

**NOTICE OF INTENT**

Department of Environmental Quality  
Office of the Secretary  
Legal Division

Revised Definition of Solid Waste  
(LAC 33:V.105, 109 and 322) (HW118)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.105, 109 and 322 (HW118).

This Rule requires all secondary hazardous materials (materials that are recycled or re-used in industrial processes) to be managed as if they were already hazardous wastes that have been discarded. It also requires that the uses of secondary hazardous materials as ingredients and the products created with the materials, be evaluated for legitimacy. Any facility that utilizes hazardous secondary materials will be required to conduct an evaluation of its industrial uses and practices for managing hazardous secondary materials. The basis and rationale for this Rule are to meet EPA mandatory adoption requirements. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW118. Such comments must be received no later than May 3, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW118. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

**Public Hearing**

A public hearing will be held on April 26, 2017, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823

Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental Quality—Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

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

A.1. - C.6. ...

D. Exclusions

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

a.i. – w.vi. ...

x. hazardous secondary material generated and legitimately reclaimed within the United States of America or its territories and under the control of the generator is not a solid waste, provided that the material complies with the following conditions:

i. the hazardous secondary material is generated and reclaimed at the generating facility (for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator); or

ii. the hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a *person*, as defined in LAC 33:V.109; and

(a). the generator provides one of the following certifications:

(i). “on behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert

name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material” ; or

(ii). “on behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.” For purposes of this Paragraph, control means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different *person* as defined in LAC 33:V.109 shall not be deemed to “control” such facilities.

(b). the generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain:

(i). the name of the transporter;  
(ii). the date of the shipment; and  
(iii). the type and quantity of the hazardous secondary material shipped or received under the exclusion;

(iv). these record-keeping requirements may be satisfied by maintaining routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations); or

iii. the hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: “On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process; and

(a). the tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer; and

(b). the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor; and

(c). for both the tolling contractor and the tolling manufacturer, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations). For purposes of this Paragraph, tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor;

iv. the hazardous secondary material is *contained* as defined in LAC 33:V.109.*contained*. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste;

v. the hazardous secondary material is not speculatively accumulated, as defined in LAC 33:V.109. *accumulated speculatively*;

vi. notice is provided as required by LAC 33:V.105.Q.

vii. the material is not otherwise subject to material-specific management conditions under LAC 33:V.105.D.1 when reclaimed, (except as provided for in LAC 33:V.105.R.6.e) and it is not a spent lead-acid battery;

viii. persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all four factors in LAC 33:V.105.R. Documentation shall be maintained for three years after the recycling operation has ceased;

ix. persons operating under this exclusion must meet the requirements of the Code of Federal Regulation at 40 CFR 261 Subpart M (Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials), July 1, 2015, which are hereby incorporated by reference;

y. hazardous secondary material that is generated and then transferred to a verified reclamation facility for the purpose of reclamation is not a solid waste, provided that:

i. the material is not speculatively accumulated, as defined in LAC 33:V.109. accumulated speculatively;

ii. the material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than 10 days at a transfer facility, as defined in LAC 33:V.109 transfer facility, and is packaged according to applicable United States Department of Transportation regulations at 49 CFR parts 173, 178, and 179 while in transport;

iii. the material is not otherwise subject to material-specific management conditions under LAC 33:V.105.D.1 when reclaimed (except as provided for in LAC 33:V.105.R.6.e), and it is not a spent lead-acid battery;

iv. the reclamation of the material is legitimate, as specified under LAC 33:V.105.R;

v. the hazardous secondary material generator satisfies all of the following conditions:

(a). the material must be contained as defined in LAC 33:V.109 contained. A hazardous secondary material released to the environment will be considered discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and a solid waste;

(b). the hazardous secondary material generator must arrange for transport of hazardous secondary materials to a verified reclamation facility (or facilities) in the United States of America. A verified reclamation facility is a facility that has been granted a variance under LAC 33:V.105.O.2.d or a reclamation facility where the management of the hazardous secondary materials is addressed under a RCRA part B permit or

interim status standards. If the hazardous secondary material will be passing through an intermediate facility, the intermediate facility must have been granted a variance under LAC 33:V.105.O.2.d or the management of the hazardous secondary materials at that facility must be addressed under a RCRA part B permit or interim status standards, and the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator;

(c). the hazardous secondary material generator must maintain at the generating facility for no less than three years records of all off-site shipments of hazardous secondary materials. For each shipment, these records must, at a minimum, contain the following information:

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

(ii). name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

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

(d). the hazardous secondary material generator must maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials. Confirmations of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of US Department of Transportation shipping papers, or electronic confirmations of receipt);

(e). the hazardous secondary material generator must comply with the emergency preparedness and response conditions in 40 CFR 261 Subpart M (Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials) July 15, 2015; these requirements are hereby incorporated by reference for this exclusion;

vi. reclaimers of hazardous secondary material excluded from regulation under this exclusion and *intermediate facilities*, as defined in LAC 33:V.109, shall satisfy all of the following conditions:

(a). the reclaimer and intermediate facility shall maintain at its facility for no less than three years records of all shipments of hazardous secondary material that were received at the facility and, if applicable, for all shipments of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records shall at a minimum contain the following information:

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

(ii). name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary materials were received from;

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

(iv). for hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the (subsequent) reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

(b). the intermediate facility shall send the hazardous secondary material to the reclaimer(s) designated by the hazardous secondary materials generator;

(c). the reclaimer and intermediate facility shall send to the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt);



(d). the reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and shall be contained. An “analogous raw material” is a raw material for which a hazardous secondary material is a substitute and serves the same function and has similar physical and chemical properties as the hazardous secondary material;

(e). any residuals that are generated from reclamation processes will be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to LAC 33:V.4903, or if they themselves are specifically listed in LAC 33:V.4901, such residuals are hazardous wastes and must be managed in accordance with the applicable requirements of LAC 33:V.Subpart 1, when disposed or intended for disposal;

(f). the reclaimer and intermediate facility shall provide financial assurance as required under Subpart H of 40 CFR part 261, July 2015, which is hereby incorporated by reference;

(g). the reclaimer and intermediate facility have been granted a variance under LAC 33:V.105.O and/or LAC 33:V.105.K, as applicable, or have a RCRA part B permit or interim status standards that address the management of the hazardous secondary materials; and

vii. all persons claiming the exclusion under LAC 33:V.105.D.1.y shall provide notification as required under LAC 33:V.105.Q.

z. hazardous secondary materials that are generated and then transferred to another person for the purpose of remanufacturing are not solid waste, provided there is compliance with the standards and requirements for this conditional exclusion, which are published in the *Code of Federal Regulation* at 40 CFR 261.4(a)(27) -261.4(a)(27)(vi)(F). Additional requirements, as applicable to this exclusion, are located in 40 CFR 261 Subpart I (Use and Management of Containers), 40 CFR 261 Subpart J (Tank Systems), 40 CFR 261 Subpart AA (Air Emission Standards for Process Vents), 40 CFR 261 Subpart BB (Air Emission Standards for Equipment Leaks), and 40 CFR 261 Subpart CC (Air Emission Standards for Tanks and Containers), July 1, 2015, and are hereby incorporated by reference for the purposes of this exclusion.

D.2. – J.2. ...

K. Variances from Classification as a Solid Waste, Non-waste Determinations and/or Variance to be Classified as a Boiler

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

- a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
- b. the extent to which the combustion chamber and energy recovery equipment are of integral design; and
- c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
- d. the extent to which exported energy is utilized; and
- e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and
- f. other factors, as appropriate.

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

a. the applicant must apply to the administrative authority for the variance or non-waste determination. The application must address the relevant criteria contained in this Subsection or LAC 33:V.105.O as applicable; and

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

administrative authority will issue a final decision after receipt of comments and after a hearing (if any):

c. in the event of a change in circumstances that affect how a hazardous secondary material meets the relevant criteria contained in LAC 33:V.105.K or LAC 33:V.105.O upon which a variance or non-waste determination has been based, the applicant shall send a description of the change in circumstances to the administrative authority. The administrative authority may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance or non-waste determination or may require the facility to re-apply for the variance or non-waste determination;

d. variances and non-waste determinations issued after [date of promulgation] shall be effective for a fixed term not to exceed 10 years. If a facility re-applies for a variance or non-waste determination within 180 days prior to the end of the term, the facility may continue to operate under an expired variance or non-waste determination until receiving a decision on their re-application from the administrative authority; and

e. facilities receiving a variance or non-waste determination issued after [date of promulgation] must provide notification as required by LAC 33:V.105.Q. Facilities that have already been granted a variance or non-waste determination prior to [date of promulgation], by the administrative authority under LAC 33:V.105.K or LAC 33:V.105.O shall continue to operate under the previously granted variance or determination, unless there is a change in the facility's process or materials.

3. Standards and criteria for non-waste determinations are listed below.

a. An applicant may apply to the administrative authority for a formal determination that a hazardous secondary material is not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in Subparagraphs b or c of this Paragraph, as applicable. If an application is denied, the hazardous secondary material might still be eligible for a solid waste variance or exclusion (e.g., one of the solid waste variances under LAC 33:V.105.O.2.c).

b. The administrative authority may grant a non-waste determination for hazardous secondary material which is reclaimed in a continuous industrial process if the applicant demonstrates that the hazardous secondary material is a part of the production process

and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in LAC 33:V.105.R and on the following criteria:

i. the extent that the management of the hazardous secondary material is part of the continuous primary production process and is not waste treatment;

ii. whether the capacity of the production process would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

iii. whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

iv. other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under LAC 33:V.109 solid waste, and/or LAC 33:V.105.D.1.

c. The administrative authority may grant a non-waste determination for hazardous secondary material which is indistinguishable in all relevant aspects from a product or intermediate if the applicant demonstrates that the hazardous secondary material is comparable to a product or intermediate and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in LAC 33:V.105.R and on the following criteria:

i. whether market participants treat the hazardous secondary material as a product or intermediate rather than a waste (e.g., based on the current positive value of the hazardous secondary material, stability of demand, or any contractual arrangements);

ii. whether the chemical and physical identity of the hazardous secondary material is comparable to commercial products or intermediates;

iii. whether the capacity of the market would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (e.g., based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

iv. whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

v. other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under LAC 33:V.109 *solid waste*, and/or LAC 33:V.105.D.1.

L. – N.5. ...

O. Variances from Classification as a Solid Waste

1. In accordance with the standards and criteria in Paragraph O.2 and the procedures in LAC 33:V.105.K.2 of this Section, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste(s):

a. ...

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

c. ...

d. hazardous secondary materials that are reclaimed in a continuous industrial process;

e. hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate; and

f. hazardous secondary materials that are transferred for reclamation under LAC 33:V.105.D.1.y and are managed at a verified reclamation facility or intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim status standards.

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

a. – b.vii. ...

~~e. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is~~

commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

- i. ~~the degree of processing the material has undergone and the degree of further processing that is required;~~
- ii. ~~the value of the material after it has been reclaimed;~~
- iii. ~~the degree to which the reclaimed material is like an analogous raw material;~~
- iv. ~~the extent to which an end market for the reclaimed material is guaranteed;~~
- v. ~~the extent to which the reclaimed material is handled to minimize loss; and~~
- vi. ~~other relevant factors.~~

c. The administrative authority may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed, but must be reclaimed further before recovery is completed, if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the variance is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled as specified in LAC 33:V.105.R and on whether all of the following decision criteria are satisfied:

- i. whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;
- ii. whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;
- iii. whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;
- iv. whether there is a market for the partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading); and

v. whether the partially-reclaimed material is handled to minimize loss.

d. The administrative authority may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that are transferred for reclamation under LAC 33:V.105.D.1.y and are managed at a verified reclamation facility or intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim status standards. The administrative authority's decision will be based on the following criteria:

i. the reclamation facility or intermediate facility shall demonstrate that the reclamation process for the hazardous secondary materials is legitimate pursuant to LAC 33:V.105.R;

ii. the reclamation facility or intermediate facility shall satisfy the financial assurance as required under Subpart H of 40 CFR part 261, July 2015, which is hereby incorporated by reference;

iii. the reclamation facility or intermediate facility shall not be subject to a formal enforcement action in the previous three years and not be classified as a significant non-complier under RCRA Subtitle C, or must provide credible evidence that the facility will manage the hazardous secondary materials properly. Credible evidence may include a demonstration that the facility has taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials;

iv. the intermediate or reclamation facility shall have the equipment and trained personnel needed to safely manage the hazardous secondary material and shall meet emergency preparedness and response requirements under 40 CFR part 261 subpart M, July 2015, which is hereby incorporated by reference;

v. if residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility shall have the permits required (if any) to manage the residuals, have a contract with an appropriately permitted facility to dispose of the residuals or present credible evidence that the residuals will be managed in a manner that is protective of human health and the environment; and

vi. the intermediate or reclamation facility must address the potential for risk to proximate populations from unpermitted releases of the hazardous secondary material to the environment (i.e., releases that are not covered by a permit, such as a permit to discharge to water or air), which may include, but are not limited to, potential releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures), and must include consideration of potential cumulative risks from other nearby potential stressors.

P. – P.2. ...

Q. Notification Requirements for Hazardous Secondary Materials

1. Facilities managing hazardous secondary materials under variances or non-waste determinations granted under LAC 33:V.105.O or LAC 33:V.105.K, (or the exclusions of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y or LAC 33:V.105.D.1.z) issued after [date of promulgation] must send a notification prior to operating under the regulatory provision and by March 1 of each even numbered year thereafter to the administrative authority using Hazardous Waste Activity Form HW-1 that includes the following information:

a. the name, address, and EPA ID number (if applicable) of the facility;

b. the name and telephone number of a contact person;

c. the NAICS code of the facility;

d. the regulation under which the hazardous secondary materials will be managed;

e. when the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;

f. a list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);

g. for each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;

h. the quantity of each hazardous secondary material to be managed annually; and



i. the certification (included in Hazardous Waste Activity Form HW-1) signed and dated by an authorized representative of the facility.

2. If a facility managing hazardous secondary materials has submitted a notification, but then subsequently stops managing hazardous secondary materials in accordance with the regulation(s) listed above, the facility must notify the administrative authority within 30 days using Hazardous Waste Activity Form HW-1. For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages and/or reclaims hazardous secondary materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials for at least one year.

R. Legitimate Recycling of Hazardous Secondary Materials

1. Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this Subsection.

2. Factor 1 requires that legitimate recycling shall involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it:

- a. contributes valuable ingredients to a product or intermediate; or
- b. replaces a catalyst or carrier in the recycling process; or
- c. is the source of a valuable constituent recovered in the recycling process; or
- d. is recovered or regenerated by the recycling process; or
- e. is used as an effective substitute for a commercial product.

3. Factor 2 requires that the recycling process shall produce a valuable product or intermediate. The product or intermediate is valuable if it is:

- a. sold to a third party; or
- b. used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

4. Factor 3 requires that the generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material shall be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

5. Factor 4 requires that the product of the recycling process must be comparable to a legitimate product or intermediate:

a. where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if:

i. the product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals, common acids, common chemicals, or refined petroleum products);

or

ii. the hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling); or

b. where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if:

i. the product of the recycling process does not exhibit a hazardous characteristic as defined in LAC 33:V.4903 that analogous products do not exhibit;  
and

ii. the concentrations of any hazardous constituents found in LAC 33:V.3105.Table 1 that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely-recognized commodity standards and specifications, in the case where the commodity standards and specifications include levels that specifically address those hazardous constituents; or

c. if the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate per Subparagraphs a or b of this Paragraph, the recycling still may be shown to be

legitimate, if it meets the following specified requirements. The person performing the recycling shall conduct the necessary assessment and prepare documentation showing why the recycling is, in fact, still legitimate. The recycling can be shown to be legitimate based on: lack of exposure from toxics in the product, or lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the product made using recycled material does not contain levels of hazardous constituents that pose a significant human health or environmental risk; and the documentation must include a certification statement that the recycling is legitimate and must be maintained on-site for three years after the recycling operation has ceased. The person performing the recycling must notify the administrative authority of this activity using Hazardous Waste Activity Form HW-1.

d. The product of the recycling process is comparable to a legitimate product or intermediate if the requirements of LAC 33:V.105.R.5.a, b, or c of this Section are met. Once the requirements of one of these Subparagraphs are met, there is no need to determine whether the requirements of any other of these Subparagraphs are also met.

6. Pre-2008 exclusions and their relationship to the legitimacy factors are described in this Paragraph.

a. All four legitimacy factors of LAC 33:V.105.R apply to the pre-2008 exclusions.

b. Determination of legitimacy is a self-implementing process; documentation is not required for the pre-2008 exclusions, except when the recycling of the hazardous secondary material must be evaluated under LAC 33:V.105.R.5.c.

c. Pre-2008 exclusions are not subject to the notification requirements of LAC 33:V.105.Q unless the hazardous secondary material is unable to meet the technical requirements of LAC 33:V.105.R.5.a or b. Solvent wipes managed under the exclusion at LAC 33:V.105.D.1.w are not subject to notification unless the requirements of the exclusion are not met.

d. The option for a recycling facility to be verified under the exclusion of LAC 33:V.105.D.1.y applies to the recycling of those hazardous secondary materials that would otherwise be regulated as hazardous waste and does not apply to materials already excluded under one or more of the pre-2008 exclusions (except as provided in LAC 33:V.105.R.6.e).

e. If a hazardous secondary material is subject to material-specific or facility-specific management conditions in LAC 33:V.105.D.1 when reclaimed, such a material is not eligible for exclusion under LAC 33:V.105.D.1.x or y (“under control of generator” or “verified recycler” exclusions). The exclusions in LAC 33:V.105.D.1 that are subject to material-specific management conditions when reclaimed and are thus not eligible for exclusion under LAC 33:V.105.D.1.x or y are the following:

i. spent wood preserving solutions ( LAC 33:V.105.D.1.i) if recycled on-site; shredded circuit boards (LAC 33:V.105.D.1.n);

ii. mineral processing spent materials (LAC 33:V.105.D.1.p);

iii. spent caustic solutions from petroleum refining liquid treating processes (LAC 33:V.105.D.1.s);

iv. cathode ray tubes (LAC 33:V.105.D.1.v);

v. oil-bearing hazardous secondary materials that are generated at a petroleum refinery and recovered oil, (LAC 33:V.105.D.1.l) if reclaimed at a refinery and petrochemical recovered oil from an associated organic chemical manufacturing facility (LAC 33:V.105.D.1.r); and

vi. oil-bearing hazardous secondary materials that are generated at a petroleum refinery and recovered oil (LAC 33:V.105.D.1.l) that are reclaimed at a facility other than a refinery are eligible for exclusion under LAC 33:V.105.D.1.x or y.

7. General information pertaining to solid waste exclusions, materials contained in units, and pre-existing variances and non-waste determinations are described in this Paragraph.

a. The “contained” standard defined in LAC 33:V.109 does not require a specific type of management unit like a container (i.e., all materials are not required to be stored in containers). This is a performance-based standard. The specific technical requirements depend on the type of material that is being managed.

b. Materials subject to the pre-2008 exclusions do not have to be contained, as defined in LAC 33:V.109. However, hazardous secondary materials that have no analogous raw material, even if subject to one or more of the pre-2008 exclusions, shall be contained.

c. If there has been an accidental release from a unit used to manage secondary hazardous materials, it does not create a presumption that the material remaining in the unit is not *contained* as defined in LAC 33:V.109.

d. The new requirements for variances and waste determinations do not supersede any of the pre-2008 solid waste exclusions, or other prior solid waste determinations or variances, including determinations made in letters of interpretation and inspection reports. If a hazardous secondary material has been determined not to be a solid waste for whatever reason, such a determination remains in effect, unless there is a change in process or materials. Facilities that have already been granted a variance or non-waste determination by the department prior to [date of promulgation] shall continue to operate under the conditions of the previously granted variance or determination.

8. Closed-loop recycling, analytical testing requirements, and legitimate recycling under LAC 33:V.105.R.5 are described in this Paragraph.

a. Analytical testing is not generally required to make legitimacy determinations under LAC 33:V.105.R.5. A company may use its knowledge of the material it uses and of the recycling process to make its legitimacy determinations. As with any solid and hazardous waste determination, a person may use knowledge of the materials used, the hazardous secondary material, product, or intermediate he recycles and of the recycling process to make legitimate recycling determinations.

b. Recycling meets legitimacy factor 4 of LAC 33:V.105.R.5 with no analytical testing and/or with no further demonstration of meeting this legitimacy factor required under any one of the following circumstances:

i. the hazardous secondary materials are returned to the original process or processes from which they were generated, such as in concentrating metals in minerals processing;

ii. the recycled product meets widely-recognized commodity specifications and there is no analogous product made from raw materials (such as scrap metal being reclaimed into metal commodities). For specialty products such as specialty batch chemicals or specialty metal alloys, customer specifications would be sufficient;

iii. the recycled product has an analogous product made from virgin materials, but meets widely-recognized commodity specifications which address the hazardous constituents (such as spent solvents being reclaimed into solvent products); or

iv. the person recycling has the necessary knowledge, such as knowledge about the incoming hazardous secondary material and the recycling process, to be able to demonstrate that the product of recycling does not exhibit a hazardous characteristic and contains hazardous constituents at levels comparable to or lower than those in products made from virgin materials.

c. If the hazardous secondary materials are being returned to the original production process, then there is no analogous product and legitimacy factor 4 of LAC 33:V.105.R.5 is met. The person conducting the recycling does not need to do any further analysis for the purpose of determining compliance with this factor. For example, recycling that takes place under the closed loop recycling exclusion is an example of manufacturing that consistently includes the hazardous secondary material being returned to the original process from which it was generated and that would therefore automatically meet legitimacy factor 4 of LAC 33:V.105.R.5. Materials re-used within an ongoing industrial process are neither disposed of nor abandoned. Another example includes primary metals production where hazardous secondary materials are returned to the production process to ensure that all the valuable metals are extracted from the ore. This would be another process that would meet legitimacy factor 4 of LAC 33:V.105.R.5 with no further analysis needed.

d. If a chemical product made from a hazardous secondary material has an analogous product made from raw materials and does not exhibit a hazardous characteristic that the analogous product does not exhibit, and the concentration of hazardous constituents are comparable to those in analogous products, the fourth legitimacy factor of LAC 33:V.105.R.5 is met. For example, weak acid by-products that are concentrated into stronger acids and undergo extensive QA/QC processes to assure the quality of the concentrated acids.

e. For the purposes of LAC 33:V.105.R.5 widely-recognized commodity standards and specifications include those standards and specifications that are used throughout an industry, and that are widely available to anyone producing the product e.g., in safety data sheets (SDSs), on-line vendor specifications, sales literature, customer specifications, ASTM standards, and others.

f. Valid comparisons for the purpose of LAC 33:V.105.R.5 include, but are not limited to:

i. the hazardous secondary material that is being recycled directly (i.e., without reclamation) as compared to the virgin raw material or ingredient that the hazardous secondary material is replacing;

ii. the hazardous secondary material after reclamation that is being recycled as compared to the virgin raw material or ingredient that the reclaimed hazardous secondary material is replacing;

iii. the product/intermediate that results from recycling the hazardous secondary material as compared to the product/intermediate that results from using the virgin raw material or ingredient that the hazardous secondary material is replacing; or

iv. the product/intermediate that results from recycling the hazardous secondary material as compared to a substitute product/intermediate that is made without the hazardous secondary material by a different company or by the same company at a different site or through a different process.

g. Closed-loop recycling is an example of a manufacturing process where the hazardous secondary material is returned to the original process from which it was generated. The reference in LAC 33:V.105.R.5 to hazardous secondary materials returned to the original process is not limited to closed-loop recycling, nor must the hazardous secondary material be returned to the same unit in which it was generated. For the purposes of LAC 33:V.105.R.5, a hazardous secondary material is returned to the original process if it is returned to the same production process or processes where it was generated; if it is returned to other production processes from which it was derived; if it is returned via closed-loop or open-loop; if it is returned from on-site or off-site; if it is returned from second, third, or later generation use of the hazardous secondary material, product, or intermediate; or if it is returned as part of the long-established recycling of such hazardous secondary material in connection with the manufacturing or use, both on-site and off-site, of a product or intermediate made with the hazardous secondary material. Production process or processes include those activities that tie directly into the manufacturing operation and those activities that are the primary operation at the establishment.

h. Recycling meets legitimacy factor 4 of LAC 33:V.105.R.5 if the hazardous secondary material is returned to the original production process to produce a product.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division. LR 40:1336 (July 2014), amended by the Office of Secretary, Legal Division, LR 43:

## 109. Definitions

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

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*Accumulated Speculatively*—a material is *accumulated speculatively* if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, (such as where material is stored in batch tanks, continuous-flow tanks, waste piles, or containment buildings), the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way).



Materials accumulating in units that would be exempt from regulation under LAC 33:V.105.D.3 are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however. For example, the following materials are either excluded from the definition of solid waste, or are solid wastes, and therefore are not included in any speculative accumulation calculations:

1. scrap metal that is excluded under LAC 33:V.105.D.1.m;
2. commercial chemical products that are not used in a manner constituting disposal (unless they are applied to the land and that is their ordinary use), and are not burned for energy recovery (unless they are themselves fuels) (LAC 33:V.109Solid Waste.3);
3. industrial ethyl alcohol that is reclaimed (LAC 33:V.4105.A.1.a);
4. fuels produced from the refining of oil-bearing hazardous waste ( LAC 33:V.4105.A.1.c);
5. wastes from growing and harvesting of agricultural crops (LAC 33:V.105.D.2.b.i);
6. wastes from raising of animals, including animal manures (LAC 33:V.105.D.2.b.ii);
7. mining overburden returned to the mine site (LAC 33:V.105.D.2.c);
8. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment (LAC 33:V.105.D.2.m);
9. used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products (LAC 33:V.105.D.2.o);
10. materials excluded under closed loop recycling with reclamation (LAC 33:V.105.D.1.h) or closed loop recycling without reclamation (LAC 33:V.109.solid waste.5.a.iii);
11. solvent wipes excluded under LAC 33:V.105.D.1.w.

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Analogous Product—a product made of raw materials or made by competing companies with similar specifications for which a hazardous secondary material substitutes.

Analogous Raw Material—a material for which a hazardous secondary material substitutes and which serves the same function and has similar physical and chemical properties as the hazardous secondary material.

\*\*\*

Contained—held in a unit (including land-based unit as defined LAC 33:V.109) that meets the following criteria:

1. the unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

2. the unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit;

3. the unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions;

4. hazardous secondary materials in units that meet the applicable requirements of LAC 33:V.Subpart 1 are presumptively contained.

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*Facility-*

1. all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, ~~ete.~~ or a combination of them); or

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

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

\*\*\*

Hazardous Secondary Material—a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under LAC 33:V.Subpart 1.

Hazardous Secondary Material Generator—any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this LAC 33:V.Subpart 1, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. Under LAC 33:V.105.D.1.x (“Hazardous Secondary Materials Reclaimed under the Control of the Generator”), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

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Intermediate—as used in LAC 33:V.105.R, a substance formed as a stage in the manufacture of a desired end-product.

Intermediate Facility—any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of such material.

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Land-based Unit—an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

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Pre-2008 Exclusions—the exclusions from the definition of solid waste and hazardous waste exemptions in effect prior to EPA’s 2008 promulgation of revisions to the definition of solid waste to exclude certain hazardous secondary materials from hazardous waste regulation in 73 Fed. Reg. 64668, et seq., October 30, 2008, effective December 29, 2008.

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Reclaimed Material—a material is reclaimed if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of LAC 33:V.105.D.1.x, and LAC 33:V.105.D.1.y, smelting, melting, and refining furnaces are considered to be solely engaged in metals

reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in LAC 33:V.3001.D.1 -3 of this Subpart, and if the residuals meet the requirements specified in LAC 33:V.3025 (Regulation of Residues).

\*\*\*

Remanufacturing—processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

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Sham Recycling—a hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in LAC 33:V.105.R.

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*Solid Waste -*

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

1.b. – 2.c. ...

d. sham recycled as defined under LAC 33:V.109.sham recycling

3. – 3.b.ii. ...

c. *reclaimed*—materials noted with an "\*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed (except as provided under LAC 33:V.105.D.1.p), or unless they meet the requirements of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or 261.4(a)(27), as incorporated by reference at LAC 33:V.105.D.1.z. Materials noted with a "---" in column 3 of Table 1 are not solid wastes when reclaimed;

3.d. - 6. ...

Table 1				
	Use Constituting Disposal	Energy Recovery/ Fuel	Reclamation except as Provided in LAC 33:V. 105.D.1.p for Mineral Processing Secondary Materials, LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	Speculative Accumulation
	(1)	(2)	(3)	(4)
Spent Materials	*	*	*	*

<b>Table 1</b>				
	<b>Use Constituting Disposal</b>	<b>Energy Recovery/ Fuel</b>	<b>Reclamation except as Provided in LAC 33:V.105.D.1.p for Mineral Processing Secondary Materials, LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.</b>	<b>Speculative Accumulation</b>
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	.....	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	.....	*
Commercial chemical products (listed in LAC 33:V.4901.E and F)	*	*	.....	.....
Scrap metal that is not excluded under LAC 33:V.105.D.1.m.	*	*	*	*

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Tolling Contractor—for purposes of LAC 33:V.105.D.1.x, is a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer.

Toll Manufacturer—for purposes of LAC 33:V.105.D.1.x, is a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007),

LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March 2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016), LR 43:

### §322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
A.1. - A.7. ... 8. Changes to remove permit conditions applicable to a unit excluded under the provisions of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	1 <sup>1</sup>
9. Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	1 <sup>1</sup>
B. - O.4. ...	
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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:292 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:992 (June 2008), amended by the Office of Secretary, Legal Division, LR 43: