disposed shall be maintained at a specific value for a period of time, as follows.

(a). When the percent solids of the sewage sludge is 7 percent or higher, the temperature of the sewage sludge shall be 50°C or higher, the time period shall be 20 minutes or longer, and the temperature and time period shall be determined using Equation (2), except when small particles of sewage sludge are heated by either warmed gases or an immiscible liquid.

$$D = \frac{131{,}700{,}000}{10^{0.140t}} \qquad \text{Equation (2)}$$

where:

D = time in days
t = temperature in degrees Celsius

(b). When the percent solids of the sewage sludge is 7 percent or higher and small particles of sewage sludge are heated by either warmed gases or an immiscible liquid, the temperature of the sewage sludge shall be 50°C or higher, the time period shall be 15 seconds or longer, and the temperature and time period shall be determined using Equation (2).

(c). When the percent solids of the sewage sludge is less than 7 percent and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using Equation (2).

(d). When the percent solids of the sewage sludge is less than 7 percent, the temperature of the sewage sludge is 50˚C or higher, and the time period is 30 minutes or longer, the temperature and time period shall be determined using Equation (3).

$$D = \frac{50{,}070{,}000}{10^{0.140t}} \qquad \text{Equation (3)}$$

where:

D = time in days
t = temperature in degrees Celsius

d. Exceptional Quality Biosolids—Alternative 2

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. pH and Temperature Standards

(a). The pH of the sewage sludge that is used or disposed shall be raised to above 12 and shall remain above 12 for 72 hours.

(b). The temperature of the sewage sludge shall be above 52˚C for 12 hours or longer during the period that the pH of the sewage sludge is above 12.

(c). At the end of the 72-hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

e. Exceptional Quality Biosolids—Alternative 3

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains enteric viruses.

(a). When the density of enteric viruses in the sewage sludge prior to pathogen treatment is less than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to enteric viruses until the next monitoring episode for the sewage sludge.

(b). When the density of enteric viruses in the sewage sludge prior to pathogen treatment is equal to or greater than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to enteric viruses when the density of enteric viruses in the sewage sludge after pathogen treatment is less than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the enteric virus density requirement are documented.

(c). After the enteric virus reduction in Subclause C.1.e.ii.(b) of this Section is demonstrated for the pathogen treatment process, the sewage sludge continues to be Exceptional Quality biosolids with respect to enteric viruses when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in Subclause C.1.e.ii.(b) of this Section.

iii. The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains viable helminth ova.

(a). When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is less than 1 per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to viable helminth ova until the next monitoring episode for the sewage sludge.

(b). When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is equal to or greater than 1 per 4 grams of total solids (dry weight basis), the sewage sludge is Exceptional Quality biosolids with respect to viable helminth ova when the density of viable helminth ova in the sewage sludge after pathogen treatment is less than 1 per 4 grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the viable helminth ova density requirement are documented.

(c). After the viable helminth ova reduction in Subclause C.1.e.iii.(b) of this Section is demonstrated for the pathogen treatment process, the sewage sludge continues to be Exceptional Quality biosolids with respect to viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in Subclause C.1.e.iii.(b) of this Section.

f. Exceptional Quality Biosolids—Alternative 4

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. The density of enteric viruses in the biosolids shall be less than 1 Plaque-forming Unit per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids* as defined in LAC 33:IX.7301.B.

iii. The density of viable helminth ova in the biosolids shall be less than 1 per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

g. Exceptional Quality Biosolids—Alternative 5

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. Sewage sludge that is used or disposed shall be treated in one of the Processes to Further Reduce Pathogens described in LAC 33:IX.7399.B.

h. Exceptional Quality Biosolids—Alternative 6

i. Either the density of fecal coliform in the biosolids shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella sp*. bacteria in the biosolids shall be less than 3 Most Probable Number per 4 grams of total solids (dry weight basis) at the time the biosolids are used or disposed, at the time the biosolids are prepared for sale or to be given away in a bag or other container for application to the land, or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements of *Exceptional Quality biosolids*, as defined in LAC 33:IX.7301.B.

ii. Sewage sludge that is used or disposed shall be treated in a process that is equivalent to a Process to Further Reduce Pathogens that has been approved by the

Environmental Protection Agency's (EPA's) Pathogen Equivalency Committee.

iii. Requests for approval of alternative innovative processes, as a process that is equivalent to a Process to Further Reduce Pathogens, that have not yet been approved by the EPA's Pathogen Equivalency Committee shall initially be submitted to the administrative authority. The administrative authority shall then work with the EPA's Pathogen Equivalency Committee on the proper procedures for EPA's review of the request.

2. Class B Biosolids

a. The requirements in Subparagraph C.2.b, c, or d of this Section must be met for biosolids classified as Class B biosolids with respect to pathogens. The site restrictions in Subparagraph C.2.e of this Section must be met when biosolids that meet the Class B biosolids pathogen requirements in Subparagraph C.2.b, c, or d of this Section are applied to the land.

b. Class B Biosolids—Alternative 1

i. Seven representative samples of the biosolids that are used or disposed shall be collected.

ii. The geometric mean of the density of fecal coliform in the samples required by Clause C.2.b.i of this Section shall be less than either 2,000,000 Most Probable Number per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

c. Class B Biosolids—Alternative 2. Biosolids that are used or disposed shall be treated in one of the Processes to Significantly Reduce Pathogens described in LAC 33:IX.7399.A.

d. Class B Biosolids—Alternative 3. Biosolids that are used or disposed shall be treated in a process that is equivalent to a Process to Significantly Reduce Pathogens that has been approved by the EPA's Pathogen Equivalency Committee. Requests for approval of alternative innovative processes, as a process that is equivalent to a Process to Further Reduce Pathogens, that have not yet been approved by the EPA's Pathogen Equivalency Committee shall initially be submitted to the administrative authority. The administrative authority shall then work with the EPA's Pathogen Equivalency Committee on the proper procedures for EPA's review of the request.

e. Site Restrictions

i. Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of biosolids.

ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of biosolids when the biosolids remain on the land surface for four months or longer prior to incorporation into the soil.

iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of biosolids when the biosolids remain on the land surface for less than four months prior to incorporation into the soil.

iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of biosolids.

v. Animals shall not be grazed on the land for 30 days after application of biosolids.

vi. Turf grown on land where biosolids are applied shall not be harvested for one year after application of the biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.

vii. Public access to land with a high potential for public exposure shall be restricted for one year after application of biosolids, by means approved by the administrative authority.

viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of biosolids, by means approved by the administrative authority.

ix. Signs shall be posted at all entrances to the Class B biosolids land application site, having at the minimum the following content:

(a). the name of the land application site or facility;

(b). wording that indicates that the area is a biosolids land application site; and

(c). emergency contact telephone numbers.

D. Vector Attraction Reduction

1. Land Application Requirements

a. One of the vector attraction reduction requirements in Subparagraphs D.2.a-j of this Section shall be met when bulk biosolids are applied to agricultural land, forest, a public contact site, or a reclamation site.

b. One of the vector attraction reduction requirements in Subparagraphs D.2.a-h of this Section shall be met when bulk biosolids are applied to a lawn or a home garden.

c. One of the vector attraction reduction requirements in Subparagraphs D.2.a-h of this Section shall be met when biosolids are sold or given away in a bag or other container for application to the land.

2. Procedures to Attain Vector Attraction Reduction for Land Application

a. Volatile Solids Reduction

i. The mass of volatile solids in the biosolids shall be reduced by a minimum of 38 percent (see calculation procedures in *Environmental Regulations and Technology—Control of Pathogens and Vector Attraction in*

Sewage Sludge, EPA-625/R-92/013, 1992, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268).

ii. When the 38 percent volatile solids reduction requirement in Clause D.2.a.i of this Section cannot be met for an anaerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30˚ and 37˚C. When, at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent, vector attraction reduction is achieved.

iii. When the 38 percent volatile solids reduction requirement in Clause D.2.a.i of this Section cannot be met for an aerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge that has a percent solids of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20˚C. When at the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent, vector attraction reduction is achieved.

b. Specific Oxygen Uptake Rate (SOUR). The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20˚C.

c. Aerobic Treatment. Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40˚C and the average temperature of the sewage sludge shall be higher than 45˚C.

d. Alkaline Treatment. The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

e. Percent Solids. In order to attain vector attraction reduction through percent solids, either of the following must be met:

i. the percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials; or

ii. the percent solids of sewage sludge that does contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials.

f. Injection of Biosolids

i. Biosolids shall be injected below the surface of the land.

ii. No significant amount of biosolids shall be present on the land surface within one hour after the biosolids are injected.

iii. When the biosolids that are injected below the surface of the land are Exceptional Quality biosolids with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

g. Incorporation of Biosolids

i. Biosolids applied to the land surface shall be incorporated into the soil within six hours after application to the land, unless otherwise specified by the permitting authority.

ii. When biosolids that are incorporated into the soil are Exceptional Quality biosolids with respect to pathogens, the biosolids shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:806 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2395 (November 2007), LR 35:941 (May 2009).

§7311. Incineration

A. Applicability

1. This Section applies to a person who fires only sewage sludge or sewage sludge and *auxiliary fuel*, as defined in Subsection B of this Section, in a sewage sludge incinerator; to a *sewage sludge incinerator*, as defined in Subsection B of this Section; and to sewage sludge or sewage sludge and auxiliary fuel fired in a sewage sludge incinerator.

2. This Section applies to the exit gas from a sewage sludge incinerator stack.

B. Special Definitions. All terms not defined below shall have the meaning given them in LAC 33:IX.7301.B and in LAC 33:III.111.

Air Pollution Control Device—one or more processes used to treat the exit gas from a sewage sludge incinerator stack.

Auxiliary Fuel—fuel used to augment the fuel value of sewage sludge. This includes, but is not limited to, natural gas, fuel oil, coal, gas generated during anaerobic digestion of sewage sludge, and municipal solid waste (not to exceed 30 percent of the dry weight of sewage sludge and auxiliary fuel together). Hazardous wastes are not auxiliary fuel.

Average Daily Concentration—the arithmetic mean of the concentration of a pollutant in milligrams per kilogram of sewage sludge (dry weight basis) in the samples collected and analyzed in a month.

Control Efficiency—the mass of a pollutant in the sewage sludge fed to an incinerator minus the mass of that pollutant in the exit gas from the incinerator stack divided by the mass of the pollutant in the sewage sludge fed to the incinerator.

Dispersion Factor—the ratio of the increase in the ground level ambient air concentration for a pollutant at or beyond the property line of the site where the sewage sludge incinerator is located to the mass emission rate for the pollutant from the incinerator stack.

Fluidized Bed Incinerator—an enclosed device in which organic matter and inorganic matter in sewage sludge are combusted in a bed of particles suspended in the combustion chamber gas.

Hourly Average—the arithmetic mean of all measurements, taken during an hour. At least two measurements must be taken during the hour.

Incineration—the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

Incinerator Operating Combustion Temperature—the arithmetic mean of the temperature readings in the hottest zone of the furnace recorded in a day (24 hours) when the temperature is averaged and recorded at least hourly during the hours the incinerator operates in a day.

Monthly Average—the arithmetic mean of the hourly averages for the hours a sewage sludge incinerator operates during the month.

Performance Test Combustion Temperature—the arithmetic mean of the average combustion temperature in the hottest zone of the furnace for each of the runs in a performance test.

Risk Specific Concentration—the allowable increase in the average daily ground level ambient air concentration for a pollutant from the incineration of sewage sludge at or beyond the property line of the site where the sewage sludge incinerator is located.

Sewage Sludge Feed Rate—either the average daily amount of sewage sludge fired in all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located for the number of days in a 365-day period that each sewage sludge incinerator operates, or the average daily design capacity for all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located.

Sewage Sludge Incinerator—an enclosed device in which only sewage sludge or sewage sludge and auxiliary fuel are fired.

Stack Height—the difference between the elevation of the top of a sewage sludge incinerator stack and the elevation of the ground at the base of the stack when the difference is equal to or less than 214 feet (65 meters). When the difference is greater than 214 feet (65 meters), stack height is the creditable stack height determined in accordance with LAC 33:III.921.

Standard—a standard of performance proposed or promulgated under this Chapter.

Stationary Source—any building, structure, facility, or installation that emits or may emit any air pollutant.

Total Hydrocarbons—the organic compounds in the exit gas from a sewage sludge incinerator stack measured using a flame ionization detection instrument referenced to propane.

Wet Electrostatic Precipitator—an air pollution control device that uses both electrical forces and water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

Wet Scrubber—an air pollution control device that uses water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

C. General Requirements

1. No person shall fire sewage sludge or sewage sludge and auxiliary fuel in a sewage sludge incinerator except in compliance with the requirements in this Section.

2. Performance Tests for New Stationary Sources

a. Within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial start-up of such facility and at such other times as may be required by the administrative authority, the owner or operator of such facility shall conduct performance test(s) and furnish the administrative authority a written report of the results of such performance test(s).

b. Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained for each applicable requirement in Subsections D, E, and F of this Section, unless the administrative authority:

i. specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

ii. approves the use of an equivalent method;

iii. approves the use of an alternative method the results of which have been determined by the administrative authority to be adequate for indicating whether a specific source is in compliance;

iv. waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means, to the administrative authority's satisfaction, that the affected facility is in compliance with the standard; or

v. approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this Subparagraph shall be construed to abrogate the administrative authority’s right to require additional testing if deemed necessary for proper determination of the standard of performance of the new stationary source.

c. Performance tests shall be conducted under such conditions as the administrative authority shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the administrative authority such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of start-up, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

d. The owner or operator of an affected facility shall provide the administrative authority at least 30 days prior notice of any performance test, except as otherwise specified in this Subsection, to afford the administrative authority the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the administrative authority as soon as possible of any delay in the original test date either by providing at least seven days prior notice of the rescheduled date of the performance test or by arranging a rescheduled date with the administrative authority by mutual agreement.

e. The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

i. sampling ports adequate for test methods applicable to such facility, including:

(a). constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and

(b). providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

ii. safe sampling platform(s);

iii. safe access to sampling platform(s); and

iv. utilities for sampling and testing equipment.

f. Unless otherwise specified in the applicable parts of this Paragraph, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner’s or operator's control, compliance may, upon the administrative authority's approval, be determined using the arithmetic mean of the results of the two other runs.

3. In conducting the performance tests required in Paragraph C.2 of this Section, the owner or operator shall use as reference methods and procedures the test methods referenced in LAC 33:IX.7301.I or other methods and procedures as specified in this Section, except as provided for in Subparagraph C.2.b of this Section.

4. The owner or operator of any sewage sludge incinerator subject to the provisions of this Chapter shall conduct a performance test during which the monitoring and recording devices required under Paragraphs F.2, 4, and 6, Subparagraph F.8.a, and Paragraph F.9 of this Section are installed and operating and for which the sampling and analysis procedures required under Subparagraph G.1.d of this Section are performed as follows.

a. For incinerators that commenced construction or modification:

i. on or before April 18, 1986, the performance test shall be conducted within 360 days of the effective date of these regulations, unless the monitoring and recording devices required under Paragraphs F.2, 4, and 6, Subparagraph F.8.a, and Paragraph F.9 of this Section were installed and operating and the sampling and analysis procedures required under Subparagraph G.1.d of this Section were performed during the most recent performance test and a record of the measurements taken during the performance test is available for review by the administrative authority; and

ii. on or after the effective date of these regulations, the date of the performance test shall be determined by the requirements in Paragraph C.2 of this Section.

b. The owner or operator shall provide the administrative authority at least 30 days prior notice of the performance test to afford the administrative authority the opportunity to have an observer present.

5. The owner or operator of any sewage sludge incinerator, other than a multiple hearth, fluidized bed, or electric incinerator or any sewage sludge incinerator equipped with a control device other than a wet scrubber, shall submit a plan to the administrative authority for approval for monitoring and recording incinerator and control device operation parameters. The plan shall be submitted to the administrative authority as follows:

a. no later than 90 days after October 6, 1988, for sources that have provided notification of commencement of construction prior to October 6, 1988;

b. no later than 90 days after the notification of commencement of construction, for sources that provide notification of commencement of construction on or after October 6, 1988; and

c. at least 90 days prior to the date on which the new control device becomes operative for sources switching to a control device other than a wet scrubber.

D. Pollutant Limits

1. Firing of sewage sludge in a sewage sludge incinerator shall not violate the requirements in the national emission standard for beryllium in Subpart C of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116).

2. Firing of sewage sludge in a sewage sludge incinerator shall not violate the requirements in the national emission standard for mercury in Subpart E of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116).

3. Pollutant Limit—Lead

a. The average daily concentration for lead in sewage sludge fed to a sewage sludge incinerator shall not exceed the concentration calculated using Equation (4).

$$C = \frac{0.1 \times NAAQS \times 86{,}400}{DF \times (1 - CE) \times SF} \qquad \text{Equation (4)}$$

where:

C = average daily concentration of lead in sewage sludge
NAAQS = National Ambient Air Quality Standard for lead in micrograms per cubic meter
DF = dispersion factor in micrograms per cubic meter per gram per second
CE = sewage sludge incinerator control efficiency for lead in hundredths
SF = sewage sludge feed rate in metric tons per day (dry weight basis)

b. The dispersion factor (DF) in Equation (4) shall be determined from an air dispersion model in accordance with Paragraph D.5 of this Section.

i. When the sewage sludge stack height is 214 feet (65 meters) or less, the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for Equation (4).

ii. When the sewage sludge incinerator stack height exceeds 214 feet (65 meters), the creditable stack height shall be determined in accordance with LAC 33:III.921, and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for Equation (4).

c. The control efficiency (CE) for Equation (4) shall be determined from a performance test of the sewage sludge incinerator in accordance with Paragraph D.5 of this Section.

4. Pollutant Limit—Arsenic, Cadmium, Chromium, and Nickel

a. The average daily concentration for arsenic, cadmium, chromium, and nickel in sewage sludge fed to a sewage sludge incinerator each shall not exceed the concentration calculated using Equation (5).

$$C = \frac{RSC \times 86{,}400}{DF \times (1 - CE) \times SF} \qquad \text{Equation (5)}$$

where:

C = average daily concentration of arsenic, cadmium, chromium, or nickel in sewage sludge
CE = sewage sludge incinerator control efficiency for arsenic, cadmium, chromium, or nickel in hundredths
DF = dispersion factor in micrograms per cubic meter per gram per second
RSC = risk-specific concentration for arsenic, cadmium, chromium, or nickel in micrograms per cubic meter
SF = sewage sludge feed rate in metric tons per day (dry weight basis)

b. The risk-specific concentrations for arsenic, cadmium, and nickel used in Equation (5) shall be obtained from Table 1 of LAC 33:IX.7311.D.

Table 1 of LAC 33:IX.7311.D
Risk-Specific Concentration for Arsenic, Cadmium, and Nickel

Pollutant	Risk-Specific Concentration (micrograms per cubic meter)
Arsenic	0.023
Cadmium	0.057
Nickel	2.0

c. The risk-specific concentration for chromium used in Equation (5) shall be obtained from Table 2 of LAC 33:IX.7311.D or shall be calculated using Equation (6).

Table 2 of LAC 33:IX.7311.D
Risk-Specific Concentration For Chromium

Type of Incinerator	Risk-Specific Concentration (micrograms per cubic meter)
Fluidized bed with wet scrubber	0.65
Fluidized bed with wet scrubber and wet electrostatic precipitator	0.23
Other types with wet scrubber	0.064
Other types with wet scrubber and wet electrostatic precipitator	0.016

$$RSC = \frac{0.0085}{r} \qquad \text{Equation (6)}$$

where:

RSC = risk-specific concentration for chromium in micrograms per cubic meter used in Equation (5)
r = decimal fraction of the hexavalent chromium concentration in the total chromium concentration measured in the exit gas from the sewage sludge incinerator stack in hundredths

d. The dispersion factor (DF) in Equation (5) shall be determined from an air dispersion model in accordance with Paragraph D.5 of this Section.

i. When the sewage sludge incinerator stack height is equal to or less than 214 feet (65 meters), the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for Equation (5).

ii. When the sewage sludge incinerator stack height is greater than 214 feet (65 meters), the creditable stack height shall be determined in accordance with LAC 33:III.921 and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for Equation (5).

e. The control efficiency (CE) for Equation (5) shall be determined from a performance test of the sewage sludge incinerator in accordance with Paragraph D.5 of this Section.

5. Air Dispersion Modeling and Performance Testing

a. The air dispersion model used to determine the dispersion factor in Subparagraphs D.3.b and 4.d of this Section shall be appropriate for the geographical, physical, and population characteristics at the sewage sludge incinerator site. The performance test used to determine the control efficiencies in Subparagraphs D.3.c and 4.e of this Section shall be appropriate for the type of sewage sludge incinerator.

b. For air dispersion modeling initiated after September 3, 1999, the modeling results shall be submitted to the administrative authority 30 days after completion of the modeling. In addition to the modeling results, the submission shall include a description of the air dispersion model and the values used for the model parameters.

c. The following procedures, at a minimum, shall apply in conducting performance tests to determine the control efficiencies in Subparagraphs D.3.c and 4.e of this Section after September 3, 1999:

i. the performance test shall be conducted under representative sewage sludge incinerator conditions at the highest expected sewage sludge feed rate within the design capacity of the sewage sludge incinerator;

ii. the administrative authority shall be notified at least 30 days prior to any performance test so the administrative authority may have the opportunity to observe the test. The notice shall include a test protocol with incinerator operating conditions and a list of test methods to be used; and

iii. each performance test shall consist of three separate runs using the applicable test method. The control efficiency for a pollutant shall be the arithmetic mean of the control efficiencies for the pollutant from the three runs.

d. The pollutant limits in Paragraphs D.3 and 4 of this Section shall be submitted to the administrative authority no later than 30 days after completion of the air dispersion modeling and performance test.

e. Significant changes in geographic or physical characteristics at the incinerator site or in incinerator operating conditions require new air dispersion modeling or performance testing to determine a new dispersion factor or a new control efficiency that will be used to calculate revised pollutant limits.

6. Standards for Particulate Matter

a. No owner or operator of any sewage sludge incinerator subject to the provisions of this Section shall discharge or cause the discharge into the atmosphere of:

i. particulate matter at a rate in excess of 0.65 g/kg dry sewage sludge input (1.30 lb/ton dry sewage sludge input); and

ii. any gases that exhibit 20 percent opacity or greater.

b. The owner or operator of a sewage sludge incinerator shall determine compliance with the particulate matter emission standards in Subparagraph D.6.a of this Section as follows:

i. the emission rate (E) of particulate matter for each run shall be computed using the following equation:

$$E = (C_s Q_{sd})/KS$$

where:

E	= emission rate of particulate matter, g/kg (lb/ton) of dry sewage sludge input
C_s	= concentration of particulate matter, g/dscm (g/dscf)
Q_{sd}	= volumetric flow rate of effluent gas, dscm/hr (dscf/hr)
S	= charging rate of dry sewage sludge during the run, kg/hr (lb/hr)
K	= conversion factor, 1.0 g/g [4.409 lb^2/(g-ton)]

ii. Method 5 (40 CFR Part 60, Appendix A-3, incorporated by reference in LAC 33:III.3003) shall be used to determine the particulate matter concentration (C_s) and the volumetric flow rate (Q_{sd}) of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 0.90 dscm (31.8 dscf);

iii. the dry sewage sludge charging rate (S) for each run shall be computed using either of the following equations:

$$S = K_m S_m R_{dm}/\Theta$$
$$S = K_v S_v R_{dv}/\Theta$$

where:

S	= charging rate of dry sewage sludge, kg/hr (lb/hr)
S_m	= total mass of sewage sludge charged, kg (lb)
R_{dm}	= average mass of dry sewage sludge per unit mass of sludge charged, mg/mg (lb/lb)

Θ	= duration of run, in minutes
K_m	= conversion factor, 60 min/hr
S_v	= total volume of sewage sludge charged, m^3 (gal)
R_{dv}	= average mass of dry sewage sludge per unit volume of sewage charged, mg/Liter (lb/ft^3)
K_v	= conversion factor, 60 X 10^{-3} (liter-kg-min)/(m^3-mg-hr) [8.021 (ft^3-min)/(gal-hr)]

iv. the flow measuring device of Paragraph F.2 of this Section shall be used to determine the total mass (S_m) or volume (S_v) of sewage sludge charged to the incinerator during each run. If the flow measuring device is on a time rate basis, readings shall be taken and recorded at 5-minute intervals during the run and the total charge of sewage sludge shall be computed using the following equations, as applicable:

$$S_m = \sum_{i=1}^{n} Q_{mi} / \Theta_i$$

$$S_v = \sum_{i=1}^{n} Q_{vi} / \Theta_i$$

where:

Q_{mi}	= average mass flow rate calculated by averaging the flow rates at the beginning and end of each interval "i", kg/min (gal/min)
Q_{vi}	= average volume flow rate calculated by averaging the flow rates at the beginning and end of each interval "i", m^3/min (gal/min)
θ_i	= duration of interval "i", min

v. samples of the sewage sludge charged to the incinerator shall be collected in nonporous jars at the beginning of each run and at approximately 1-hour intervals thereafter until the test ends, and Part 2540, G. Total, Fixed, and Volatile Solids in Solid and Semisolid Samples (the test method indicated in LAC 33:IX.7301.I.2.g) shall be used to determine dry sewage sludge content of each sample (total solids residue), except that:

(a). evaporating dishes shall be ignited to at least 103˚C rather than the 550˚C specified in Step 3(a)(1);

(b). determination of volatile residue, Step 3(b) may be deleted;

(c). the quantity of dry sewage sludge per unit sewage sludge charged shall be determined in terms of mg/Liter (lb/ft^3) or mg/mg (lb/lb); and

(d). the average dry sewage sludge content shall be the arithmetic average of all the samples taken during the run; and

vi. Method 9 (40 CFR 60, Appendix A-4, incorporated by reference in LAC 33:III.3003) shall be used to determine opacity.

E. Operational Standard—Total Hydrocarbons

1. The total hydrocarbons concentration in the exit gas from a sewage sludge incinerator shall be corrected for 0 percent moisture by multiplying the measured total hydrocarbons concentration by the correction factor calculated using Equation (7).

$$Correction\ factor\ (percent\ moisture) = \frac{1}{(1-X)} \qquad \text{Equation (7)}$$

where:

X	= decimal fraction of the percent moisture in the sewage sludge incinerator exit gas in hundredths

2. The total hydrocarbons concentration in the exit gas from a sewage sludge incinerator shall be corrected to 7 percent oxygen by multiplying the measured total hydrocarbons concentration by the correction factor calculated using Equation (8).

$$Correction\ factor\ (oxygen) = \frac{14}{(21-Y)} \qquad \text{Equation (8)}$$

where:

Y	= percent oxygen concentration in the sewage sludge incinerator stack exit gas (dry volume/dry volume)

3. The monthly average concentration for total hydrocarbons in the exit gas from a sewage sludge incinerator stack, corrected for 0 percent moisture using the correction factor from Equation (7) and to 7 percent oxygen using the correction factor from Equation (8), shall not exceed 100 parts per million on a volumetric basis when measured using the instrument required by Paragraph F.5 of this Section.

F. Management Practices

1. The owner or operator of a sewage sludge incinerator shall provide access to the sewage sludge charged so that a well-mixed representative grab sample of the sewage sludge can be obtained.

2. A flow measuring device that can be used to determine either the mass or volume of sewage sludge charged to the incinerator shall be installed, calibrated, maintained, and properly operated.

a. The flow measuring device shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

b. The flow measuring device shall be operated continuously and data recorded during all periods of operation of the incinerator, unless the administrative authority specifies otherwise.

3. A weighing device for determining the mass of any municipal solid waste charged to the incinerator when sewage sludge and municipal solid waste are incinerated together shall be installed, calibrated, maintained, and properly operated. The weighing device shall have an accuracy of ±5 percent over its operating range.

4. For incinerators equipped with a wet scrubbing device, a monitoring device that continuously measures and records the pressure drop of the gas flow through the wet scrubbing device shall be installed, calibrated, maintained, and properly operated.

a. Where a combination of wet scrubbers is used in series, the pressure drop of the gas flow through the combined system shall be continuously monitored.

b. The device used to monitor scrubber pressure drop shall be certified by the manufacturer to be accurate within ±250 pascals (±1 inch water gauge) and shall be calibrated on an annual basis in accordance with the manufacturer's instructions.

5. An instrument that continuously measures and records the total hydrocarbons concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator. The total hydrocarbons instrument shall employ a flame ionization detector, have a heated sampling line maintained at a temperature of 150˚C or higher at all times, and be calibrated at least once every 24-hour operating period using propane.

6. An instrument that continuously measures and records the oxygen concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

a. The oxygen monitoring device shall be located upstream of any rabble shaft cooling air inlet into the incinerator exhaust gas stream, fan, ambient air recirculation damper, or any other source of dilution air.

b. The oxygen monitoring device shall be certified by the manufacturer to have a relative accuracy of ±5 percent over its operating range and shall be calibrated according to method(s) prescribed by the manufacturer at least once each 24-hour operating period.

7. An instrument that continuously measures and records information used to determine the moisture content in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

8. An instrument that continuously records combustion temperature at every hearth in multiple hearth furnaces, in the bed and outlet of fluidized bed incinerators, and in the drying, combustion, and cooling zones of electric incinerators shall be installed, calibrated, maintained, and properly operated.

a. For multiple hearth furnaces, a minimum of one thermocouple shall be installed in each hearth in the cooling and drying zones, and a minimum of two thermocouples shall be installed in each hearth in the combustion zone.

b. For electric incinerators, a minimum of one thermocouple shall be installed in the drying zone and one in the cooling zone, and a minimum of two thermocouples shall be installed in the combustion zone.

c. Each temperature measuring device shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

d. Operation of a sewage sludge incinerator shall not cause the operating combustion temperature for the sewage sludge incinerator to exceed the performance test combustion temperature by more than 20 percent.

9. A device for measuring the fuel flow to the incinerator shall be installed, calibrated, maintained, and properly operated.

a. The fuel flow measuring device shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

b. The fuel flow measuring device shall be operated continuously and data recorded during all periods of operation of the incinerator, unless the administrative authority specifies otherwise.

10. An air pollution control device shall:

a. be appropriate for the type of sewage sludge incinerator, and the operating parameters for the air pollution control device shall be adequate to indicate proper performance of the air pollution control device; and

b. be operated so as not to cause a significant exceedance of the average value for the air pollution control device operating parameters from the performance test required by Subparagraphs D.3.c and 4.e of this Section, nor shall the operation of the air pollution control device violate any other requirements of this Section to which the air pollution control device is subjected.

11. The permittee shall collect and analyze sewage sludge fed to a sewage sludge incinerator for dry sludge content and volatile solids content using the method specified at Clause D.6.b.v of this Section, except that the determination of volatile solids, Step (3)(b) of the method, shall not be deleted.

12. Sewage sludge shall not be fired in a sewage sludge incinerator if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act, or its designated critical habitat.

13. The instruments required in Paragraphs F.2-9 of this Section shall be appropriate for the type of sewage sludge incinerator.

14. The administrative authority may exempt the owner or operator of any multiple hearth, fluidized bed, or electric sewage sludge incinerator from the daily sampling and analysis of sludge feed requirements in Paragraph F.11 and Subparagraph G.1.d of this Section and from the

recordkeeping requirement in Subparagraph H.2.p of this Section for the volatile solids content, only, of the sewage sludge charged to the incinerator during all periods of this incinerator following the performance test if:

a. the particulate matter emission rate measured during the performance test required under Paragraph C.4 of this Section is less than or equal to 0.38 g/kg of dry sewage sludge input (0.75 lb/ton); and

b. the administrative authority determines that the requirements will not be necessary to evaluate the effects upon the environment and human health resulting from the emissions from the sewage sludge incinerator.

G. Frequency of Monitoring. Except as specified otherwise in this Section, the frequency of monitoring shall be as follows.

1. Sewage Sludge

a. The frequency of monitoring for beryllium shall be as required in Subpart C of 40 CFR Part 61 (as incorporated by reference in LAC 33:III.5116), and for mercury as required in Subpart E of 40 CFR Part 61 (as incorporated by reference in LAC 33:III.5116).

b. The frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel in sewage sludge fed to a sewage sludge incinerator shall be the frequency in Table 1 of LAC 33:IX.7311.G.

Table 1 of LAC 33:IX.7311.G	
Frequency of Monitoring—Incineration	
Amount of Sewage Sludge[1] (metric tons per 365-day period)	**Frequency**
Greater than zero but less than 290	Once per year
Equal to or greater than 290 but less than 1,500	Once per quarter (4 times per year)
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (6 times per year)
Equal to or greater than 15,000	Once per month (12 times per year)
[1]Amount of sewage sludge fired in a sewage sludge incinerator (dry weight basis)	

c. After the sewage sludge has been monitored for two years at the frequency in Table 1 of LAC 33:IX.7311.G, the administrative authority may reduce the frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel.

d. The frequency of monitoring for dry sewage sludge content and volatile solids content of the sewage sludge shall be once per day, as a grab sample of the sewage sludge fed to the incinerator.

2. Total Hydrocarbons, Oxygen Concentration, Moisture Content, and Combustion Temperatures. The total hydrocarbons concentration and oxygen concentration in the exit gas from a sewage sludge incinerator stack, the information used to measure moisture content in the exit gas, and the combustion temperatures for the sewage sludge incinerator shall be monitored continuously.

3. Air Pollution Control Device Operating Parameters. Unless specified otherwise in this Chapter, the frequency of monitoring for the appropriate air pollution control device operating parameters shall be daily.

4. The frequency of monitoring shall be as specified in this Section for any performance testing or other sampling requirements not covered above. If the frequency of monitoring is not specified, then the frequency of monitoring shall be as specified by the administrative authority.

H. Recordkeeping

1. If the owner/operator of a sewage sludge incinerator is the person who prepares sewage sludge, the owner/operator of the sewage sludge incinerator shall keep a record of the annual production of sewage sludge (i.e., dry ton or dry metric tons) and of the sewage sludge management practice used and retain such record for a period of five years.

2. The owner/operator of a sewage sludge incinerator shall develop the following information and shall retain this information for five years:

a. the concentration of lead, arsenic, cadmium, chromium, and nickel in the sewage sludge fed to the sewage sludge incinerator;

b. the total hydrocarbons concentrations in the exit gas from the sewage sludge incinerator stack;

c. information that indicates the requirements in the national emission standard for beryllium in Subpart C of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116) are met;

d. information that indicates the requirements in the national emission standard for mercury in Subpart E of 40 CFR Part 61 (as incorporated by reference at LAC 33:III.5116) are met;

e. the operating combustion temperatures for the sewage sludge incinerator;

f. values for the air pollution control device operating parameters;

g. the oxygen concentration and information used to measure moisture content in the exit gas from the sewage sludge incinerator stack;

h. the sewage sludge feed rate;

i. the stack height for the sewage sludge incinerator;

j. the dispersion factor for the site where the sewage sludge incinerator is located;

k. the control efficiency for lead, arsenic, cadmium, chromium, and nickel for each sewage sludge incinerator;

l. the risk-specific concentration for chromium calculated using Equation (6), if applicable;

m. a calibration and maintenance log for the instruments used to measure the total hydrocarbons

concentration and oxygen concentration in the exit gas from the sewage sludge incinerator stack, the information needed to determine moisture content in the exit gas, and the combustion temperatures;

n. results of the particulate matter testing required in Subparagraph D.6.b of this Section;

o. for incinerators equipped with a wet scrubbing device, a record of the measured pressure drop of the gas flow through the wet scrubbing device, as required by Paragraph F.4 of this Section;

p. a record of the rate of sewage sludge fed to the incinerator, the fuel flow to the incinerator, and the total solids and volatile solids content of the sewage sludge charged to the incinerator; and

q. results of all applicable performance tests required in this Section.

I. Reporting

1. If the owner/operator of a sewage sludge incinerator is the person who prepares the sewage sludge, the owner/operator shall submit the information in Paragraph H.1 of this Section to the administrative authority on February 19 of each year.

2. The owner/operator of a sewage sludge incinerator shall submit the information in Subparagraphs H.2.a-q of this Section to the administrative authority on February 19 of each year.

3. In addition to the reporting requirements in Paragraphs I.1 and 2 of this Section, the owner/operator of any multiple hearth, fluidized bed, or electric sewage sludge incinerator subject to the provisions of this Chapter shall submit to the administrative authority on February 19 and August 19 of each year (semiannually) a report in writing that contains the following:

a. a record of average scrubber pressure drop measurements for each period of 15 minutes duration or more during which the pressure drop of the scrubber was less than, by a percentage specified below, the average scrubber pressure drop measured during the most recent performance test. The percent reduction in scrubber pressure drop for which a report is required shall be determined as follows:

i. for incinerators that achieved an average particulate matter emission rate of 0.38 kg/mg (0.75 lb/ton) dry sewage sludge input or less during the most recent performance test, a scrubber pressure drop reduction of more than 30 percent from the average scrubber pressure drop recorded during the most recent performance test shall be reported; and

ii. for incinerators that achieved an average particulate matter emission rate of greater than 0.38 kg/mg (0.75 lb/ton) dry sewage sludge input during the most recent performance test, a percent reduction in pressure drop greater than that calculated according to the following equation shall be reported:

$$P = -111E + 72.15$$

where:

P	= percent reduction in pressure drop
E	= average particulate matter emissions (kg/megagram)

b. a record of average oxygen content in the incinerator exhaust gas for each period of 1-hour duration or more that the oxygen content of the incinerator exhaust gas exceeds the average oxygen content measured during the most recent performance test by more than 3 percent.

4. The owner or operator of any multiple hearth, fluidized bed, or electric sewage sludge incinerator from which the average particulate matter emission rate measured during the performance test required at Paragraph C.4 of this Section exceeds 0.38 g/kg of dry sewage sludge input (0.75 lb/ton of dry sewage sludge input) shall include in the report for each calendar day that a decrease in scrubber pressure drop or increase in oxygen content of exhaust gas is reported, a record of the following:

a. scrubber pressure drop averaged over each 1-hour incinerator operating period;

b. oxygen content in the incinerator exhaust averaged over each 1-hour incinerator operating period;

c. temperatures of every hearth in multiple hearth incinerators, the bed and outlet of fluidized bed incinerators, and the drying, combustion, and cooling zones of electric incinerators averaged over each 1-hour incinerator operating period;

d. rate of sewage sludge charged to the incinerator averaged over each 1-hour incinerator operating period;

e. incinerator fuel use averaged over each 8-hour incinerator operating period; and

f. moisture and volatile solids content of the daily grab sample of sewage sludge charged to the incinerator.

5. The owner or operator of any sewage sludge incinerator other than a multiple hearth, fluidized bed, or electric incinerator or any sewage sludge incinerator equipped with a control device other than a wet scrubber shall include in the semiannual report a record of control device operation measurements, as specified in the plan approved under Paragraph C.5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:809 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2399 (November 2007).

§7313. Standard Conditions Applicable to All Sewage Sludge and Biosolids Use or Disposal Permits

A. General Conditions

1. Incorporation of Provisions. In accordance with the provisions of this Chapter all sewage sludge and biosolids use or disposal permits shall incorporate either expressly or by reference all conditions and requirements applicable to the preparation and use or disposal of sewage sludge set forth in the Louisiana Environmental Quality Act, as amended, as well as all applicable regulations.

2. Duty to Comply. The permittee must comply with all conditions of an issued final permit. Any permit noncompliance constitutes a violation of the Louisiana Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Enforcement Actions

a. The department may take enforcement action as prescribed by state law or regulation against any person who:

i. fails to submit a permit application as required by law;

ii. knowingly makes any false statement, representation, or certification in any application, record, report, or other document filed with the department pursuant to the Act or these regulations. Violations of this provision may subject the violator to the penalties provided for in the Act for perjury or false statements;

iii. fails to correct deficiencies in the permit application, or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the department, fails to promptly submit such facts or information;

iv. fails to take any necessary action to complete the permit issuance, such as payment of fees or publication of required notices; or

v. fails to comply with any condition of the permit.

b. In cases where an application for a sewage sludge and biosolids use or disposal permit is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services stating that no sewage sludge use or disposal practice or other activity that would require a permit from the Office of Environmental Services is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under this Paragraph.

4. Toxic Pollutants

a. If any sewage sludge use or disposal standard or prohibition is promulgated under this Chapter or Section 405 of the Clean Water Act for a pathogen or pollutant, or concerning vector attraction reduction, management practices, etc., and that standard or prohibition is more stringent than any applicable requirement in an existing permit, the administrative authority shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the sewage sludge use or disposal standard or prohibition.

b. The permittee shall comply with sewage sludge use or disposal standards or prohibitions established under this Chapter within the time frame provided in the regulations that establish these standards or prohibitions, even if the permit has not been modified to incorporate the requirement.

5. Duty to Reapply for an Individual Permit. If the permittee wishes to continue an activity regulated by an existing permit after the expiration date of that permit, the permittee must apply for and obtain a new permit. The new application shall be submitted at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the administrative authority. (The administrative authority shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) A permit that was issued in accordance with these regulations and that has expired shall be administratively continued until such time as a decision on an application to continue an activity under the permit has been issued by the administrative authority, if the application was received by the department at least 180 days prior to the permit expiration.

6. Permit Action. The conditions set forth in LAC 33:IX.2903, 2905, 2907, 3105, and 6509 as causes for modification, revocation and reissuance, and termination of a permit shall apply to permits issued in accordance with these regulations.

7. Property Rights. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to Provide Information. The permittee shall furnish to the administrative authority, within a reasonable time, any information that the administrative authority requests to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. The permittee shall also furnish to the administrative authority, upon request, copies of records required to be kept by the permit.

9. State Laws. Nothing in the permit shall be construed to preclude the institution of any legal action, or to relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.

10. Severability. If any provision of these regulations, or the application thereof, is held to be invalid, the remaining provisions of these regulations shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these regulations are declared to be severable.

11. Draft Permits. The conditions set forth in LAC 33:IX.3107 for draft permits shall also pertain to permits issued in accordance with these regulations.

12. Fact Sheet. A fact sheet shall be prepared for each draft permit issued in accordance with these regulations. The contents of the fact sheet shall include, but not be limited to, the following:

a. the name of the applicant;

b. the name of the facility;

c. the address of the facility;

d. the physical location of all facilities that are utilized to prepare sewage sludge or biosolids;

e. the physical location of all land application sites;

f. general and management practices;

g. soil and site restrictions;

h. monitoring, sampling and analysis, and reporting requirements; and

i. all other information that is pertinent to the facility and to the permitting process.

13. Public Notice of Permit Actions and Public Comment Period. The conditions set forth in LAC 33:IX.3113 and 6521 for public notices and the public comment period shall apply to all permits issued in accordance with these regulations.

14. Public Comments and Requests for Public Hearings. The conditions set forth in LAC 33:I.1505 and IX.3115 for public comments and requests for public hearings shall apply to all permits issued in accordance with these regulations.

15. Public Hearings. The conditions set forth in LAC 33:IX.3117 for public hearings shall apply to all permits issued in accordance with these regulations.

16. Obligations to Raise Issues and Provide Information during the Public Comment Period. The conditions set forth in LAC 33:IX.3119 for the obligations to raise issues and provide information during the public comment period shall apply to all permits issued in accordance with these regulations.

17. Reopening of the Public Comment Period. The conditions set forth in LAC 33:IX.3121 for reopening of the public comment period shall apply to all permits issued in accordance with these regulations.

18. Issuance of a Final Permit Decision. After the close of the public comment period under Paragraph A.13 of this Section for a draft permit, the administrative authority shall issue a final permit decision. The administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a sewage sludge and biosolids use or disposal permit. For the purposes of this Section a *final permit decision* means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

19. Response to Comments. The conditions set forth in LAC 33:IX.3125 for responding to comments shall apply to all permits issued in accordance with these regulations.

B. Proper Operation and Maintenance

1. Need to Halt or Reduce Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any sewage sludge use or disposal practice in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including putting into effect such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying practice.

3. Proper Operation and Maintenance

a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes employing adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

b. The permittee shall provide an adequate operating staff that is duly qualified to carry out operation and maintenance and other functions necessary to ensure compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and Entry. The conditions set forth in LAC 33:IX.2701.I for inspection and entry shall apply to all permits issued in accordance with these regulations.

2. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under LAC 33:IX.7301.I or, unless otherwise specified in 40 CFR Part 503, as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the sludge reporting form specified by the administrative authority.

3. Laboratory Accreditation

a. LAC 33:I.Chapters 45-59 provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide

chemical analyses, analytical results, or other test data to the department, by contract or by agreement, and the data is:

i. submitted on behalf of any facility, as defined in R.S. 30:2004;

ii. required as part of any permit application;

iii. required by order of the department;

iv. required to be included on any monitoring report submitted to the department;

v. required to be submitted by a contractor; or

vi. otherwise required by department regulations.

b. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department. Retesting and re-analyses by an accredited commercial laboratory will be required. Where retesting is not possible, the data generated will be considered invalid and in violation of the sewage sludge and biosolids use or disposal permit.

c. The regulations and guidelines on the environmental laboratory accreditation program and a list of laboratories that have applied for accreditation are available on the department's website. Questions concerning the program may be directed to the Office of Environmental Services.

D. Reporting Requirements

1. Facility Changes. The permittee shall give notice to the Office of Environmental Services as soon as possible of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Transfers. A permit is not transferable to any person except after notice to the Office of Environmental Services. The administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act. Except as provided in LAC 33:IX.2901.A, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Louisiana Environmental Quality Act.

4. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each schedule date.

5. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Paragraph D.4 of this Section at the time monitoring reports are submitted.

6. Other Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the administrative authority, it shall promptly submit the omitted facts or correct information.

7. Signatory Requirements. All applications, reports, or information submitted to the administrative authority shall be signed and certified.

a. All permit applications shall be signed as follows:

i. for a corporation—by a responsible corporate officer. For the purposes of this Section, a *responsible corporate officer* means:

(a). a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation. These responsible corporate officers are presumed to have the authority to sign permit applications unless the corporation has notified the administrative authority to the contrary; or

(b). the manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term compliance with environmental laws and regulations; the manager has the authority to ensure that the necessary systems are established or actions are taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals;

ii. for a partnership or sole proprietorship—by a general partner or the proprietor, respectively; or

iii. for a municipality or a state, federal, or other public agency—by either a principal executive officer or ranking elected official. For purposes of this Paragraph, a principal executive officer of a federal agency includes:

(a). the chief executive officer of the agency; or

(b). a senior executive officer having responsibility for the overall operations of a principal

geographic unit of the agency (e.g., a regional administrator of EPA).

b. All reports required by permits, and submission of other information requested by the administrative authority, shall be signed by a person described in Subparagraph D.7.a of this Section, or by a duly authorized representative of that person. For the purposes of this Subparagraph, a person is a *duly authorized representative* only if:

i. his or her authorization has been made in writing by a person described in Subparagraph D.7.a of this Section;

ii. the authorization specifies either an individual or a position now having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and

iii. the written authorization is submitted to the administrative authority.

c. Changes to Authorization. If an authorization under Subparagraph D.7.b of this Section is no longer accurate because a different individual or position now has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Subparagraph D.7.b of this Section must be submitted to the administrative authority prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under the provisions of Subparagraph D.7.a or b of this Section shall make the following certification.

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

8. Availability of Reports. All recorded information concerning permits and permit applications under this Chapter (completed permit application forms, fact sheets, draft permits, or any public document) not classified as confidential information under R.S. 30:2030(A) and 2074(D) and designated as such in accordance with LAC 33:IX.2323.A and C and LAC 33:IX.6503 shall be made available to the public for inspection and copying during normal working hours in accordance with the Public Records Act, R.S. 44:1 et seq. Claims of confidentiality for the following will be denied:

a. the name and address of any permit applicant or permittee;

b. permit applications, permits, and effluent data; and

c. information required by the sewage sludge and biosolids use or disposal permit application forms provided by the administrative authority. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2406 (November 2007), amended LR 35:941 (May 2009), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012).

Subchapter B. Appendices

§7395. Financial Assurances Documents—Appendices A, B, C, D, E, F, G, H, I, and J

[NOTE: Within this Section, *affected person* means a commercial preparer of sewage sludge or a commercial land applier of biosolids, as applicable.]

A. Appendix A—Liability Endorsement

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services

Dear Sir:

(A). This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be the affected person or the operator. (Note: The operator will provide the liability-insurance documentation only when the affected person is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial assurance is required in accordance with *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.A. The coverage applies at [list site identification number, site name, facility name, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are per occurrence, and annual aggregate, per site, exclusive of legal-defense costs.

(B). The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (1)-(5), below, are hereby amended to conform with Subclauses (1)-(5), below:

(1). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(2). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that

amount of any deductible for which coverage is demonstrated as specified in LAC 33:IX.7307.D.1.b-d.

(3). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(4). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(5). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

(C). Attached is the endorsement which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] of [address of the insured], this [date]. The effective date of said policy is [date].

(D). I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:IX.7395.Appendix A, effective on the date first written above and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the State of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

B. Appendix B—Certificate of Insurance

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services

Dear Sir:

(A). [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be the affected person or the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial assurance under *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.A. The coverage applies at [list agency interest number(s), site name(s), facility name(s), facility permit number(s), and site address(es)] for sudden and accidental occurrences. The limits of liability are each occurrence and annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

(B). The insurer further certifies the following with respect to the insurance described in Paragraph (A):

(1). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(2). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:IX.7307.D.1.b – d.

(3). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(4). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(5). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

(C). I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:IX.7395.Appendix B, as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the State of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

C. Appendix C—Letter of Credit

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No.[number] at the request and for the account of [affected person's name and address] for its [list site identification number(s), site name(s), facility name(s), and facility permit number(s)] at [location(s)], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars [amount] upon presentation of:

(A). A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [affected person's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to operations by the affected person at [site location(s)] as set forth in the *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.A.

(B). A sight draft bearing reference to the Letter of Credit No. [number] drawn by the governmental body, person, or other entity, in whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph (A).

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of affected person] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available

upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of affected person] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of affected person] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:IX.7395.Appendix C, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

D. Appendix D—Trust Agreement

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

TRUST AGREEMENT/STANDBY TRUST AGREEMENT

This Trust Agreement (the "Agreement") is entered into as of [date] by and between [name of affected person], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the State of Louisiana, has established certain regulations applicable to the Grantor, requiring that an affected person shall provide assurance that funds will be available when needed for closure of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term "Grantor" means the affected person who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term "Trustee" means the Trustee who enters into this Agreement and any successor trustee.

(c). The term "Secretary" means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term "Administrative Authority" means the Secretary or a person designated by him to act therefor.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the agency interest number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims or closure care] of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims or closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government.

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee by certified mail, 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the State of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7395.Appendix D, on the date first written above.

WITNESSES:
_____
_____

GRANTOR:
_____
By: _____
Its: _____
[Seal]

TRUSTEE:
_____
By: _____
Its: _____
[Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20_____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

_____
Notary Public

(The following is an example of the certification of acknowledgement that must accompany the trust agreement.)

STATE OF LOUISIANA
PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20_____, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their name as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:
_____
_____
_____
NOTARY PUBLIC

E. Appendix E—Surety Bond

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

FINANCIAL GUARANTEE BOND

Date bond was executed:_____
Effective date:_____
Principal: [legal name and business address of affected person]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:_____
Surety: [name and business address]
[agency interest number, site name, facility name, facility permit number, and current closure amount(s) for each facility guaranteed by this bond]
Total penal sum of bond: $_____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and specifically Section 2074(B)(4), to have a permit in order

to own or operate the [insert type of permitted operation] identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.E.2.d.ii, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:IX.7307.D or E and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety,

THEN, this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety has received written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.7307.E.2.d.vi and the conditions of the permit so that it guarantees a new closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the State of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.7395.Appendix E, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate Seal]

CORPORATE SURETIES
[Name and Address]
State of incorporation: _____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: $_____

F. Appendix F—Performance Bond

[Insert, as applicable: “COMMERCIAL PREPARER OF SEWAGE SLUDGE” or “COMMERCIAL LAND APPLIER OF BIOSOLIDS”]

PERFORMANCE BOND

Date bond was executed:_____
Effective date:_____
Principal: [legal name and business address of affected person]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:_____
Surety: [name(s) and business address(es)]
[agency interest number, site name, facility name, facility permit number, facility address, and closure amount(s) for each facility guaranteed by this bond]
Total penal sum of bond: $_____
Surety's bond number: _____

Know All Persons by These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and specifically Section 2074(B)(4), to have a permit in order to own or operate the [insert type of permitted operation] identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.E and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the LAC 33:IX.7305.C.3, or of its permit for the facility for which this bond guarantees performance of closure, the Surety shall either perform closure in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance, as specified in LAC 33:IX.7307.E.2.e.iii.(b), and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:IX.7307.E.2.d.vi and the conditions of the permit so that it guarantees a new closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the State of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:IX.7395.Appendix F, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY
[Name and address]
State of incorporation: _____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: $_____

G. Appendix G—Letter of Credit

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [affected person's name and address] for the closure fund for its [list agency interest number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars $_____ upon presentation of:

(i). A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

(ii). A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of affected person] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of affected person], as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of affected person] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"] , shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7395.Appendix G, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

H. Appendix H—Certificate of Insurance

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

CERTIFICATE OF INSURANCE FOR CLOSURE

Name and Address of Insurer: _____
(hereinafter called the "Insurer")
Name and Address of Insured: _____
(hereinafter called the "Insured")
(Note: Insured must be the affected person.)
Facilities covered: [list the agency interest number(s), site name(s), facility name(s), facility permit number(s), address(es), and amount(s) of insurance for closure] (These amounts for all facilities must total the face amount shown below.)
Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for closure for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:IX.7307.D.1.a or E.2.g, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the State of Louisiana and that the wording of this certificate is identical to the wording specified in LAC 33:IX.7395.Appendix H, effective on the date shown immediately below.

[Authorized signature of Insurer]
[Name of person signing]
[Title of person signing]
Signature of witness or notary:_____
[Date]

I. Appendix I—Letter from the Chief Financial Officer

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

LETTER FROM THE CHIEF FINANCIAL OFFICER
(LIABILITY COVERAGE AND/OR CLOSURE)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be either the affected person or parent corporation of the affected person]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage" and/or "closure," as applicable] as specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.[insert "7307.D.1.c," "7307.E.2.h," or "7307.D.1.c and E.2.h"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the agency interest number, site name, facility name, and facility permit number.]

(A). The firm identified above is the [insert "affected person" or "parent corporation of the affected person"], whether in the State of Louisiana or not, for which liability coverage is being demonstrated through the financial test specified in LAC 33:IX.7307.D.1.c. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

(B). The firm identified above is the [insert "affected person" or "parent corporation of the affected person"], whether in the State of Louisiana or not, for which financial assurance for closure is demonstrated through a financial test similar to that specified in LAC 33:IX.7307.E.2.h or other forms of self-insurance. The current closure cost estimates covered by the test are shown for each facility:

(C). This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:IX.7307.D.1.d," "LAC 33:IX.7307.E.2.h.ix," or "LAC 33:IX.7307.D.1.d and E.2.h.ix"], [insert "liability coverage," and/or "closure,"] whether in the State of Louisiana or not, of which [insert the name of the affected person] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure so guaranteed is shown for each facility:

(D). This firm is the owner or operator of the following facilities, whether in the State of Louisiana or not, for which financial assurance for liability coverage and/or closure is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:IX.7307.D and/or E. The current closure cost estimates not covered by such financial assurance are shown for each facility:

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently-audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]		
PART A. LIABILITY COVERAGE FOR ACCIDENTAL OCCURRENCES		
[Fill in Alternative I if the criteria of LAC 33:IX.7307.E.2.h.i.(a) are used.]		
Alternative I		
1. Amount of annual aggregate liability coverage to be demonstrated	$_____	
*2. Current assets	$_____	
*3. Current liabilities	$_____	
*4. Tangible net worth	$_____	
*5. If less than 90 percent of assets are located in the U.S., give total U.S. assets	$_____	
	YES	NO
6. Is line 4 at least $10 million?	___	___
7. Is line 4 at least 6 times line 1?	___	___
*8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9.	___	___
9. Is line 4 at least 6 times line 1?	___	___
[Fill in Alternative II if the criteria of LAC 33:IX.7307.E.2.h.i.(b) are used.]		
Alternative II		
1. Amount of annual aggregate liability coverage to be demonstrated	$_____	
2. Current bond rating of most recent issuance of this firm and name of rating service	_____	
3. Date of issuance of bond	_____	
4. Date of maturity of bond	_____	
*5. Tangible net worth	$_____	
*6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	$_____	
	YES	NO
7. Is line 5 at least $10 million?	___	___
8. Is line 5 at least 6 times line 1?	___	___
*9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10.	___	___
10. Is line 6 at least 6 times line 1?	___	___

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure.]		
PART B. CLOSURE		
[Fill in Alternative I if the criteria of LAC 33:IX.7307.E.2.h.i.(a) are used.]		
Alternative I		
1. Sum of current closure estimates (total all cost estimates shown above)	$_____	
*2. Tangible net worth	$_____	
*3. Net worth	$_____	
*4. Current Assets	$_____	
*5. Current liabilities	$_____	
*6. The sum of net income plus depreciation, depletion, and amortization	$_____	
*7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	$_____	
	YES	NO
8. Is line 2 at least $10 million?	___	___
9. Is line 2 at least 6 times line 1?	___	___
*10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11.	___	___
11. Is line 7 at least 6 times line 1?	___	___
[Fill in Alternative II if the criteria of LAC 33:IX.7307.E.2.h.i.(b) are used.]		
Alternative II		
1. Sum of current closure cost estimates (total of all cost estimates shown above)	$_____	
2. Current bond rating of most recent issuance of this firm and name of rating service	_____	
3. Date of issuance of bond	_____	
4. Date of maturity of bond	_____	
*5. Tangible net worth (If any portion of the closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.)	$_____	
*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)	$_____	
	YES	NO
7. Is line 5 at least $10 million?	____	____
8. Is line 5 at least 6 times line 1?	____	____
9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.	____	____
10. Is line 6 at least 6 times line 1?	____	____

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage and/or closure.]		
PART C. LIABILITY COVERAGE AND/OR CLOSURE		
[Fill in Alternative I if the criteria of LAC 33:IX.7307.E.2.h.i.(a) are used.]		
Alternative I		
1. Sum of current closure cost estimates (total of all cost estimates listed above)	$_____	
2. Amount of annual aggregate liability coverage to be demonstrated	$_____	
3. Sum of lines 1 and 2	$_____	
*4. Total liabilities (If any portion of your closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.)	$_____	
*5. Tangible net worth	$_____	
*6. Net worth	$_____	
*7. Current assets	$_____	
*8. Current liabilities	$_____	
*9. The sum of net income plus depreciation, depletion, and amortization	$_____	
*10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.)	$_____	
	YES	NO
11. Is line 5 at least $10 million?	_____	_____
12. Is line 5 at least 6 times line 3?	_____	_____
*13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14.	_____	_____
14. Is line 10 at least 6 times line 3?	_____	_____
[Fill in Alternative II if the criteria of LAC 33:IX.7307.E.2.h.i.(b) are used.]		
Alternative II		
1. Sum of current closure cost estimates (total of all cost estimates listed above)	$_____	
2. Amount of annual aggregate liability coverage to be demonstrated	$_____	
3. Sum of lines 1 and 2	$_____	
4. Current bond rating of most recent issuance of this firm and name of rating service	_____	
5. Date of issuance of bond	_____	
6. Date of maturity of bond	_____	
*7. Tangible net worth (If any portion of the closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.)	$_____	
*8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	$_____	
	YES	NO
9. Is line 7 at least $10 million?	____	____
10. Is line 7 at least 6 times line 3?	____	____
*11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12.	____	____
12. Is line 8 at least 6 times line 3?	____	____

[The following is to be completed by all firms providing the financial test]

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:IX.7395.Appendix I.

[Signature of chief financial officer for the firm]
[Typed name of chief financial officer]
[Title]
[Date]

J. Appendix J—Corporate Guarantee

[Insert, as applicable: "COMMERCIAL PREPARER OF SEWAGE SLUDGE" or "COMMERCIAL LAND APPLIER OF BIOSOLIDS"]

CORPORATE GUARANTEE FOR LIABILITY COVERAGE AND/OR CLOSURE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the affected person] of [business address].

Recitals

(A). The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in *Louisiana Administrative Code* (LAC), Title 33, Part IX.7307.D.1.d and/or E.2.h.ix.

(B). [Subsidiary] is the affected person covered by this guarantee: [List the agency interest number, site name, facility name, and facility permit number. Indicate for each facility whether guarantee is for liability coverage and/or closure and the amount of annual aggregate liability coverage and/or closure costs covered by the guarantee.]

[Fill in Paragraphs (C) and (D) below if the guarantee is for closure.]

(C). "Closure plans" as used below refers to the plans maintained as required by LAC 33:IX.7305.C.3, for the closure of the facility identified in Paragraph (B) above.

(D). For value received from the affected person, guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that the affected person fails to perform closure of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:IX.7307.E.2.c, as applicable, in the name of the affected person in the amount of the current closure estimates as specified in LAC 33:IX.7307.E.2.

[Fill in Paragraph (E) below if the guarantee is for liability coverage.]

(E). For value received from the affected person, guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that the affected person fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facility, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

(F). The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the administrative authority, and to the affected person, that he intends to provide alternative financial assurance as specified in [insert "LAC 33:IX.7307.D" and/or "LAC 33:IX.7307.E"], as applicable, in the name of the affected person. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the affected person has done so.

(G). The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(H). The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that

he is disallowed from continuing as a guarantor of [insert "liability coverage" and/or "closure"] he shall establish alternate financial assurance as specified in [insert "LAC 33:IX.7307.D" and/or "LAC 33:IX.7307.E"], as applicable, in the name of the affected person unless the affected person has done so.

(I). The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure, insert "amendment or modification of the closure plan, the extension or reduction of the time of performance of closure, or"] any other modification or alteration of an obligation of the affected person pursuant to LAC 33:IX.7305.C.3.

(J). The guarantor agrees to remain bound under this guarantee for as long as the affected person must comply with the applicable financial assurance requirements of [insert "LAC 33:IX.7307.D" and/or "LAC 33:IX.7307.E"] for the above-listed facility, except that the guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the affected person, such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the affected person, as evidenced by the return receipts.

(K). The guarantor agrees that if the affected person fails to provide alternative financial assurance as specified in [insert "LAC 33:IX.7307.D" and/or "LAC 33:IX.7307.E"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from the guarantor, the guarantor shall provide such alternate financial assurance in the name of the affected person.

(L). The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the affected person. Guarantor expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:IX.7395.Appendix J, effective on the date first above written.

Effective date:_____
[Name of Guarantor]
[Authorized signature for guarantor]
[Typed name and title of person signing]
Thus sworn and signed before me this [date].
_____
Notary Public

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(1)(c), (B)(3), and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005), LR 33:2409 (November 2007), LR 35:941 (May 2009).

§7397. Procedure to Determine the Annual Whole Biosolids Application Rate (AWBAR)—Appendix K

A. LAC 33:IX.7303.E.1.d.ii requires that the product of the concentration for each pollutant listed in Table 4 of LAC 33:IX.7303.E in biosolids sold or given away in a bag or other container for application to the land and the annual whole biosolids application rate (AWBAR) not cause the annual pollutant loading rate for the pollutant in Table 4 of LAC 33:IX.7303.E to be exceeded. This Appendix contains the procedure used to determine the AWBAR for a sewage sludge that does not cause the annual pollutant loading rates in Table 4 of LAC 33:IX.7303.E to be exceeded.

B. The relationship between the annual pollutant loading rate (APLR) for a pollutant and the AWBAR is shown in Equation (1).

Equation (1)

$$APLR = C \times AWBAR \times 0.001$$

where:

APLR	= annual pollutant loading rate in kilograms per hectare per 365-day period
C	= pollutant concentration in milligrams per kilogram of total solids (dry weight basis)
AWBAR	= annual whole biosolids application rate in metric tons per hectare per 365-day period (dry weight basis)
0.001	= a conversion factor

C. To determine the AWBAR, Equation (1) is rearranged into Equation (2).

Equation (2)

$$AWBAR = \frac{APLR}{C \times 0.001}$$

D. The procedure used to determine the AWBAR is presented below.

1. Analyze a sample of the biosolids to determine the concentration for each of the pollutants listed in Table 4 of LAC 33:IX.7303.E in the biosolids.

2. Using the pollutant concentrations from Step 1 and the APLRs from Table 4 of LAC 33:IX.7303.E, calculate an AWBAR for each pollutant using Equation (2) above.

3. The AWBAR for the biosolids is the lowest AWBAR calculated in Step 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(1)(c), (B)(3), and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:817 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2417 (November 2007).

§7399. Pathogen Treatment Processes—Appendix L

A. Processes to Significantly Reduce Pathogens (PSRP)

1. Aerobic Digestion. Sewage sludge is agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature. Values

for the mean cell residence time and temperature shall be between 40 days at 20°C and 60 days at 15°C.

2. Air Drying. Sewage sludge is dried on sand beds or on paved or unpaved basins. The sewage sludge dries for a minimum of three months. During two of the three months, the ambient average daily temperature is above 0°C.

3. Anaerobic Digestion. Sewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 35°to 55°C and 60 days at 20°C.

4. Composting. Using either the within-vessel, static aerated pile, or windrow composting methods, the temperature of the sewage sludge is raised to 40°C or higher and remains at 40°C or higher for five days. For four hours during the five days, the temperature in the compost pile exceeds 55°C.

5. Lime Stabilization. Sufficient lime is added to the sewage sludge to raise the pH of the sewage sludge to 12 after two hours of contact.

B. Processes to Further Reduce Pathogens (PFRP)

1. Composting. Using either the within-vessel composting method or the static aerated pile composting method, the temperature of the sewage sludge is maintained at 55°C or higher for three days. Using the windrow composting method, the temperature of the sewage sludge is maintained at 55°C or higher for 15 days or longer. During the period when the compost is maintained at 55°C or higher, there shall be a minimum of five turnings of the windrow.

2. Heat Drying. Sewage sludge is dried by direct or indirect contact with hot gases to reduce the moisture content of the sewage sludge to 10 percent or lower. Either the temperature of the sewage sludge particles exceeds 80°C or the wet bulb temperature of the gas in contact with the sewage sludge as the sewage sludge leaves the dryer exceeds 80˚C.

3. Heat Treatment. Liquid sewage sludge is heated to a temperature of 180°C or higher for 30 minutes.

4. Thermophilic Aerobic Digestion. Liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the sewage sludge is 10 days at 55° to 60°C.

5. Beta Ray Irradiation. Sewage sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20°C).

6. Gamma Ray Irradiation. Sewage sludge is irradiated with gamma rays from certain isotopes, such as ^{60}Cobalt and ^{137}Cesium, at dosages of at least 1.0 megarad at room temperature (approximately 20°C).

7. Pasteurization. The temperature of the sewage sludge is maintained at 70°C or higher for 30 minutes or longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(1)(c), (B)(3), and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:817 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2417 (November 2007).