NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Division

Repeal Exclusion of Comparable Fuels and Syngas Fuel

(LAC 33:V.105, 109 and 4909) (HW120ft)

 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 4909 (Log #HW120ft).

 This rule is identical to federal regulations found in 80FR18777, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

 This rule repeals the comparable fuels and syngas fuel exclusions from the Louisiana hazardous waste regulations, in response to the repeal of the corresponding federal regulations. This stems from federal court-ordered vacatures issued on June 27, 2014. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to maintain the Louisiana hazardous waste regulations so that they are equivalent to or more stringent than the corresponding federal regulations.

The basis and rationale of this rule are to mirror the federal regulations. 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 HW120ft. Such comments must be received no later than October 26, 2016, 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. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation 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 HW120ft. This regulation is 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 October 26, 2016, 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.

 This proposed regulation is 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. – D.1.k. …

 1.i. oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911—including, but not limited to, distillation, catalytic cracking, fractionation, *~~gasification~~* ~~(as defined in LAC 33:V.109),~~ or thermal cracking units (i.e., cokers)) unless the material is placed on the land or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this Paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in Clause D.1.l.ii of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this Subsection, where such materials as generated would have otherwise met a listing under LAC 33:V.Chapter 49, are designated as F037 listed wastes when disposed of or intended for disposal;

l.ii. – p.vi. …

 q. ~~comparable fuels or comparable syngas fuels that meet the requirements of LAC 33:V.4909;~~Reserved.

D.1.r. – P.2. …

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), LR 42:\*\*.

**§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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*~~Gasification—~~*~~for the purpose of complying with LAC 33:V.105.D.1.l.i, a process, conducted in an enclosed device or system, designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials, through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.~~

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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 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 42:\*\*.

Chapter 49. Lists of Hazardous Wastes

[Editor’s Note: Chapter 49 is divided into two Sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

**§4909. ~~Exclusion of Comparable Fuel and Syngas Fuel~~Reserved.**

~~A. Specifications for Excluded Fuels. Wastes that meet the following comparable/syngas fuel requirements are not solid wastes.~~

~~B. Comparable Fuel Specifications~~

~~1. Physical Specifications~~

~~a. Heating Value. The heating value must exceed 5,000 Btu/lbs. (11,500 J/g).~~

~~b. Viscosity. The viscosity must not exceed: 50 cs, as fired.~~

~~2. Constituent Specifications. For compounds listed in Table 7 of this Section the specification levels and, where nondetect is the specification, minimum required detection limits are listed in Table 7 of this Section.~~

~~C. Synthesis Gas Fuel Specification. Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must:~~

~~1. have a minimum Btu value of 100 Btu/Scf;~~

~~2. contain less than 1 ppmv of total halogen;~~

~~3. contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N2);~~

~~4. contain less than 200 ppmv of hydrogen sulfide; and~~

~~5. contain less than 1 ppmv of each hazardous constituent in the target list of LAC 33:V.3105, Table 1.~~

| **~~Table 7: Detection and Detection Limit Values for Comparable Fuel Specification~~** |
| --- |
| **~~Chemical Name~~** | **~~CAS Number~~** | **~~Concentration Limit (mg/kg at 10,000 Btu/lb)~~** | **~~Minimum Required Detection Limit (mg/kg)~~** |
| ~~Total Nitrogen as N~~ | ~~NA~~ | ~~4900~~ |  |
| ~~Total Halogens as Cl~~ | ~~NA~~ | ~~540~~ |  |
| ~~Total Organic Halogens as Cl~~ | ~~NA~~ | ~~25 or individual halogenated organics listed below~~ |  |
| ~~Polychlorinated biphenyls, total [Arocolors, total]~~ | ~~1336‑36‑3~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Cyanide, total~~ | ~~57-12-5~~ | ~~Nondetect~~ | ~~1.0~~ |
| **~~Metals~~** |
| ~~Antimony, total~~ | ~~7440-36-0~~ | ~~12~~ |  |
| ~~Arsenic, total~~ | ~~7440-38-2~~ | ~~0.23~~ |  |
| ~~Barium, total~~ | ~~7440-39-3~~ | ~~23~~ |  |
| ~~Beryllium, total~~ | ~~7440-41-7~~ | ~~1.2~~ |  |
| ~~Cadmium, total~~ | ~~7440-43-9~~ | ~~1.2~~ |  |
| ~~Chromium, total~~ | ~~7440-47-3~~ | ~~2.3~~ |  |
| ~~Cobalt~~ | ~~7440-48-4~~ | ~~4.6~~ |  |
| ~~Lead, total~~ | ~~7439-92-1~~ | ~~31~~ |  |
| ~~Manganese~~ | ~~7439-96-5~~ | ~~1.2~~ |  |
| ~~Mercury, total~~ | ~~7439-97-6~~ | ~~0.25~~ |  |
| ~~Nickel, total~~ | ~~7440-02-0~~ | ~~58~~ |  |
| ~~Selenium, total~~ | ~~7782-49-2~~ | ~~0.23~~ |  |
| ~~Silver, total~~ | ~~7440-22-4~~ | ~~2.3~~ |  |
| ~~Thallium, total~~ | ~~7440-28-0~~ | ~~23~~ |  |
| **~~Hydrocarbons~~** |
| ~~Benzo[a]anthracene~~ | ~~56-55-3~~ | ~~2400~~ |  |
| ~~Benzene~~ | ~~71-43-2~~ | ~~4100~~ |  |
| ~~Benzo[b]fluoranthene~~ | ~~205-99-2~~ | ~~2400~~ |  |
| ~~Benzo[k]fluoranthene~~ | ~~207-08-9~~ | ~~2400~~ |  |
| ~~Benzo[a]pyrene~~ | ~~50-32-8~~ | ~~2400~~ |  |
| ~~Chrysene~~ | ~~218-01-9~~ | ~~2400~~ |  |
| ~~Dibenzo[a,h]anthracene~~ | ~~53-70-3~~ | ~~2400~~ |  |
| ~~7,12‑Dimethylbenz[a]anthracene~~ | ~~57-97-6~~ | ~~2400~~ |  |
| ~~Fluoranthene~~ | ~~206-44-0~~ | ~~2400~~ |  |
| ~~Indeno(1,2,3‑cd)pyrene~~ | ~~193-39-5~~ | ~~2400~~ |  |
| ~~3‑Methylcholanthrene~~ | ~~56-49-5~~ | ~~2400~~ |  |
| ~~Naphthalene~~ | ~~91-20-3~~ | ~~3200~~ |  |
| ~~Toluene~~ | ~~108-88-3~~ | ~~36000~~ |  |
| **~~Oxygenates~~** |
| ~~Acetophenone~~ | ~~98-86-2~~ | ~~2400~~ |  |
| ~~Acrolein~~ | ~~107-02-8~~ | ~~39~~ |  |
| ~~Allyl alcohol~~ | ~~107-18-6~~ | ~~30~~ |  |
| ~~Bis(2‑ethylhexyl)phthalate [Di‑2‑ ethylhexyl phthalate]~~ | ~~117-81-7~~ | ~~2400~~ |  |
| ~~Butyl benzyl phthalate~~ | ~~85-68-7~~ | ~~2400~~ |  |
| ~~o‑Cresol [2‑Methyl phenol]~~ | ~~95-48-7~~ | ~~2400~~ |  |
| ~~m‑Cresol [3‑Methyl phenol]~~ | ~~108-39-4~~ | ~~2400~~ |  |
| ~~p‑Cresol [4‑Methyl phenol]~~ | ~~106-44-5~~ | ~~2400~~ |  |
| ~~Di‑n‑butyl phthalate~~ | ~~84-74-2~~ | ~~2400~~ |  |
| ~~Diethyl phthalate~~ | ~~84-66-2~~ | ~~2400~~ |  |
| ~~2,4‑Dimethylphenol~~ | ~~105-67-9~~ | ~~2400~~ |  |
| ~~Dimethyl phthalate~~ | ~~131-11-3~~ | ~~2400~~ |  |
| ~~Di‑n‑octyl phthalate~~ | ~~117-84-0~~ | ~~2400~~ |  |
| ~~Endothall~~ | ~~145-73-3~~ | ~~100~~ |  |
| ~~Ethyl methacrylate~~ | ~~97-63-2~~ | ~~39~~ |  |
| ~~2‑Ethoxyethanol [Ethylene glycol monoethyl ether]~~ | ~~110-80-5~~ | ~~100~~ |  |
| ~~Isobutyl alcohol~~ | ~~78-83-1~~ | ~~39~~ |  |
| ~~Isosafrole~~ | ~~120-58-1~~ | ~~2400~~ |  |
| ~~Methyl ethyl ketone [2‑Butanone]~~ | ~~78-93-3~~ | ~~39~~ |  |
| ~~Methyl methacrylate~~ | ~~80-62-6~~ | ~~39~~ |  |
| ~~1,4‑Naphthoquinone~~ | ~~130-15-4~~ | ~~2400~~ |  |
| ~~Phenol~~ | ~~108-95-2~~ | ~~2400~~ |  |
| ~~Propargyl alcohol [2‑Propyn‑l‑ol]~~ | ~~107-19-7~~ | ~~30~~ |  |
| ~~Safrole~~ | ~~94-59-7~~ | ~~2400~~ |  |
| **~~Sulfonated Organics~~** |
| ~~Carbon disulfide~~ | ~~75-15-0~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Disulfoton~~ | ~~298-04-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Ethyl methanesulfonate~~ | ~~62-50-0~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Methyl methanesulfonate~~ | ~~66-27-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Phorate~~ | ~~298-02-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,3‑Propane sultone~~ | ~~1120-71-4~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Tetraethyldithiopyrophosphate [Sulfotepp]~~ | ~~3689-24-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Thiophenol [Benzenethiol]~~ | ~~108-98-5~~ | ~~Nondetect~~ | ~~30~~ |
| ~~O,O,O-Triethyl phosphorothioate~~ | ~~126-68-1~~ | ~~Nondetect~~ | ~~2400~~ |
| **~~Nitrogenated Organics~~** |
| ~~Acetonitrile [Methyl cyanide]~~ | ~~75-05-8~~ | ~~Nondetect~~ | ~~39~~ |
| ~~2‑Acetylaminofluorene [2‑AAF]~~ | ~~53-96-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Acrylonitrile~~ | ~~107-13-1~~ | ~~Nondetect~~ | ~~39~~ |
| ~~4‑Aminobiphenyl~~ | ~~92-67-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~4‑Aminopyridine~~ | ~~504-24-5~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Aniline~~ | ~~62-53-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Benzidine~~ | ~~92-87-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Dibenz[a,j]acridine~~ | ~~224-42-0~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~O,O‑Diethyl O‑pyrazinyl phosphoro‑thioate [Thionazin]~~ | ~~297-97-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Dimethoate~~ | ~~60-51-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~p‑(Dimethylamino)azobenzene [4‑Dimethylaminoazobenzene]~~ | ~~60-11-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~3,3'‑Dimethylbenzidine~~ | ~~119-93-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~α,α-Dimethylphenethylamine~~ | ~~122-09-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~3,3'‑Dimethoxybenzidine~~ | ~~119-90-4~~ | ~~Nondetect~~ | ~~100~~ |
| ~~1,3‑Dinitrobenzene [m‑Dinitrobenzene]~~ | ~~99-65-0~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~4,6‑Dinitro‑o‑cresol~~ | ~~534-52-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2,4‑Dinitrophenol~~ | ~~51-28-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2,4‑Dinitrotoluene~~ | ~~121-14-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2,6‑Dinitrotoluene~~ | ~~606-20-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Dinoseb [2‑sec‑Butyl‑4,6‑dinitrophenol]~~ | ~~88-85-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Diphenylamine~~ | ~~122-39-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Ethyl carbamate [Urethane]~~ | ~~51-79-6~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Ethylenethiourea (2‑Imidazolidinethione)~~ | ~~96-45-7~~ | ~~Nondetect~~ | ~~110~~ |
| ~~Famphur~~ | ~~52-85-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Methacrylonitrile~~ | ~~126-98-7~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Methapyrilene~~ | ~~91-80-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Methomyl~~ | ~~16752-77-5~~ | ~~Nondetect~~ | ~~57~~ |
| ~~2‑Methyllactonitrile [Acetone cyanohydrin]~~ | ~~75-86-5~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Methyl parathion~~ | ~~298-00-0~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~MNNG (N‑Metyl‑N‑nitroso‑N'‑nitroguanidine)~~ | ~~70-25-7~~ | ~~Nondetect~~ | ~~110~~ |
| ~~1‑Naphthylamine, [α-Naphthylamine]~~ | ~~134-32-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2‑Naphthylamine, [β-Naphthylamine]~~ | ~~91-59-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Nicotine~~ | ~~54-11-5~~ | ~~Nondetect~~ | ~~100~~ |
| ~~4‑Nitroaniline, [p‑Nitroaniline]~~ | ~~100-01-6~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Nitrobenzene~~ | ~~98-95-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~p‑Nitrophenol, [p‑Nitrophenol]~~ | ~~100-02-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~5‑Nitro‑o‑toluidine~~ | ~~99-55-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitrosodi‑n‑butylamine~~ | ~~924-16-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitrosodiethylamine~~ | ~~55-18-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitrosodiphenylamine, [Diphenylnitrosamine]~~ | ~~86-30-6~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitroso‑N‑methylethylamine~~ | ~~10595-95-6~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitrosomorpholine~~ | ~~59-89-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitrosopiperidine~~ | ~~100-75-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Nitrosopyrrolidine~~ | ~~930-55-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2‑Nitropropane~~ | ~~79-46-9~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Parathion~~ | ~~56-38-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Phenacetin~~ | ~~62-44-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,4‑Phenylenediamine, [p‑Phenylenediamine]~~ | ~~106-50-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~N‑Phenylthiourea~~ | ~~103-85-5~~ | ~~Nondetect~~ | ~~57~~ |
| ~~2‑Picoline [alpha‑Picoline]~~ | ~~109-06-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Propylthioracil [6‑Propyl‑2‑thiouracil]~~ | ~~51-52-5~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Pyridine~~ | ~~110-86-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Strychnine~~ | ~~57-24-9~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Thioacetamide~~ | ~~62-55-5~~ | ~~Nondetect~~ | ~~57~~ |
| ~~Thiofanox~~ | ~~39196-18-4~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Thiourea~~ | ~~62-56-6~~ | ~~Nondetect~~ | ~~57~~ |
| ~~Toluene‑2,4‑diamine [2,4‑Diaminotoluene]~~ | ~~95-80-7~~ | ~~Nondetect~~ | ~~57~~ |
| ~~Toluene‑2,6‑diamine [2,6‑Diaminotoluene]~~ | ~~823-40-5~~ | ~~Nondetect~~ | ~~57~~ |
| ~~o‑Toluidine~~ | ~~95-53-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~p‑Toluidine~~ | ~~106-49-0~~ | ~~Nondetect~~ | ~~100~~ |
| ~~1,3,5‑Trinitrobenzene, [sym‑Trinitrobenzene]~~ | ~~99-35-4~~ | ~~Nondetect~~ | ~~2400~~ |
| **~~Halogenated Organics~~** |
| ~~Allyl chloride~~ | ~~107-05-1~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Aramite~~ | ~~140-57-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Benzal chloride [Dichloromethyl benzene]~~ | ~~98-87-3~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Benzyl chloride~~ | ~~100-44-77~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Bis(2‑chloroethyl)ether [Dichloroethyl ether]~~ | ~~111-44-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Bromoform [Tribromomethane]~~ | ~~75-25-2~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Bromomethane [Methyl bromide]~~ | ~~74-83-9~~ | ~~Nondetect~~ | ~~39~~ |
| ~~4‑Bromophenyl phenyl ether [p‑Bromo diphenyl ether]~~ | ~~101-55-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Carbon tetrachloride~~ | ~~56-23-5~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Chlordane~~ | ~~57-74-9~~ | ~~Nondetect~~ | ~~14~~ |
| ~~p‑Chloroaniline~~ | ~~106-47-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Chlorobenzene~~ | ~~108-90-7~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Chlorobenzilate~~ | ~~510-15-6~~ | ~~Nondetect~~ | ~~2400~~ |
|  ~~p‑Chloro‑m‑cresol~~ | ~~59-50-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2‑Chloroethyl vinyl ether~~ | ~~110-75-8~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Chloroform~~ | ~~67-66-3~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Chloromethane [Methyl chloride]~~ | ~~74-87-3~~ | ~~Nondetect~~ | ~~39~~ |
| ~~2‑Chloronaphthalene [beta‑Chloronaphthalene]~~ | ~~91-58-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2‑Chlorophenol [o‑Chlorophenol]~~ | ~~95-57-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Chloroprene [2‑Chloro‑1,3‑butadiene]~~ | ~~1126-99-8~~ | ~~Nondetect~~ | ~~39~~ |
| ~~2,4‑D [2,4‑Dichlorophenoxyacetic acid]~~ | ~~94-75-7~~ | ~~Nondetect~~ | ~~7.0~~ |
| ~~Diallate~~ | ~~2303-16-4~~ | ~~Nondetect~~ | ~~3400~~ |
| ~~1,2‑Dibromo‑3‑chloropropane~~ | ~~96-12-8~~ | ~~Nondetect~~ | ~~39~~ |
| ~~1,2‑Dichlorobenzene [o‑Dichlorobenzene]~~ | ~~95-50-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,3‑Dichlorobenzene [m‑Dichlorobenzene]~~ | ~~541-73-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,4‑Dichlorobenzene [p‑Dichlorobenzene]~~ | ~~106-46-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~3,3'‑Dichlorobenzidine~~ | ~~91-94-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Dichlorodifluoromethane [CFC‑12]~~ | ~~75-71-8~~ | ~~Nondetect~~ | ~~39~~ |
| ~~1,2‑Dichloroethane [Ethylene dichloride]~~ | ~~107-06-2~~ | ~~Nondetect~~ | ~~39~~ |
| ~~1,1‑Dichloroethylene [Vinylidene chloride]~~ | ~~75-35-4~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Dichloromethoxy ethane [Bis(2‑chloroethoxy)methane]~~ | ~~111-91-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2,4‑Dichlorophenol~~ | ~~120-83-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2,6‑Dichlorophenol~~ | ~~87-65-0~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,2‑Dichloropropane [Propylene dichloride]~~ | ~~78-87-5~~ | ~~Nondetect~~ | ~~39~~ |
| ~~cis‑1,3‑Dichloropropylene~~ | ~~10061-01-5~~ | ~~Nondetect~~ | ~~39~~ |
| ~~trans‑1,3‑Dichloropropylene~~ | ~~10061-02-6~~ | ~~Nondetect~~ | ~~39~~ |
| ~~1,3‑Dichloro‑2‑propanol~~ | ~~96-23-1~~ | ~~Nondetect~~ | ~~30~~ |
| ~~Endosulfan I~~ | ~~959-98-8~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Endosulfan II~~ | ~~33213-65-9~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Endrin~~ | ~~72-20-8~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Endrin aldehyde~~ | ~~7421-93-4~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Endrin Ketone~~ | ~~53494-70-5~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Epichlorohydrin [1‑Chloro‑2,3‑epoxy propane]~~ | ~~106-89-8~~ | ~~Nondetect~~ | ~~30~~ |
| ~~Ethylidene dichloride [1,1‑Dichloroethane]~~ | ~~75-34-3~~ | ~~Nondetect~~ | ~~39~~ |
| ~~2‑Fluoroacetamide~~ | ~~640-19-7~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Heptachlor~~ | ~~76-44-8~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Heptachlor epoxide~~ | ~~1024-57-3~~ | ~~Nondetect~~ | ~~2.8~~ |
| ~~Hexachlorobenzene~~ | ~~118-74-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Hexachloro‑1,3‑butadiene [Hexachlorobutadiene]~~ | ~~87-68-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Hexachlorocyclopentadiene~~ | ~~77-47-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Hexachloroethane~~ | ~~67-72-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Hexachlorophene~~ | ~~70-30-4~~ | ~~Nondetect~~ | ~~59000~~ |
| ~~Hexachloropropene [Hexachloropropylene]~~ | ~~1888-71-7~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Isodrin~~ | ~~465-73-6~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Kepone [Chlordecone]~~ | ~~143-50-0~~ | ~~Nondetect~~ | ~~4700~~ |
| ~~Lindane [gamma‑Hexachlorocyclohexane] [gamma‑BHC]~~ | ~~58-89-9~~ | ~~Nondetect~~ | ~~1.4~~ |
| ~~Methylene chloride [Dichloromethane]~~ | ~~75-09-2~~ | ~~Nondetect~~ | ~~39~~ |
| ~~4,4'‑methylene‑bis(2‑chloroaniline)~~ | ~~101-14-4~~ | ~~Nondetect~~ | ~~100~~ |
| ~~Methyl iodide [Iodomethane]~~ | ~~74-88-4~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Pentachlorobenzene~~ | ~~608-93-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Pentachloroethane~~ | ~~76-01-7~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Pentachloronitrobenzene [PCNB] [Quintobenzene] [Quintozene]~~ | ~~82-68-8~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Pentachlorophenol~~ | ~~87-86-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Pronamide~~ | ~~23950-58-5~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~Silvex [2,4,5‑Trichlorophenoxypropionic acid]~~ | ~~93-72-1~~ | ~~Nondetect~~ | ~~7.0~~ |
| ~~2,3,7,8‑Tetrachlorodibenzo‑p‑dioxin [2,3,7,8‑TCDD]~~ | ~~1746-01-6~~ | ~~Nondetect~~ | ~~30~~ |
| ~~1,2,4,5‑Tetrachlorobenzene~~ | ~~95-94-3~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,1,2,2‑Tetrachloroethane~~ | ~~79-34-5~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Tetrachloroethylene [Perchloroethylene]~~ | ~~127-18-4~~ | ~~Nondetect~~ | ~~39~~ |
| ~~2,3,4,6‑Tetrachlorophenol~~ | ~~58-90-2~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,2,4‑Trichlorobenzene~~ | ~~120-82-1~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,1,1‑Trichloroethane [Methyl chloroform]~~ | ~~71-55-6~~ | ~~Nondetect~~ | ~~39~~ |
| ~~1,1,2‑Trichloroethane [Vinyl trichloride]~~ | ~~79-00-5~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Trichloroethylene~~ | ~~79-01-6~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Trichlorofluoromethane [Trichlormonofluoromethane]~~ | ~~75-69-4~~ | ~~Nondetect~~ | ~~39~~ |
| ~~2,4,5‑Trichlorophenol~~ | ~~95-95-4~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~2,4,6‑Trichlorophenol~~ | ~~88-06-02~~ | ~~Nondetect~~ | ~~2400~~ |
| ~~1,2,3‑Trichloropropane~~ | ~~96-18-4~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Vinyl Chloride~~ | ~~75-01-4~~ | ~~Nondetect~~ | ~~39~~ |
| ~~Notes:~~~~NA – Not Applicable~~ |

~~D. Implementation. Wastes that meet the comparable or syngas fuel specifications provided by Subsection B or C of this Section are excluded from the definition of solid waste provided that the conditions under this Section are met. For purposes of this Section, such materials are called excluded fuel; the person claiming and qualifying for the exclusion is called the excluded fuel generator; and the person burning the excluded fuel is called the excluded fuel burner. The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this Section and keeping records necessary to document compliance with those conditions.~~

~~1. Notices~~

~~a. Notices to State RCRA and CAA Authorized States or Regional RCRA and CAA Administrative Authority in Unauthorized States~~

~~i. The generator must submit a one‑time notice, except as provided by Clause D.1.a.v of this Section, to the regional or state RCRA and CAA administrative authority in whose jurisdiction the exclusion is being claimed and where the excluded fuel will be burned, certifying compliance with the conditions of the exclusion and providing the following documentation:~~

~~(a). the name, address, and EPA ID number of the person/facility claiming the exclusion;~~

~~(b). the applicable EPA hazardous waste codes that would otherwise apply to the excluded fuel;~~

~~(c). the name and address of the units meeting the requirements of Paragraph D.2 and Subsection E of this Section that will burn the excluded fuel;~~

~~(d). an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed, except as provided by Clause D.1.a.iii of this Section; and~~

~~(e).~~~~the following statement signed and submitted by the person claiming the exclusion or his authorized representative:~~

~~"Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of LAC 33:V.4909 have been met for all waste identified in this notification. Copies of the records and information required at LAC 33:V.4909.D.10 are available at the generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."~~

~~ii.~~~~If there is a substantive change in the information provided in the notice required under Paragraph D.1 of this Section, the generator must submit a revised notification.~~

~~iii. Excluded fuel generators must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed only in notices submitted after December 19, 2008, for newly excluded fuel or for revised notices as required by Clause D.1.a.ii of this Section.~~

~~b. Public Notice. Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation local to the site where the fuel will be burned, a notice entitled “Notification of Burning a Fuel Excluded under the Resource Conservation and Recovery Act” containing the following information:~~

~~i.~~~~the name, address, and EPA ID number of the generating facility(ies);~~

~~ii.~~~~the name and address of the burner and the identification of the unit(s) that will burn the excluded fuel;~~

~~iii.~~~~a brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;~~

~~iv.~~~~an estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and~~

~~v. the name and mailing address of the regional or state administrative authority to whom the claim was submitted.~~

~~2. Burning. The exclusion applies only if the fuel is burned in the following units that also shall be subject to federal/state/local air emission requirements, including all applicable CAA MACT requirements:~~

~~a.~~ *~~industrial furnaces~~* ~~as defined in LAC 33:V.109;~~

~~b.~~ *~~boilers~~*~~, as defined in LAC 33:V.109, that are further defined 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 produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or~~

~~c. hazardous waste incinerators subject to regulation under LAC 33:V.Chapter 31 or Chapter 43.Subchapter N or applicable CAA MACT standards; or~~

~~d. gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.~~

~~3. Blending to Meet the Specifications. Hazardous waste shall not be blended to meet the comparable fuel specification under Subsection B of this Section, except as provided by Subparagraph D.3.a of this Section.~~

~~a. Blending to Meet the Viscosity Specification. A hazardous waste blended to meet the viscosity specification for comparable fuel shall:~~

~~i. as generated and prior to any blending, manipulation, or processing, meet the constituent and heating value specifications of Subparagraph B.1.a and Paragraph B.2 of this Section;~~

~~ii. be blended at a facility that is subject to the applicable requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, 43, and LAC 33:V.1109.E; and~~

~~iii. not violate the dilution prohibition of Paragraph D.6 of this Section.~~

~~b. Residuals resulting from the treatment of a hazardous waste listed in LAC 33:V.4901 to generate a comparable fuel remain a hazardous waste.~~

~~4. Treatment to Meet the Comparable Fuel Exclusion Specifications~~

~~a. A hazardous waste may be treated to meet the exclusion specifications of Paragraphs B.1 and 2 of this Section provided the treatment:~~

~~i. destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;~~

~~ii. is performed at a facility that is subject to the applicable requirements of LAC 33:V.Chapters 11, 15, 17, 18, 19, 21, 23, 24, 25, 27, 28, 29, 30, 32, 33, 35, 37, and 43; and~~

~~iii. does not violate the dilution prohibition of Paragraph D.6 of this Section.~~

~~b. Residuals resulting from the treatment of a hazardous waste listed in LAC 33:V.4901 to generate a comparable fuel remain a hazardous waste.~~

~~5. Generation of a Syngas Fuel~~

~~a. A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of Subsection C of this Section provided the processing:~~

~~i. destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;~~

~~ii. is performed at a facility that is subject to the applicable requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, 43, and LAC 33:V.1109.E, or is an exempt recycling unit in accordance with LAC 33:V.4105.C; and~~

~~iii. does not violate the dilution prohibition of Paragraph D.6 of this Section.~~

~~b. Residuals resulting from the treatment of a hazardous waste listed in LAC 33:V.4901 to generate a syngas fuel remain a hazardous waste.~~

~~6. Dilution Prohibition for Comparable and Syngas Fuels. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a hazardous waste to meet the specifications of Subparagraph B.1.a, Paragraph B.2, or Subsection C of this Section.~~

~~7. Fuel Analysis Plan for Generators. The generator of an excluded fuel shall develop and follow a written fuel analysis plan that describes the procedures for sampling and analysis of the materials to be excluded. The plan shall be followed and retained at the site of the generator claiming the exclusion.~~

~~a. At a minimum, the plan must specify:~~

~~i. the parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;~~

~~ii. the test methods which will be used to test for these parameters;~~

~~iii. the sampling method which will be used to obtain a representative sample of the excluded fuel to be analyzed;~~

~~iv. the frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and~~

~~v. if process knowledge is used in the determination, any information prepared by the generator in making such determination~~

~~b. For each analysis, the generator shall document the following:~~

~~i. the dates and times samples were obtained, and the dates the samples were analyzed;~~

~~ii. the names and qualifications of the person(s) who obtained the samples;~~

~~iii. a description of the temporal and spatial locations of the samples;~~

~~iv. the name and address of the laboratory facility at which analyses of the samples were performed;~~

~~v. a description of the analytical methods used, including any cleanup and sample preparation methods;~~

~~vi. all quantitative limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;~~

~~vii. all laboratory results demonstrating that the exclusion specifications have been met for the waste; and~~

~~viii. all laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in Paragraph D.11 of this Section and also provides for the availability of the documentation to the claimant upon request.~~

~~c. Syngas fuel generators shall submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel, a fuel analysis plan containing the elements of Subparagraph D.7.a of this Section to the appropriate regulatory authority. The approval of fuel analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.~~

~~8. Excluded Fuel Sampling and Analysis~~

~~a. General. For wastes for which an exclusion is claimed under the specifications provided by Subsections B and C of this Section, the generator of the waste must test for all the constituents on LAC 33:V.3105, Table 1, except those that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent should not be present. The generator may not determine that any of the following categories of constituents with a specification in Table 7 of this Section should not be present:~~

~~i. a constituent that triggered the toxicity characteristic for the constituents that were the basis of the listing of the hazardous secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in LAC 33:V.2223;~~

~~ii. a constituent detected in previous analysis of the waste;~~

~~iii. constituents introduced into the process that generates the waste; or~~

~~iv. constituents that are by-products or side reactions to the process that generates the waste.~~

~~[NOTE: Any claim under this Section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the excluded fuel above the exclusion specifications.]~~

~~b. Use of Process Knowledge. For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the excluded fuel may not use process knowledge in accordance with Subparagraph D.8.a of this Section and must test to determine that all of the constituent specifications of Subsections B and C of this Section, as applicable, have been met.~~

~~c. The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate that:~~

~~i. the 95 percent upper confidence limit of the mean concentration for each constituent of concern is not above the specification level; and~~

~~ii. the analysis could have detected the presence of the constituent at or below the specification level.~~

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

~~e. In an enforcement action, the burden of proof to establish conformance with the exclusion specification shall be on the generator claiming the exclusion.~~

~~f. The generator must conduct sampling and analysis in accordance with the fuel analysis plan developed under Paragraph D.7 of this Section.~~

~~g. Viscosity Condition for Comparable Fuel. Excluded comparable fuel that has not been blended to meet the kinematic viscosity specifications shall be analyzed as generated.~~

~~h. If hazardous waste is blended to meet the kinematic viscosity specifications for comparable fuel, the generator shall:~~

~~i. analyze the hazardous waste as generated to ensure that it meets the constituent and heating value specifications of Subsection B of this Section; and~~

~~ii. after blending, analyze the fuel again to ensure that the blended fuel continues to meet all comparable/syngas fuel specifications.~~

~~i. Excluded fuel must be retested, at a minimum, annually and must be retested after a process change that could change the chemical or physical properties in a manner that may affect conformance with the specifications.~~

~~9. Speculative Accumulation. Excluded fuel must not be accumulated speculatively, as defined in LAC 33:V.109.~~

~~10. Operating Records. The generator must maintain an operating record on site containing the following information:~~

~~a. all information required to be submitted to the implementing authority as part of the notification of the claim:~~

~~i. the owner/operator name, address, and EPA facility ID number of the person claiming the exclusion;~~

~~ii. for each excluded fuel, the EPA hazardous waste codes that would be applicable if the material were discarded; and~~

~~iii. the certification signed by the person claiming the exclusion or his authorized representative;~~

~~b. a brief description of the process that generated the excluded fuel, and if the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;~~

~~c. the monthly and annual quantities of each fuel claimed to be excluded;~~

~~d. documentation for any claim that a constituent is not present in the excluded fuel as required under Subparagraph D.8.a of this Section;~~

~~e. the results of all analyses and all detection limits achieved as required under Paragraph D.7 of this Section;~~

~~f. if the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of Paragraphs D.3 and 4 of this Section;~~

~~g. if the excluded fuel is to be shipped off site, a certification from the burner as required under Paragraph D.12 of this Section;~~

~~h. the fuel analysis plan and documentation of all sampling and analysis results as required by Paragraph D.7 of this Section that includes the following:~~

~~i. the dates and times waste samples were obtained, and the dates the samples were analyzed;~~

~~ii. the names and qualifications of the person(s) who obtained the samples;~~

~~iii. a description of the temporal and spatial locations of the samples;~~

~~iv. the name and address of the laboratory facility at which analyses of the samples were performed;~~

~~v. a description of the analytical methods used, including any cleanup and sample preparation methods;~~

~~vi. all quantitative limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;~~

~~vii. all laboratory analytical results demonstrating that the exclusion specifications have been met for the waste; and~~

~~viii. all laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in Paragraph D.11 of this Section and also provides for the availability of the documentation to the claimant upon request; and~~

~~i. if the generator ships excluded fuel off-site for burning, the generator must retain for each shipment the following information on-site:~~

~~i. the name and address of the facility receiving the excluded fuel for burning;~~

~~ii. the quantity of excluded fuel shipped and delivered;~~

~~iii. the date of shipment or delivery;~~

~~iv. a cross-reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications as required under Paragraph D.7 of this Section; and~~

~~v. a one time certification by the burner as required under Paragraph D.12 of this Section.~~

~~11. Records Retention. Records must be maintained for a period of three years. A generator must maintain a current fuel analysis plan during that three-year period.~~

~~12. Burner Certification to the Generator. Prior to submitting a notification to the state and regional administrative authority, a generator of excluded fuel who intends to ship the excluded fuel off site for burning must obtain a one-time written, signed statement from the burner:~~

 ~~a. certifying that the excluded fuel will only be burned in an industrial furnace or boiler, utility boiler, or hazardous waste incinerator, as required under Paragraph D.2 of this Section;~~

 ~~b. identifying the name and address of the facility that will burn the excluded fuel; and~~

 ~~c. certifying that the state in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of this Section.~~

~~13. Ineligible Waste Codes. Wastes that are listed as hazardous waste because of presence of dioxins or furans, as set out in LAC 33:V.4901.G, Table 6, are not eligible for this exclusion, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to full RCRA hazardous waste management requirements.~~

~~14. Regulatory Status of Boiler Residues. Burning excluded fuel that was otherwise a hazardous waste listed under LAC 33:V.4901.B-D does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived-from hazardous wastes.~~

~~15. Residues in Containers and Tank Systems Upon Cessation of Operations~~

~~a. Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 22, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43.~~

~~b. Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under LAC 33:V.4903.B-E.2 or if the fuel were otherwise a hazardous waste listed under LAC 33:V.4901.B-E when the exclusion was claimed.~~

~~c. Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under Subsection B or C of this Section are solid wastes subject to regulation as hazardous waste if:~~

~~i. the waste exhibits a characteristic of hazardous waste under LAC 33:V.4903.B-E.2; or~~

~~ii. the fuel were otherwise a hazardous waste listed under LAC 33:V.4901.B-E. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.~~

~~16. Waiver of RCRA Closure Requirements. Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under LAC 33:V.1109.E, are not subject to the closure requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43; provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this Section, and that afterward will be used only to manage fuel excluded under this Section.~~

~~17. Spills and Leaks~~

~~a. Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and shall be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under LAC 33:V.4903.B-E.2 or if the fuel were otherwise a hazardous waste listed in LAC 33:V.4901.B-E.~~

~~b. For excluded fuel that would have otherwise been a hazardous waste listed in LAC 33:V.4901.B-E and which is spilled or leaked, the hazardous waste code for the listed waste applies to the spilled or leaked material.~~

~~18. Nothing in this Section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the U.S. Department of Transportation requirements for hazardous materials in 49 CFR parts 171-180.~~

~~E. Failure to Comply with the Conditions of the Exclusion. An excluded fuel loses its exclusion status if any person managing the fuel fails to comply with the conditions of the exclusion under this Section. The material then must be managed as hazardous waste from the point of generation. In such situations, EPA or an authorized state agency may take enforcement action under RCRA section 3008(a).~~

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:1010 (May 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008), LR 34:1021 (June 2008), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:\*\*.