

ADDENDUM TO THE

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

June, 1997

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**DRAFT ADDENDUM
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On December 29, 1997, EPA published a Federal Register document announcing its decision to incorporate by reference, at 272.951(b)(1), Louisiana's authorized hazardous waste program (see 62 FR 67578). However, sections 109 "Industrial furnace" introductory paragraph, 303.K.1, 901, 1111.B.1.c, 1113, 2511.B, 3105.A, 3309, 3707.F.1, 3707.F.2, 3711.F.1, 3711.F.2, 3711.G, 3715.F.1, 4141, 4307, 4397.B, 4403.E.1, 4403.E.2, 4403.F, 4407.A.12, 4407.E.1&.2, 4407.F, 4503.B introductory paragraph, 4513.A, and 4901.D.3 of the Louisiana Administrative Code (LAC), Title 33, as amended through June, 1995, while incorporated by reference into the Federal regulations effective March 16, 1998, include State amendments that have not been reviewed or approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. This document gives notice that notwithstanding the language in the Louisiana hazardous waste regulations incorporated by reference at §272.951(b)(1), EPA will only enforce the State provisions actually authorized by EPA. The Addendum document contains the actual authorized text of the regulatory language at the citations listed above that EPA will enforce.

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The authorized version of § 109 "Industrial furnace" introduction enforceable by EPA is:

§ 109 Definitions

* * * * *

Industrial Furnace--any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

1. * * *

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended November 20, 1988.]

The authorized version of § 303.K.1 (previously LHWR § 3.2(k)(1)) enforceable by EPA is:

§ LHWR § 3.2 Overview of the Permit Program

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k) Updating Permit Applications

- 1) If any owner or operator of a TSD facility has filed Part I of the permit application and has not yet filed a Part II permit application, the owner or operator shall file an amended Part I permit application.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended July 20, 1984.]

The authorized version of § 901 (previously LHWR § 6.1) enforceable by EPA is:

LHWR § 6.1 Applicability

The regulations in this Chapter apply to owners and operators of both on-site and off-site TSD facilities, except owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources and as otherwise provided in LAC 33:V.105.D.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 1111.B.1.c (previously LHWR § 7.6(b)(1) 3rd paragraph) enforceable by EPA is:

LHWR § 7.6 Recordkeeping and Reporting

* * * * *

b) Annual Report

1) * * *

The EPA identification number, name, and address of each offsite treatment, storage, or disposal facility to which waste was shipped during the year. For exported shipments, the report must give the name and address of the foreign facility;

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 1113 (previously LHWR § 7.7) enforceable by EPA is:

LHWR § 7.7 Special conditions

a) International shipments

- 1) Any person who exports hazardous waste to a foreign country, from a point of departure for the foreign country in Louisiana must comply with the requirements of this Chapter and with the special requirements of § 7.7. Importation of hazardous waste from a foreign country into Louisiana is prohibited under Act 260.
- 2) When shipping hazardous waste outside the United States from Louisiana, the generator must:

Notify the Administrative Authority in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year:

The waste must be identified by its EPA hazardous waste identification number and its Louisiana Department of Public Safety shipping description; and

The name and address of the foreign consignee must be included this notice. [Note: The requirements to notify specified in 7.7a) will not be delegated to States authorized under 40 CFR Part 271. Therefore, all generators must notify the EPA and the Administrative Authority as required.]

Require that the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose; and

Meet the requirements under § 7.4b) for the manifest, except that in the place of the name, address, and EPA identification number of the designated facility, the name and address of the foreign consignee must be used. The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.

3) A generator must file an Exception Report, if:

He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five days from the date it was accepted by the initial transporter; or

Within ninety days from the date the waste was accepted by the initial transporter, the generator has not received a written confirmation from the foreign consignee that the hazardous waste was received.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 2511.B (previously LHWR § 14.6(b)) enforceable by EPA is:

LHWR § 14.6 Special Requirements for Ignitable or Reactive Waste

* * * * *

b) Solid ignitable wastes in containers may be landfilled without meeting the requirements of LAC 33:V.2511.A, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes:

- 1) Must be disposed of in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; and
- 2) Must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and
- 3) Must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 3105.A enforceable by EPA is:

§ 3105 Applicability

A. These regulations apply to owners and operators of facilities that incinerate hazardous waste. All permit conditions, compliance orders, compliance schedules and other requirements of the permit required, shall be obtained pursuant to the LHWR and any other requirements pursuant to the regulations of the Louisiana Air Control Law. The regulations in this Chapter apply to owners or operators of facilities that incinerate hazardous waste, except as LAC 33:V.105.D provides otherwise. The following facilities owners or operators are considered to incinerate hazardous waste:

1. owners or operators of hazardous waste incinerators (as defined in LAC 33:V.109);
and
2. owners or operators who burn hazardous waste in boilers or in industrial furnaces to destroy them, or who burn hazardous waste in noncommercial boilers or in noncommercial industrial furnaces for any recycling purpose and elect to be regulated under this Chapter with approval of the administrative authority. (Commercial boilers and commercial industrial furnaces which burn hazardous wastes solely for recycling purposes are regulated under the provisions of LAC 33:V.4142.)

* * * * *

[Louisiana Administrative Code, Title 33, as amended November 21, 1988.]

The authorized version of § 3309 (previously LHWR § 18.5) enforceable by EPA is:

LHWR § 18.5 Concentration Limits

- a) The Administrative Authority will specify in the facility permit concentration limits in the groundwater for hazardous constituents established under 18.4.

All permits for facilities with per-existing groundwater contamination shall set concentration limits at background levels and provide corrective action programs as specified in 18.2c) and d).

Permits for facilities without pre-existing groundwater contamination shall set concentration limits at background levels.

In other cases in which groundwater contamination is detected after granting of the initial permit, the concentration limits of hazardous constituents shall be established consistent with 18.2c) and d), and:

- 1) Must not exceed the background level of that constituent in the groundwater at the time that limit is specified in the permit; or

- 2) For any of the constituents listed in Table 1 below, must not exceed the respective value given in that Table if the background level of the constituent is below the value given; or
- 3) After compliance monitoring and corrective action measures specified in 18.10 and 18.11 have demonstrated the original concentration limits are unattainable after a 36 month time-frame, the Administrative Authority may set by permit amendment, alternative concentration limits which must not exceed those provided in 18.5b).

TABLE 1. MAXIMUM CONCENTRATION OF
CONSTITUENTS FOR GROUNDWATER PROTECTION

Constituent	Maximum concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy 1,4,4a,5,6,7,8,9a-octahydro-1,4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis) (P-methoxyphenylethane)	0.1
Toxaphene (C ₁₀ H ₁₀ Cl ₈ , Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01

¹Milligrams per liter.

- b) The Administrative Authority may establish an alternate concentration limit for a hazardous constituent if he finds that the constituent will not pose a substantial present of potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded.

In no case shall alternate concentration limits of hazardous constituents be established which will result in the potential for concentrations of hazardous constituents in potable water aquifers that exceed recognized U. S. Environmental Protection Agency Drinking Water Quality Standards or background levels whichever are higher, at the property boundry of the permitted site. In setting such alternative concentration limits, the Administrative Authority will consider the best available evidence accepted by the scientific community, including nationally accepted guidelines which have been established by risk assessment methodology.

- c) In making any determination under §18.5b) about the use of groundwater in the area around the facility, the Administrative Authority will consider any identification of underground sources of drinking water and exempted aquifers identified in the permit application under Chapter 3.

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[Louisiana Hazardous Waste Regulations (LHWR), as amended July 20, 1984.]

The authorized version of § 3707.F.1 enforceable by EPA is:

§ 3707 Financial Assurance for Closure

* * * * *

F. Financial Test and Corporate Guarantee for Closure

1. An owner or operator may satisfy the requirements of this Part by demonstrating that he passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either of the following:

a. The owner or operator must have:

i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

iii. tangible net worth of at least \$10 million; and

iv. assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates, and the current plugging and abandonment cost estimates.

b. The owner or operator must have:

i. a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

ii. tangible net worth at least six times the sum of the current closure and post-closure cost estimates, and the current plugging and abandonment cost estimates;

iii. tangible net worth of at least \$10 million; and

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended August 20, 1987.]

The authorized version of § 3707.F.2 enforceable by EPA is:

§ 3707 Financial Assurance for Closure

* * * * *

F. Financial Test and Corporate Guarantee for Closure

* * * * *

2. The phrase current closure and post-closure cost estimates as used in LAC 33:V.3707.F.1 refers to the cost estimates required to be shown in Paragraphs 1-4 of the letter from the owner's or operator's chief financial officer (see LAC 33:V.3719.F) and the current plugging and abandonment cost estimates.

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended August 20, 1987.]

The authorized version of § 3711.F.1 enforceable by EPA is:

§ 3711 Financial Assurance for Post-Closure Care

* * * * *

F. Financial Test and Corporate Guarantee for Post-closure Care

1. An owner or operator may satisfy the requirements of this Part by demonstrating that he passes a financial test as specified in this Paragraph. To pass this test the owner or operator must meet the criteria of either of the following:

a. The owner or operator must have:

i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. net working capital and tangible net worth each at least six times the sum of the

current closure and post-closure cost estimates and plugging and abandonment cost estimates; and

iii. tangible net worth of at least \$10 million; and

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended November 21, 1988.]

The authorized version of § 3711.F.2 enforceable by EPA is:

§ 3711 Financial Assurance for Post-Closure Care

* * * * *

F. Financial Test and Corporate Guarantee for Post-closure Care

* * * * *

2. The phrase current closure and post-closure cost estimates as used in LAC 33:V.3711.F.1 refers to the cost estimates required to be shown in Paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see LAC 33:V.3719.F). The phrase "current plugging and abandonment cost estimates" as used in Paragraph f)1) of this Section refers to the cost estimates required to be shown in Paragraphs 1-4 of the letter from the owner's or operator's chief financial officer 40 CFR 144.70(f), the Office of Conservation or other substantially equivalent state program.

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended November 21, 1988.]

The authorized version of § 3711.G (previously LHWR § 20.4(g)) enforceable by EPA is:

LHWR § 20.4 Financial Assurance for Closure

* * * * *

g) Use of Multiple Financial Mechanisms

An owner or operator may satisfy the requirements of this Part by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, and insurance. The mechanisms must be as specified in LAC 33:V.3711.A, B, D, and E, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be

established for two or more mechanisms. The administrative authority may use any or all of the mechanisms to provide for post-closure care of the facility.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 3715.F.1 (previously LHWR § 20.8(f)(1)) enforceable by EPA is:

LHWR § 20.8 Liability Requirements

* * * * *

f) Financial Test for Liability Coverage

- 1) An owner or operator may satisfy the requirements of this Part by demonstrating that he passes a financial test as specified in this Paragraph. To pass this test the owner or operator must meet the criteria of either of the following:
 - a. The owner or operator must have:
 - i. net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and
 - ii. tangible net worth of at least \$10 million; and
 - iii. assets in the United States amounting to either: (1) at least 90 percent of his total assets; or (2) at least six times the amount of liability coverage to be demonstrated by this test.
 - b. The owner or operator must have:
 - i. a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
 - ii. tangible net worth of at least \$10 million; and
 - iii. tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and
 - iv. assets located in the United States amounting to either: (1) at least 90 percent of his total assets; or (2) at least six times the amount of liability coverage to be demonstrated by this test.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 4141 enforceable by EPA is:

§ 4141 Hazardous Waste Burned for Energy Recovery

A. Applicability

1. The regulations of the Section apply to hazardous wastes burned in any boiler or industrial furnace not regulated under LAC 33:V.Chapter 31 or LAC 33:V.Chapter 43, Subchapter N, LAC 33:V.4142, except as provided by LAC 33:V.4141.A.2. Such hazardous wastes burned for energy recovery are termed "hazardous waste fuel." Fuel produced from hazardous waste by processing blending, or other treatment is also hazardous waste fuel. These regulations do not apply, however, to gas recovered from hazardous waste management activities when such gas is burned for energy recovery.

2. The following hazardous wastes are not regulated under this Subchapter:

a. used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in LAC 33:V.4147.B rather than 4141.C; and

b. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and LAC 33:V.Chapter 1 and hazardous wastes that are subject to the special requirements for small quantity generators under LAC 33:V.Chapter 39.

B. Standards Applicable to Generators of Hazardous Waste Fuel

1. Generators of hazardous waste that is used as a fuel or used to produce a fuel are subject to the requirements of LAC 33:V.Chapter 11 unless otherwise exempted by LAC 33:V.4141.F.

2. Generators who market hazardous waste fuel to a burner also are subject to LAC 33:V.4141.D.

3. Generators who are burners must also comply with LAC 33:V.4141.E.

C. Standards Applicable to Marketers of Hazardous Waste Fuel

Persons who market hazardous waste fuel are termed "marketers". Marketers include generators who market hazardous waste fuel directly to a burner, persons who receive hazardous waste from generators and produce, process or blend hazardous waste fuel from these hazardous wastes, and persons who distribute but do not process or blend hazardous waste fuel. Marketers are subject to the following standards.

1. Prohibitions--Marketers of hazardous waste fuel are subject to the prohibitions under LAC 33:V.4141.F.

2. Notification--Notification requirements under LAC 33:V.105.A for hazardous waste fuel activities. Even if a marketer has previously notified the administrative authority of his hazardous waste management activities and obtained an identification number, he must renotify to identify his hazardous waste fuel activities.

3. Storage--The applicable provisions of LAC 33:V.1109.E and LAC 33:V.Chapters 3, 9, 15, 19, 21, 23, 29, 33, 35, 37; and applicable sections of LAC 33:V.Chapter 43.

4. Off-site shipment--The standards for generators in Chapter 7 when a marketer initiates a shipment of hazardous waste fuel.

5. Required notices--Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

a. the burner or marketer has notified the administrative authority as required by LAC 33:V.105.A;

b. if the recipient is a burner, the burner will burn the hazardous waste fuel only in an industrial furnace or boiler identified in LAC 33:V.4141.F.2.

c. Before a marketer accepts the first shipment of hazardous waste fuel from another marketer he must provide the other marketer with a one-time written and signed certification that he has notified the administrative authority per LAC 33:V.105 and identified his hazardous waste fuel activities.

6. Recordkeeping--In addition to the applicable recordkeeping requirements of these regulations, a marketer must keep a copy of each certification notice he receives or send for three years from the date he last engages in a hazardous waste fuel marketing transaction with the person who sends or receives the certification notice.

E. Standards Applicable to Burners of Hazardous Waste Fuel

Owners and operators of industrial furnaces and boilers identified in LAC 33:v.4141.F that burn hazardous fuel are "burners" and are subject to the following requirements:

1. Prohibitions--Burners of hazardous waste fuel are subject to the prohibitions under LAC 33:C.4141.F

2. Notification--Notification requirements under LAC 33:V.105.A for hazardous fuel activities. Even* a burner has previously notified the department of his hazardous waste management activities and obtained an identification number, he must renotify to identify his hazardous waste fuel activities.

3. Storage--For short term accumulation by generators who burn their hazardous waste fuel on site, the applicable provisions of LAC 33:V.1109.E. For existing storage facilities, the

applicable provisions of LAC 33:V.Chapters 3, 5, 7 and 43; and for new storage facilities, the applicable provisions of LAC 33:V.Chapters 3, 5, 7, 9, 15, 19, 21, 23, 29, 33, 35 and 37.

4. Required notices--Before a burner accepts the first shipment of hazardous waste fuel from a marketer, he must provide to the marketer a one-time written and signed notice certifying that:

a. he has notified under LAC 33:V.105.A and identified his waste-as-fuel activities;
and

b. he will burn the fuel only in a boiler or furnace identified in LAC 4141.F.2.

5. Recordkeeping--In addition to the applicable recordkeeping requirements of these regulations, a burner must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives hazardous waste fuel from that marketer.

F. Prohibitions

1. A person may market hazardous waste fuel only:

a. to persons who have notified the administrative authority of their hazardous waste fuel activities and have an identification number; and

b. if the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in LAC 33:V.4141.F.2.

2. Hazardous waste fuel may be burned for energy recovery only in the following devices:

a. industrial furnaces identified in LAC 33:V.109;

b. boilers, as defined in LAC 33.V.109, that are identified as follows:

i. industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

ii. utility boilers used to product* electric power, steam, or heated or cooled air or other gases or fluids for sale.

3. No fuel which contains any hazardous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population

greater than 500,000 (based on the most recent census statistics) unless such kiln fully complies with regulations under LAC 33:V.Chapter 31 that are applicable to incinerators.

*As appeared in the published rule.

* * * * *

[Louisiana Administrative Code, Title 33, as amended March 20, 1992.]

The authorized version of § 4307 (previously LHWR § 23.4) enforceable by EPA is:

LHWR § 23.4 Applicability

The regulations of this Subchapter apply to owners and operators of all hazardous waste facilities except as 1.3d) provides otherwise.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 4397.B enforceable by EPA is:

§ 4397 Applicability

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B. The requirements of LAC 33:V.4405, 4407, and 4409 apply only to owners and operators of disposal facilities and tank systems that are required under LAC 33:V.4442 to meet the requirements for landfills.

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[Louisiana Administrative Code (LAC), Title 33, as amended August 20, 1987.]

The authorized version of § 4403.E.1 enforceable by EPA is:

§ 4403 Financial Assurance for Closure

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E. Financial Test and Corporate Guarantee for Closure

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by demonstrating that he passes a financial test as specified in this Paragraph. To pass this test the owner or operator must meet the criteria of either of the following:

a. The owner or operator must have:

i. two of the following three following ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates, the current plugging and abandonment cost estimates; and

iii. tangible net worth of at least \$10 million; and

iv. assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates, and the current plugging and abandonment cost estimates.

b. The owner or operator must have:

i. a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

ii. tangible net worth at least six times the sum of the current closure and post-closure cost estimates and current plugging and abandonment costs; and

iii. tangible net worth of at least \$10 million; and

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[Louisiana Administrative Code (LAC), Title 33, as amended March 20, 1990.]

The authorized version of § 4403.E.2 enforceable by EPA is:

§ 4403 Financial Assurance for Closure

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E. Financial Test and Corporate Guarantee for Closure

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2. The phrase "current closure and post-closure cost estimates" as used in LAC 33:V.4403.E.1 refers to the cost estimates required to be shown in Paragraphs 1-4 of the letter from the owner's or operator's chief financial officer (see LAC 33:V.3710.F). The phrase "current plugging and abandonment cost estimates" as used in Paragraph E.1 of this Section refers to the cost estimates required to be shown in Paragraphs 1-4 of the letter from the owner's or operator's chief financial officer. 40 CFR §144.70(f), Office of Conservation and other substantially equivalent state programs.

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended November 21, 1988.]

The authorized version of § 4403.F (previously LHWR § 23.52(f)) enforceable by EPA is:

LHWR § 23.52 Financial Assurance for Closure

* * * * *

f) Use of Multiple Financial Mechanisms

An owner or operator may satisfy the requirements of LAC 33:V.4403 by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in LAC 33:V.4403.A through D, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The administrative authority may use any or all of the mechanisms to provide for closure of the facility.

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[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 4407.A.12 (previously LHWR § 23.54(a)(12)) enforceable by EPA is:

LHWR § 23.54 Financial Assurance for Post-Closure Care

* * * * *

a) Post-closure trust fund

* * * * *

12) The Administrative Authority will agree to termination of the trust when:

An owner or operator substitutes alternate financial assurance as specified in §23.54; or

The Administrative Authority released the owner or operator from the requirements of §23.54a) in accordance with §23.54i)

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 4407.E.1&2 enforceable by EPA is:

§ 4407 Financial Assurance for Post-Closure Care

* * * * *

E. Financial Test and Corporate Guarantees for Post-closure Care

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.E by demonstrating that he passes a financial test as specified in this Paragraph. To pass this test the owner or operator must meet the criteria of either of the following:

a. The owner or operator must have:

i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and current plugging and abandonment cost estimates; and

iii. tangible net worth of at least \$10 million; and

iv. assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

b. The owner or operator must have:

i. a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

ii. tangible net worth of at least six times the sum of the current closure and post-closure cost estimates and current plugging and abandonment costs; and

iii. tangible net worth of at least \$10 million; and

iv. assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and current plugging and abandonment costs.

2. The phrase current closure and post-closure cost estimates as used in LAC 33:V.4407.E.1 refers to the cost estimates required to be shown in Paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see LAC 33:V.3719.F). The phrase "current plugging and abandonment cost estimates" as used in Paragraph E.1 of this Section refers to the cost estimates required to be shown in Paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (40CFR 144.70f).

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[Louisiana Administrative Code (LAC), Title 33, as amended August 20, 1987.]

The authorized version of § 4407.F (previously LHWR § 23.54(f)) enforceable by EPA is:

LHWR § 23.54 Financial Assurance for Post-Closure Care

* * * * *

f) Use of Multiple Financial Mechanisms

An owner or operator may satisfy the requirements of LAC 33:V.4407.F by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, and insurance. The mechanisms must be as specified in LAC 33:V.4407.A through D, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The administrative authority may use any or all of the mechanisms to provide for post-closure care of the facility.

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 4503.B (introductory paragraph) (previously LHWR § 23.102(b)) enforceable by EPA is:

LHWR § 23.102 Special Requirements for Ignitable or Reactive Waste

* * * * *

b) Solid ignitable wastes in containers may be landfilled without meeting the requirements of §23.102a), provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes:

* * * * *

[Louisiana Hazardous Waste Regulations (LHWR), as amended March 20, 1984.]

The authorized version of § 4513.A enforceable by EPA is:

§ 4513 Applicability

A. owners or operators of hazardous waste incinerators (as defined in LAC 33:V.105);
and

* * * * *

[Louisiana Administrative Code (LAC), Title 33, as amended March 20, 1990.]

The authorized version of § 4901.D.3 enforceable by EPA is:

§ 4901 Category I Hazardous Wastes

* * * * *

D. Discarded Commercial Chemical Products, Off-specification Species, Container Residues, Spill Residues Thereof, Any Associated Wastewaters, and Any Discarded Process Wastewaters

* * * * *

3. Any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in LAC 33:V.4901.E or F, unless the container is empty as defined in LAC 33:V.109 (definition of empty container).

[Comment: Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed, or being accumulated, stored, transported, or treated prior to such use, re-use, recycling, or reclamation, the Department considers the residue to be intended for discard, and thus, a hazardous waste. An example of a legitimate reuse of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product of manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.]

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[Louisiana Administrative Code (LAC), Title 33, as amended September 20, 1994.]