

I. EXECUTIVE ORDERS

MJF 00-25—Special Farm Product Permit Transportation of Corn Product Permit Transportation of Corn in its Natural State 1552

MJF 00-26—Post-Conviction DNA Testing Advisory Commission..... 1552

II. EMERGENCY RULES

Education

Board of Elementary and Secondary Education—Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.1330, 1431, 1441, 1449and 2001)..... 1554

Office of Student Financial Assistance—Tuition Opportunity Program for Students (TOPS)—Core Curriculum and TOPS TECH (LAC 28:IV.301, 703 and 803)..... 1555

Tuition Payment Program for Medical School Students (LAC 28:IV.2303, 2307 and 2309) 1557

Health and Hospitals

Office of the Secretary, Bureau of Health Services Financing—Inpatient Psychiatric Services—Reimbursement Methodology 1558

Long Term Hospital—Reimbursement Methodology 1558

Outpatient Hospital—Laboratory Services 1559

Outpatient Hospital—Rehabilitation Services 1559

Private Hospital—Inpatient Services 1560

Private Intermediate Care Facilities for the Mentally Retarded— Reimbursement Methodology 1560

Private Nursing Facilities—Reimbursement Methodology 1561

Targeted Case Management Services—Nurse Home Visits for First Time Mothers 1561

Targeted Case Management Services and Targeted EPSDT Case Management 1562

Social Services

Office of Family Support—Family Independence Temporary Assistance (FITAP) Program—Increases in Flat Grant Amounts..... 1563

Kinship Care Subsidy Program—Grant Increase 1564

Wildlife and Fisheries

Wildlife and Fisheries Commission—2000 Fall Shrimp Season 1564

2000-2001 Migratory Bird Hunting Season 1564

2000-2001 Oyster Season 1565

2000 Spring Inshore Shrimp Season Closure—Remainder of Zone 1 1565

2000 Spring Inshore Shrimp Season Closure—Zone 1 1566

III. RULES

Agriculture and Forestry

Office of the Commissioner—Pet Turtles (LAC 7:XXI.Chapter 23) 1567

Economic Development

Division of Small and Emerging Business Development—Small and Emerging Business Development Program (LAC 19:I.Chapters 1-13)..... 1572

Education

Board of Secondary and Elementary Education—Bulletin 741—School Performance Scores (LAC 28:I.901).... 1575

Bulletin 1566—Guidelines for Pupil Progression (LAC 28:XXXIX.503)..... 1575

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.Chapters 11-20) 1576

Child Nutrition Program (LAC 28:I.943) 1599

Student Financial Assistance Commission, Office of Student Financial Assistance—Tuition Opportunity Program for Students (TOPS)—Definitions (LAC 28:IV.301)..... 1601

This public document was published at a total cost of \$5,996.38. Eight hundred fifty (850) copies of this public document were published in this monthly printing at a cost of \$3,996.38. The total cost of all printings of this document including reprints is \$5,996.38. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:30. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Register* is available at the Office of the State Register, or an audio cassette tape of requested sections of the *Register* can be provided for the cost incurred by the Office of the Office of the State Register in producing such a tape. For more information contact the Office of the State Register.

Tuition Opportunity Program for Students (TOPS)—Establishing Eligibility (LAC 28:IV.703 and 803)	1602
Tuition Opportunity Program for Students (TOPS)—Obligation, Deferment and Cancellation (LAC 28:IV.911 and 2105)	1603
Environmental Quality	
Office of Environmental Assessment, Environmental Planning Division—Beneficial Environmental Projects (BEPs) (LAC 33:I.2501-2505)(OS037)	1603
Emissions Control from Motor Vehicles and Related Fees (LAC 33:III.223; 1901-1935)(AQ200).....	1605
Incorporation by Reference—40 CFR Part 60 (LAC 33:III.3003)(AQ 102).....	1607
Land Disposal of Prohibited Waste by Deep Well Injection (LAC:V.517, 1529, 2201-2269, 2273, 4357 and 5120)(HW062).....	1608
Louisiana Pollutant Discharge Elimination System (LPDES) Program (WP040)(LAC 33:IX.2301, 2531 and 2533)	1609
Firefighters' Pension and Relief Fund	
City of New Orleans and Vicinity—Partial Lump-Sum Option Payment (LAC 58:V.1901 and 1903)	1609
Governor	
Office of Elderly Affairs—State Plan of Aging (LAC 4:VII.1301-1323)	1610
Health and Hospitals	
Board of Dentistry—Restricted Licensees; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties: Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations (LAC XXXIII.105, 116, 120, 306, 502, 503, 706, 710, 1305, 1607 and 1619).....	1612
Board of Nursing—Criminal History Record Information (LAC 46:XLVII.3330)	1614
Disciplinary Proceedings (LAC 46:XLVII.3403 and 3404)	1614
Official Office of the Board (LAC 46:XLVII.3305)	1615
Board of Pharmacy—Drug Returns (LAC 46:LIII.3517)	1615
Office of Public Health—Sanitary Code—Commercial Body Art	1616
Water Supplies.....	1624
Office of the Secretary, Bureau of Health Services Financing—Durable Medical Equipment Program—Augmentative and Alternative Communication (AAC) Devices	1625
Pharmacy Program—Average Wholesale Price	1629
Labor	
Office of Workforce Development—Workforce Development Training Fund (LAC 40:XVI.101, 105, 107, 109 and 111)	1629
Louisiana Lottery Corporation	
On-Line Lottery Games (LAC 42:XV.Chapter 1)	1631
Public Safety and Corrections	
Office of Motor Vehicles—Driver's License—General Requirements (LAC 55:III.118, 135, 138 and 141)	1632
Special Identification Cards (LAC 55:III.1929)	1633
Social Services	
Office of Family Support—Food Stamp Program—Quarterly Reporting (LAC 67:III.2013 and 2015)	1633
Office of Rehabilitation Services—Applicant/Client Appeal Rights (LAC 67:VII.107)	1634
Office of the Secretary, Bureau of Licensing—Class "B" Child Day Care (LAC 48:I.Chapter 53)	1635
Transportation and Development	
Roadside Vegetation Management (LAC 70:III.Chapter 7)	1644
Treasury	
State Bond Commission—Electronic Bidding	1675
Surety Bond Deposit	1675
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Billfishes (LAC 76:VII.355).....	1676
Prohibited Fish Species (LAC 76:VII.359).....	1676

IV. NOTICES OF INTENT

Education	
Board of Elementary and Secondary Education—Bulletin 741—Louisiana Handbook for School Administrators—Policy for Louisiana's Public Education Accountability System (LAC 28:I:901)	1677
Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII. Chapters 11-20)	1683
Environmental Quality	
Office of Environmental Quality, Environmental Planning Division—Correct Organization Citations Resulting From Reengineering of DEQ (LAC 33:I, III, V, VI, VII, IX, XI and XV).....	1684
Fluoroscopic X-Ray Systems (LAC 33:XV.605)	1848
Incorporation by Reference Update, 40 CFR Part 63 (LAC 33:III.5116 and 5122)(AQ 207*).....	1849
Incorporation by Reference Update, 40 CFR Part 68 (LAC 33:IV.5901)	1851
LPDES Stormwater Phase II Regulations (LAC 33:IX.Chapter 23).....	1852
Radiographer Trainee Requirements and Records (LAC 33:XV.503 and 588)	1863
Reportable Quantity for Pollutants (LAC 33:I.3905 and 3931)	1865
Waste Tire Regulations (LAC 33:VII.Chapter 105).....	1866

Governor	
Commission on Law Enforcement and Administration of Criminal Justice—Law Enforcement Training and Assistance Fund; Crime Victims Reparations Fund; and Drug Abuse Education and Treatment Fund (LAC 22:III.4544).....	1881
Health and Hospitals	
Board of Nursing—Nursing Education Programs (LAC 46:XLVII.Chapter 35)	1882
Office of Secretary, Bureau of Health Services Financing—Chiropractic Service—Termination of Services	1885
Durable Medical Equipment (DME)—Equipment and Supplies Delivery Reimbursement Reduction	1886
Public Safety and Corrections	
Gaming Control Board—Assisting in Violations (LAC 42:XIII.2931.)	1887
Code of Conduct of Licensees and Permittees (LAC 42:VII.2901, XI.2417, 2901 and XIII.2901).....	1888
Requirements for Licensing (LAC 42:XI.2405).....	1892
Riverboat Gaming Commission; Licensees and Permits; Passenger Embarkation and Disembarkation (LAC 42:XIII.301-911, 2118, 2123, 2156, 2910).....	1892
Office of State Police—User Fees for Louisiana State Police Facility (LAC 55:I Chapter 3)	1894
Weights and Standards Mobile Police Force (LAC 55:I Chapter 23).....	1895
Revenue	
Corporation Income and Franchise Taxes Division—Income—Tax Withholding Tables (LAC 61:I.1501)	1899
Office of Alcohol and Tobacco Control—Caterer's Permits (LAC 55:VII.325)	1907
Liquor Credit Regulations—Sampling (LAC 55:VII.317)	1908
Social Services	
Office of Family Support—Child Care Assistance Program—Eligibility, Payments and Providers (LAC 67:III.Chapter 51)	1909
Office of the Secretary, Bureau of Licensing—Adult Residential Care Facility (LAC 48:I.Chapter 88).....	1913
Transportation and Development	
Highways/Engineering—Fiber Optic Permits (LAC 70:III.Chapter 25)	1914
Treasury	
State Employees' Retirement System—Trustee Election (LAC 58.I.310, 303, 307, 501 and 503).....	1915
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Daily Take and Possession Limits of King Mackerel, Spanish Mackerel and Cobia (LAC 76:VII.327).....	1916
Reef Fish—Harvest Regulations (LAC 76:VII.335)	1917
Tuna—Harvest Regulations (LAC 76:VII.361)	1919
V. POTPOURRI	
Agriculture and Forestry	
Horticulture Commission—Landscape Architect Registration Exam.....	1921
Retail Floristry Examination	1921
Office of Agriculture and Environmental Sciences, Structural Pest Control Commission—Approved Termiticides.....	1921
Environmental Quality	
Office of Environmental Assessment—Amendment to the Waste Tire Regulations SW029 Risk/Cost Benefit Statement.....	1922
Governor	
Division of Administration, Office of Community Development—Availability of Proposed FY 2001 Consolidated Annual Action Plan	1923
Health and Hospitals	
Board of Veterinary Medicine—Fall/Winter Examination Dates	1924
Bureau of Health Services Financing—Private Intermediate Care Facilities for the Mentally Retarded New Reimbursement Rates	1924
Office of Public Health, Nutrition Section—OPH Nutrition Section.....	1925
Office of the Secretary, Bureau of Health Services Financing—Private Nursing Facilities—New Reimbursement Rates.....	1925
Labor	
Office of Workers' Compensation—Average Weekly Wage Rate	1925
Weekly Compensation Benefit Limits.....	1925
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites.....	1926
Office of Conservation, Injection and Mining Division—Docket No. IMD 2000-04	1926
Office of the Secretary—Fishermen's Gear Compensation Fund	1927
Social services	
Office of Community Services—Chafee Foster Care Independence Program	1927
Office of Family Support—Child Care Assistance Program Public Hearings	1927
VI. INDEX	1928

Executive Orders

EXECUTIVE ORDER MJF 00-25

Special Farm Product Permit
Transportation of Corn in its Natural State

WHEREAS, temperatures above ninety degrees Fahrenheit (90°F) and relative humidity above eighty-five percent (85%) cause and/or contribute to the rapid growth of the types of fungi which cause aflatoxin, a group of extremely toxic chemicals that may occur when certain fungi infect grain, including corn, and form secondary metabolites;

WHEREAS, as a result of the severe drought and the prolonged period in July of record and near record-breaking high temperatures and high relative humidity, there is an imminent threat of aflatoxin rapidly spreading and destroying most of Louisiana's remaining corn harvest for the year 2000;

WHEREAS, R.S. 32:387(C)(2) authorizes the secretary of the Department of Transportation and Development to "issue special permits he finds essential and in the best interest of the state by reason of an emergency situation, unusual circumstances, natural catastrophes, or disasters affecting the transportation on the highways of the state of farm products in their natural state";

WHEREAS, due to imminent threat of aflatoxin destroying the remainder of Louisiana's 2000 corn harvest, there is both a vital public interest and an economic necessity which demands the harvested corn in its natural state be transported to elevators by the most direct and expeditious routes possible;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to R.S. 32:387(C)(2), the secretary of the Department of Transportation and Development shall issue special farm product permits for the remaining period of the Louisiana 2000 corn harvest season, which shall not be construed to last beyond September 15, 2000, for the operation of vehicles and/or trucks which haul or transport corn harvested in Louisiana and still in its natural state, at a gross weight not to exceed one hundred thousand pounds (100,000 lbs.), on individually designated routes. As used herein, "individually designated routes" shall mean routes not otherwise authorized by R.S. 32:387.9 for persons issued a special annual permit for the operation of trucks hauling agronomic or horticulture crops in their natural state.

SECTION 2: Pursuant to R.S. 32:387(C)(2), the secretary of the Department of Transportation and Development may establish and collect a reasonable fee in an amount not to exceed one hundred dollars (\$100.00) for each special farm product permit issued pursuant to Section 1 of this Order.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or any political

subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 4: This Order is effective upon signature and shall continue in effect until September 15, 2000, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 31st day of July, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0007#018

EXECUTIVE ORDER MJF 00-26

Post-Conviction DNA Testing Advisory Commission

WHEREAS, numerous scientific advances have been made in recent years in the field of forensic science and DNA testing;

WHEREAS, some of the inmates presently incarcerated with the Louisiana Department of Corrections were convicted before the existence or wide-spread availability of DNA testing;

WHEREAS, a few recent cases in Louisiana and elsewhere in the nation have shown that DNA testing can, in some circumstances, establish the actual innocence or remove all doubt as to the guilt of an inmate for the crime for which he or she was convicted; and

WHEREAS, legislation may be necessary to establish appropriate procedures to allow inmates to obtain DNA testing of old evidence when such testing was not available at the inmate's trial;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Post-Conviction DNA Testing Advisory Commission (hereafter "Commission") is established within the executive department, Office of the Governor.

SECTION 2: The purpose of the Commission is to evaluate the need for and, if appropriate, to recommend legislation and policy changes necessary to allow incarcerated persons who were convicted before the existence or wide-spread availability of DNA testing to have access to such testing when it would be able to conclusively determine the person's guilt or innocence. In fulfilling this purpose, the duties and functions of the Commission shall include, but are not limited to:

A. reviewing:

1. the existing policies and laws of the state of Louisiana which govern this issue;
2. the legislation and policies adopted by other states and the federal government to resolve this issue; and
3. the federal and state constitutional provisions and interpretations which would constrict the state's ability to enact legislation on this issue.

B. estimating:

1. the number of inmates currently incarcerated whose trials occurred before DNA testing existed or was widely available;
2. of those inmates, the number where the evidence involved is likely to be still available with adequate quality and quantity to conduct DNA testing; and
3. of those inmates, the number where DNA testing could be conclusive of guilt or innocence.

C. preparing:

1. a written report which presents and evaluates the information gathered by the Commission and recommends appropriate legislative and policy changes; and
2. draft recommended legislation and administrative policies, procedures, and regulations which would be necessary to implement the Commission's recommendations.

SECTION 3: The Commission shall submit a written report to the governor by March 1, 2001, which addresses the issues set forth in Section 2. This report shall include draft legislation and, if appropriate, draft administrative policies, procedures, or regulations.

SECTION 4: The Commission shall be composed of a maximum of 17 members, who, unless otherwise specified, shall be appointed by, and serve at the pleasure of, the governor. The membership of the Commission shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the superintendent of the Louisiana State Police, or the superintendent's designee;
- C. the secretary of the Department of Public Safety and Corrections, or the secretary's designee;
- D. three members of the Louisiana House of Representatives, designated by the speaker of the House of Representatives;
- E. three members of the Louisiana Senate, designated by the president of the Senate;

F. two judges of a court of this state, appointed by the governor;

G. two district attorneys or assistant district attorneys, appointed by the governor;

H. two attorneys whose legal practice consists largely of criminal defense cases, appointed by the governor;

I. a representative of a crime lab facility located in Louisiana, appointed by the governor; and

J. an employee of the Louisiana State Law Institute appointed by the governor.

SECTION 5: The governor shall appoint the chair of the Commission. All other officers shall be elected by the membership of the Commission.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Support staff for the Commission and facilities for its meetings shall be provided by the Department of Corrections.

SECTION 8: Except for the Governor's designee, commission members shall not receive compensation or a per diem or travel expenses from the office of the Governor for serving on the Commission.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 10: This order is effective upon signature and shall continue in effect until March 31, 2001, or until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of August, 2000.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0008#90

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.1330, 1431, 1441, 1449 and 2001))

The Board of Elementary and Secondary Education is exercising emergency provisions to the Administrative Procedure Act [R.S. 49:953(B)] to re-promulgate and amend rules of the Regulations for Implementation of the Children with Exceptionalities Act, Subpart B, Gifted/Talented Students.

The Emergency Rule is necessary to allow the Louisiana Department of Education, Division of Special Populations to effectively administer the gifted/talented programs. A delay in promulgating these rules would have an adverse effect in providing educational services to gifted/talented children in order to establish free appropriate public education to these students.

This Declaration of Emergency is effective August 20, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part XLIII. Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act

Subpart B. Regulations for Gifted/Talented Students

Chapter 13. Responsibilities and Activities of the Division of Special Populations

§1330. State Policies and Procedures: Notice and Participation

A. In the preparation of the policies and procedures required by state statute, the division shall ensure that prescribed activities are preformed.

1. The division shall submit proposed revisions of policies and procedures to the State Board of Elementary and Secondary Education for advertisement, and as appropriate, Notice of Intent in the *Louisiana Register*.

2. The division shall publish in newspapers of general circulation throughout the state, other media, or both, the timetable for final approval, the procedures for submitting written comments, and a list of the dates, times, and places of public meetings to be held; the proposed policies and procedures shall be available for comment at least forty-five calendar days following the date of notice.

3. The division shall distribute to interested parties and shall post the policies and procedures on the department's official internet website for public comment for a period of 45 days.

4. The division shall hold a series of open public meetings in which parents and other interested persons

throughout the state are afforded a reasonable opportunity to comment on the proposed policies and procedures.

5. The division shall review and consider all public comments that might warrant modification of the policies and procedures.

6. The division shall attach a summary of the comments made during the public meetings or received by the state board to the proposed final policies or procedures submitted to the state board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:0000, amended LR 26:

Chapter 14. Responsibilities of City and Parish Schools Boards, Special School Districts, and State Special Schools

§1431. Students in Educational Programs Operated by the LEA

A.1. - 4. ...

5. The initial or most recent individual evaluation has expired.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:0000, amended LR 26:

§1441 IEP Team Participation

A. - A.6. ...

7. If appropriate the student.

a. The LEA shall invite a G/T student of any age to attend his/her IEP meeting.

b. Beginning at least one year before a student reaches the age of majority under state law, the student's IEP shall include a statement that the student has been informed of his or her rights under these regulations, if any, that will transfer to the student on his or her reaching the age of majority, consistent with §1518.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:0000, amended LR 26:

§1449. IEP Declassification Placement

A. ...

1. Place the student in regular education if the student is eligible for regular education;

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:0000, LR 26:

Chapter 20. State Program Rules for Special Education
§2001. Pupil/Teacher, and Pupil Appraisal Ratios for Public Education

Setting	Preschool	Elementary	Secondary

Combination Resource/Self-contained		22	22

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:0000, amended LR 26:

Interested persons may submit written comments until 4:30 p.m., October 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
 Executive Director

0008#061

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
 Office of Student Financial Assistance**

Tuition Opportunity Program for Students
 (TOPS) Core Curriculum and TOPS TECH
 (LAC 28:IV.301, 703 and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The Emergency Rules are necessary to implement changes to the TOPS rules to allow the Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective August 20, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28
 EDUCATION**

Part IV. Student Financial Assistance Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

First-Time Freshman Ca student who is awarded TOPS Opportunity, Performance, or Honors and enrolls for the first time as a full-time freshman in an academic program in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time on the fourteenth class

day (ninth class day for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in an academic program in a postsecondary college or university in a summer session will be considered a *First-Time Freshman* for the immediately succeeding fall term. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in a non-academic program in a postsecondary school in a summer term will be considered a *First-Time Freshman* at the time of such enrollment. The fact that a student enrolls in a postsecondary school prior to graduation from high school and/or enrolls less than full time in a postsecondary school prior to the required date for full time enrollment shall not preclude the student from being a *First-Time Freshman*.

First-Time Student Ca student who is awarded TOPS-TECH and enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and continues to be enrolled full-time. The fact that a student who is awarded TOPS-TECH enrolls in an academic program at a postsecondary school prior or subsequent to graduation from high school, but prior to the required date for full time enrollment in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree, shall not preclude the student from being a *First-Time Student*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§703. Establishing Eligibility

A. - A.4.g. ...

5.a. graduate from a BESE-approved, provisionally-approved, or probationary-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II

1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (2 credit) Digital Graphics and Animation (2 credit) Multimedia Productions (1 credit) Web Mastering (2 credit) Independent Study in Technology applications (1 credit)

ii. for purposes of satisfying the requirements of §703.A.5.a.i, above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science
Algebra I	Algebra I, Parts 1 and 2
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

*Applied Mathematics III was formerly referred to as Applied Geometry

iii. for purposes of satisfying the requirements of §703.A.5.a.i, above, in addition to the courses identified in §703.A.5.a.ii the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for students of the Louisiana School for Math, Science and the Arts:

Core Curriculum Course	Equivalent (Substitute) Course
English III	EN 210 Composition/Major Themes in Literature (1 unit)
English IV	any two of the following 2 unit courses: EN 311 Readings in Literature (at least one 311 course is a requirement) EN 311A American Literature EN 311B British Literature EN 302 Studies in the English Language EN 304 Topics in American and British Literature EN 312 Studies in Poetry EN 314 Readings in World Literature EN 322 Studies in Fiction EN 332 Introduction to Film Studies EN 342 Studies in Modern Drama EN 401 Creative Writing EN 402 Expository Writing EN 412 Studies in a Major Author EN 422 Studies in a Major Author IS 314 Dramatic Text and Performance IS 315 Literature and Science IS 317 Evolution and Literature IS 318 Sacred Literature IS 411 English Renaissance
Algebra I (one unit)	Any combination of advanced math courses which equal one unit of course credit that are certified by the school to be equivalent of Algebra I
Algebra II (one unit)	Any combination of advanced math courses which equal one unit of course credit that are certified by the school to be equivalent of Algebra II: MA 120 College Algebra (1 unit), or MA 121 Accelerated College Algebra (2 unit) and 2 unit of MA 203 Trigonometry
Physics	PH 110L Conceptual Physics (1 unit), or PH 210L General Physics (1 unit), or PH 250L Advanced Placement Physics (1 unit), or PH 310L Physics with Calculus
Biology II	BI 210L Advanced Placement Biology (1 unit), or BI 231L Microbiology (2 unit), and BI 241 Molecular and Cellular Biology (2 unit)
Civics (2 unit) and Free Enterprise (2 unit)	AH 243 American Government and Politics (2 unit), and SS 113 Economics (2 unit)
Western Civilization	EH 121 Ancient and Medieval History (2 unit) and EH 122 Modern History (2 unit)

or

A.5.b. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.3. ...

4. initially apply and enroll in a technical program as a first-time student, as defined in §301, in a public community or Louisiana Technical College, unless granted an exception for cause by LASFAC, not later than the term or semester excluding the summer term, immediately following the first anniversary of the date that the student graduated from high school or, if the student joins the United States Armed Forces within one year after graduating from high school, has enrolled in such eligible institution as a first-time student not later than the term or semester, excluding the summer term, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; and

A.5. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:67 (January 2000), LR 26:

Mark S. Riley
Assistant Executive Director

0007#003

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Payment Program for Medical School Students
(LAC 28:IV. 2303, 2307 and 2309)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to implement rules for the Tuition Payment Program for Medical School Students (R.S. 17:3041.10-3041.15).

The Emergency Rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to administer this program. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective August 20, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

**Part IV. Student Financial AssistanceC Higher
Education Scholarship and Grant Programs**

**Chapter 23. Tuition Payment Program for Medical
School Students**

§2303. Establishing Eligibility

A. - A.3. ...

4. be enrolled in the third year of study or later at one of the LSU medical schools as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A primary care field shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice;

A.5. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), LR 25:2177 (November 1999), amended LR 26:

§2307. Award Amount

A. ...

B. The loan disbursement will be in two increments during each academic year, unless disbursed subsequent to entering the third year of medical study, in which case any prior disbursements due may be included in the initial disbursement based upon requests for disbursements submitted by the LSU medical schools which are consistent in timing with the normal payment of tuition by medical school students.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), amended LR 26:

§2309. Maintaining Eligibility

A. - A.1. ...

2. be considered in good standing by the LSU Medical Center and continue to make satisfactory progress towards a medical degree in a primary care field or have completed studies in good standing; and

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), amended LR 26:

Mark S. Riley
Assistant Executive Director

0007#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Inpatient Psychiatric Services
Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the reimbursements rates for inpatient psychiatric services by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the seven percent reduction that was previously made to Medicaid prospective per diem rates for inpatient psychiatric services. It is estimated that implementation of this emergency rule will increase expenditures for the inpatient psychiatric services by approximately \$1,542,836 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for inpatient psychiatric services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Long Term Hospital Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June 20, 1994 which established the reimbursement methodology for inpatient hospital services, including long-term acute hospitals under the specialty hospital peer groups (*Louisiana Register*, Volume 20, Number 6) and subsequently adopted a rule which amended the peer group rate payment to the lowest blended per diem rate for each specialty hospital category without otherwise changing the methodology (*Louisiana Register*, Volume 22, Number 1). The reimbursement methodology for psychiatric treatment was later disjoined from the methodology for other types of services in long-term acute hospitals in order to reimburse these services at the same prospective per diem rate established for psychiatric treatment facilities (*Louisiana Register*, Volume 23, Number 2). The June 20, 1994 rule was subsequently amended to restructure the prospective reimbursement methodology for inpatient services provided in long-term acute hospitals (*Louisiana Register*, Volume 23, Number 12). As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the prospective per diem rates for long term hospitals by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the Medicaid prospective per diem rates for inpatient services provided in long term acute hospitals. It is estimated that implementation of this Emergency Rule will increase the expenditures to long term hospitals by approximately \$657,122 for the state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for long term hospitals.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to

all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#075

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Outpatient Hospital Laboratory Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in April of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient hospital laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in a non-hospital setting (*Louisiana Register*, Volume 23, Number 4). As a result of a budgetary shortfall, the Bureau adopted a Rule to reduce the reimbursement rates for outpatient hospital laboratory services by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the reimbursement rates for outpatient hospital laboratory services. It is estimated that implementation of this emergency rule will increase expenditures for outpatient hospital laboratory services by approximately \$533,462 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for outpatient hospital laboratory services.

Interested persons may submit written comments to Ben Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#080

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Outpatient Hospital Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed, outpatient hospital or a free-standing rehabilitation center (*Louisiana Register*, Volume 23, Number 6). Rehabilitation services include physical, occupational, speech, hearing, and language therapies. As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the reimbursement rates for outpatient hospital rehabilitation services by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the reimbursement rates for outpatient hospital rehabilitation services. It is estimated that implementation of this emergency rule will increase expenditures for outpatient hospital rehabilitation services by approximately \$140,508 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for outpatient hospital rehabilitation services. Outpatient hospital rehabilitation services include physical, occupational, speech, hearing, and language therapies.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#078

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Private Hospital Inpatient Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). This Rule was later amended by a rule adopted in May of 1999 which discontinued the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). As a result of a budgetary shortfall, the bureau adopted a rule to reduce the prospective per diem rates for private hospitals by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the Medicaid prospective per diem rates for private (non-state) acute hospital inpatient services. It is estimated that implementation of this emergency rule will increase expenditures for private hospital inpatient services by approximately \$20,661,567 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for private (non-state) hospital inpatient services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#079

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Private Intermediate Care Facilities for the Mentally Retarded Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of a budgetary shortfall, the Bureau adopted a rule to reduce the prospective per diem rates for private intermediate care facilities for the mentally retarded by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the seven percent reduction that was previously made to the Medicaid prospective per diem rates for private intermediate care facilities for the mentally retarded (ICF/MR). It is estimated that implementation of this emergency rule will increase expenditures to private intermediate care facilities for the mentally retarded by approximately \$9,253,827 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for private intermediate care facilities for the mentally retarded.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#076

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Private Nursing Facilities Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R. S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). This Rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of a budgetary shortfall, the bureau adopted a rule to reduce the prospective per diem rates for private nursing facilities by seven percent (*Louisiana Register*, Volume 26, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau has now determined it is necessary to restore the seven percent reduction that was made to the Medicaid prospective per diem rates for private nursing facilities. It is estimated that implementation of this emergency rule will increase expenditures to the private nursing facilities by approximately \$41,067,024 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service July 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the seven percent reduction to reimbursement for private nursing facilities.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0008#077

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Targeted Case Management Services
Nurse Home Visits for First Time Mothers

Editor's Note: The effective date of this Emergency Rule is April 21, 2000.

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in July of 1999 restructuring targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services (*Louisiana Register*, Vol. 25, No.7). The Department now proposes to amend the July 1999 rule to extend the provision of case management services to a new targeted population of Medicaid recipients. The new targeted population shall be composed of first time mothers who reside in the Department of Health and Hospitals (DHH) designated regions of Thibodaux (3), Lafayette (4), Lake Charles (5), and Monroe (8). DHH Administrative Region 3 consists of Assumption, LaFourche, St Charles, St. James, St. John, St. Mary, and Terrebonne Parishes. DHH administrative Region 4 consists of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermillion Parishes. DHH administrative Region 8 consists of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, and West Carroll Parishes. In addition, the staffing qualifications contained in the July 1999 rule are being amended to include specific requirements for case management agencies serving the new targeted population. The standards for participation are also being amended to include a new provider enrollment requirement applicable to all new case management agencies.

This action is necessary to protect the health and welfare of the Medicaid recipients in the targeted population group by providing access to case management services that encourage early prenatal care and reduces infant mortality. This Emergency Rule is being adopted to continue the provisions of the April 21, 2000 rule in force.

Emergency Rule

Effective for dates of services on or after August 20, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the

July 1999 rule governing case management services to include a new targeted population of Medicaid recipients. The new targeted population shall be first time mothers who reside in the Department of Health and Hospitals (DHH) designated administrative regions of Thibodaux (3), Lafayette (4), Lake Charles (5), and Monroe (8). Providers of Nurse Home Visits for First Time Mothers case management must provide home visit services for eligible recipients in all parishes of the Thibodaux, Lafayette, Lake Charles, and Monroe regions.

I. Eligibility Criteria

A Medicaid recipient must not be beyond the 28th week of pregnancy and must attest she meets one of the following definitions of a first-time mother in order to receive Nurse Home Visits of case management services:

- A. is expecting her first live birth, has never parented a child and plans on parenting this child; or
- B. is expecting her first live birth, has never parented a child and is contemplating placing the child for adoption; or
- C. has been pregnant, but has not delivered a child because of an abortion or miscarriage; or
- D. is expecting her first live birth, but has parented stepchildren or younger siblings; or
- E. had previously delivered a child, but her parental rights were legally terminated within the first six months of that child's life; or
- F. has delivered a child, but the child died within the first six months of life.

A physician's statement, medical records, legal documents, or birth and death certificates will be required as verification of first-time mother status.

After the birth of the child, the focus of Nurse Home Visit for First-Time Mothers case management is transferred from the mother to the child and services may continue until the child's second birthday. However, recipients may not receive more than one type of Medicaid funded case management at a time. A complete reassessment and a update of the comprehensive plan of care must be completed to incorporate the needs of the child within six weeks of the delivery and 30 days prior to the child's first birthday. If during the reassessment it is determined that the child qualifies for Childnet and Infants and Toddler's case management, the Nurse Home Visit case manager shall transfer the child to the Infant and Toddler Program.

II. Staffing Qualifications

Case managers and supervisors providing services to this targeted population must meet the following educational qualifications: possession of a license or temporary permit to practice professional nursing in the state of Louisiana, certification of training in the David Olds Prenatal and Early Childhood Nurses Home Visit Model and the supervisor must have one year of professional nursing experience. A master's degree in nursing or public health may be substituted for the required one year of professional nursing experience for the supervisor.

III. Standards for Participation

All new providers interested in enrolling to provide Medicaid case management services must submit a written request to the Division of Home and Community Based Waiver Services (DHCBS) identifying the case management population and the region they wish to serve. A new provider must attend a Provider Enrollment Orientation

prior to obtaining a provider enrollment packet. The bureau will offer orientation sessions at least twice per year. Enrollment packets will only be accepted for service delivery in those DHH regions that currently have open enrollment for case management agencies interested in serving certain targeted populations.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0005#043

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Targeted Case Management Services and
Targeted EPSDT Case Management

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule in July of 1999 restructuring targeted case management services under the Medicaid Program in order to enhance the quality of services and assure statewide access to services (*Louisiana Register*, Vol. 25, No. 7). In accordance with a settlement agreement, the department now proposes to extend the provision of case management services to a new targeted group of Medicaid eligibles. The new targeted population shall be composed of Early, Periodic Screening, Diagnosis and Treatment (EPSDT) recipients who are on the Mental Retardation/Developmental Disability (MR/DD) Waiver waiting list and meet the specified eligibility criteria. In addition, the department proposes to amend the staff qualifications contained in the July 1999 rule to establish a new staff position for case management agencies entitled case manager trainee.

This Emergency Rule is being adopted to continue the provisions of the April 7, 2000 rule in force.

Emergency Rule

Effective August 6, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing extends the provision of case management services to a new targeted group of Medicaid eligibles. This new targeted population shall be composed of Early Periodic Screening Diagnostic Treatment (EPSDT) recipients who are between the ages of 0 and 21 years old, on the MR/DD Waiver waiting list and meet the specified eligibility criteria. The point of entry for

targeted EPSDT case management services shall be the Office of Citizens with Developmental Disabilities (OCDD) regional offices. However, for those recipients under three years of age, case management services will continue to be provided through Childnet. This new targeted population shall be served by agencies who have accepted the department's amendment to their existing contract. In addition, the staffing qualifications contained in the July 1999 rule are being amended to establish a new staff position for case management agencies entitled case manager trainee.

I. Eligibility

A. In order to be eligible to receive case management services, the EPSDT recipient must be in the above-referenced age range and meet one of the following criteria:

1. placement on the MR/DD waiver waiting list on or after October 20, 1997 and have passed the OCDD Diagnosis and Evaluation (D&E) process by the later of October 20, 1997, or the date they were placed on the MR/DD waiver waiting list; or

2. placement on the MR/DD waiver waiting list on or after October 20, 1997, but did not have a D&E by the later of October 20, 1997, or the date they were placed on the MR/DD waiver waiting list. Those recipients in this group who have either passed or will ultimately pass the D&E process are eligible for these targeted case management services. Those recipients who either do not pass or are undergoing the D&E process may still receive case management services if they meet the definition of a person with special needs.

Special needs are defined as a documented, established medical condition, as determined by a licensed physician, that has a high probability of resulting in a developmental delay or that gives rise to a need for multiple medical, social, educational and other services. In the case of a hearing impairment, the determination of special needs must be made by a licensed audiologist or physician.

B. Documentation that substantiates that the EPSDT recipient meets the definition of special needs for case management services includes, but is not limited to:

1. receipt of special education services through the state or local education agency; or

2. receipt of regular services from one or more physicians; or

3. receipt of an application for financial assistance such as SSI because of a medical condition, or the unemployment of the parent due to the need to provide specialized care for the child; or

4. a report by the recipient's physician of multiple health or family issues that impact the recipient's ongoing care; or

a. a determination of developmental delay based upon the Parents' Evaluation of Pediatric Status, the Brignance Screens, the Child Development Inventories, Denver Developmental Assessment, or any other nationally recognized diagnostic tool.

II. Case Management Trainee

The case management trainee position may be utilized to provide services to the following target populations: Infants and Toddlers, HIV, MR/DD Waiver, Elderly and Disabled Adult Waiver and Targeted EPSDT. The case management trainee must meet the following educational qualifications: a bachelor's degree in social work, psychology, education, rehabilitation counseling, or a human-service-related field

from an accredited college or university. The case management agency must obtain prior approval from the bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0008#081

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Family Independence Temporary Assistance (FITAP)
ProgramCIncreases in Flat Grant Amounts**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following change in the Family Independence Temporary Assistance Program (FITAP). This rule shall remain in effect for a period of 120 days.

Whereas the cash assistance payment amount in Louisiana has not been increased since August 1981, despite continual increases in the cost of living, the agency has included a grant increase in its fiscal year 2000/2001 budget which was approved by Special Session of the Louisiana Legislature. Therefore, in an effort to improve the financial situation of FITAP recipients, the program will increase the FITAP grant amount for all assistance units by the amount of \$50 per month beginning July 2000. The funding source for this increase is the federal Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

- A. - C. ...
- D. Flat Grant Amounts

Number of Persons	Flat Grant Amount
1	\$122
2	188
3	240
4	284
5	327
6	366
7	402
8	441
9	477

10	512
11	551
12	590
13	630
14	670
15	712
16	757
17	791
18	839
18+	See note 1

Note 1: To determine the amount for households exceeding 18 persons, add the flat grant amount for the number in excess of 18 to the flat grant amount for 18 persons and subtract \$50.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R. S. 46:231.2, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:

J. Renea Austin-Duffin
Secretary

0007#009

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

Kinship Care Subsidy Program Grant Increase

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following change in the Kinship Care Subsidy Program (KCSP). This Rule shall remain in effect for a period of 120 days.

In an effort to improve the financial situation of KCSP recipients, the program will increase the KCSP grant amount for eligible children by the amount of \$50 per month beginning July, 2000. The funding source for this increase is the federal Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana. The agency has included a grant increase in its fiscal year 2000/2001 budget which was approved by the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§5329. Income

A. - B. ...

C. Income After Pretest

1. The child is determined eligible for KCSP if the child's countable income is less than \$222. If the child's countable income is \$222 or more the child is ineligible.

D. Payment Amount

1. Payment amount is \$222 a month for each eligible child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R. S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:

J. Renea Austin-Duffin
Secretary

0008#013

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Fall Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission does hereby set the 2000 fall inshore shrimp season to open as follows.

Zone 1C that portion of Louisiana's inshore waters from the Mississippi State line westward to the eastern shore of South Pass of the Mississippi River, and

Zone 2C that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, and

Zone 3C that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas state line, all to open at official sunrise August 21, 2000, except for Breton and Chandeleur Sound, as described in R.S. 56:495.1 A.(2), which shall open at official sunrise on August 7, 2000.

The commission also hereby sets the closing dates for the 2000 fall inshore shrimp season in Zone 2 and Zone 3 at official sunset December 20, 2000, and Zone 1 at official sunset December 31, 2000 except in Breton and Chandeleur Sounds in Zone 1, as described in R.S. 56:495.1 A.(2), which shall remain open until 6 a.m., March 31, 2001. The commission also grants authority to the secretary of the Department of Wildlife and Fisheries to change the opening or closing dates if biological and technical data indicate the need to do so or if enforcement problems develop.

Thomas M. Gattle, Jr.
Chairman

0008#057

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000-2001 Migratory Bird Hunting Season

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting seasons for early migratory birds during the 2000-2001 hunting season shall be as follows:

**Migratory Birds Other Than Waterfowl
2000-2001 Hunting Seasons**

- Dove:** Split Season, Statewide, 60 days
September 2 - September 10
October 14 - November 10
December 16 - January 7
Daily bag limit 15, Possession Limit 30
- Teal:** September 15 - September 30
Daily bag limit 4, Possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and State waterfowl stamps required.
- Rails:** Split Season
September 15 - September 30
Remainder of season to be set at a later date.
- King And Clapper:** Daily bag limit 15 in the aggregate, Possession 30.
- Sora And Virginia:** Daily bag and possession 25 in the aggregate.
- Gallinules:** Split Season
September 15 - September 30
Remainder of season to be set at a later date.
Daily bag limit 15, Possession limit 30
- Woodcock:** December 18 - January 31
Daily bag limit 3, Possession 6

Shooting Hours:

Teal, Rail, Woodcock and Gallinule: One-half hour before sunrise to sunset.
Dove: One-half hour before sunrise to sunset except on September 2-3, October 14-15, and December 16-17 when shooting hours will be 12 noon to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 2000, and extend through sunset on February 28, 2001.

Thomas M. Gattle, Jr.
Chairman

0008#059

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000-2001 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:435.1 notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. the Louisiana public oyster seed grounds not currently under lease and oyster seed reservations except the Sister Lake and Bay Junop oyster seed reservations will open one-half hour before sunrise on September 6, 2000, and will

close one-half hour after sunset on September 17; to reopen one-half hour before sunrise on October 1, 2000, and remain open for the remainder of the season;

2. Bay Junop oyster seed reservation will open one-half hour before sunrise on September 6, 2000, and will remain open until one-half hour after sunset on May 15, 2001;

3. the Sister Lake oyster seed reservation will remain closed for the 2000/2001 oyster season;

4. the sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Pt. to Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet, and will open and close the same as all the public grounds east of the Mississippi River;

5. the secretary of the Department of Wildlife and Fisheries is authorized to take emergency action is necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads;

6. the secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended;

7. the season for Calcasieu Lake tonging area will open one-half hour before sunrise on October 15, 2000, and Sabine Lake tonging area will open one-half hour before sunrise on November 15, 2000, and they will remain open until one-half hour after sunset on April 30, 2001. However, these conservation actions will not supercede public health closures;

8. notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Thomas M. Gattle, Jr.
Secretary

0008#058

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**2000 Spring Inshore Shrimp Season Closure
Remainder of Zone 1**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 4, 2000, which authorized the secretary of the Department of Wildlife and Fisheries to close the 2000 spring inshore shrimp season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

The 2000 spring inshore shrimp season in that part of Zone 1 which is north and east of the Mississippi River Gulf Outlet (MRG0), and north of the Intracoastal Waterway from its juncture with the MRGO to its juncture with the

Industrial Canal, will close on Tuesday, July 25, 2000 at 6:00 a.m. This closure includes Lakes Pontchartrain and Borgne, Breton and Chandeleur Sounds as described in the Menhaden Rule (LAC 76:VII.307.D).

With this closure, all inshore waters from the Louisiana-Mississippi state line west to the Louisiana-Texas state line, are closed to the harvest of shrimp.

State territorial waters south of the inside/outside shrimp line, as described in R.S. 56:495, will remain open for shrimping.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

James H. Jenkins, Jr.
Secretary

0007#008

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2000 Spring Inshore Shrimp Season Closure CZone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the

Wildlife and Fisheries Commission on May 4, 2000, which authorized the secretary of the Department of Wildlife and Fisheries to close the 2000 spring inshore shrimp season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

The 2000 spring inshore shrimp season in that part of Zone 1 which is south and west of the Mississippi River Gulf Outlet (MRGO), and south of the Intracoastal Waterway from its juncture with the MRGO to its juncture with the Industrial Canal, will close on Monday, July 17, 2000, at 6 a.m. The remainder of Zone 1, including the waters of the MRGO, Breton Sound and Chandeleur Sounds as described in the Menhaden Rule (LAC 76:VII.307.D), Lakes Pontchartrain and Borgne, and all waters east and north of the MRGO will remain open to shrimping until further notice.

Zone 1 is that portion of Louisiana's inshore waters from the Mississippi state line to the eastern shore of the South Pass of the Mississippi River.

State territorial waters south of the inside/outside shrimp line as described in R.S. 56:495 will remain open for shrimping.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

James H. Jenkins, Jr.
Secretary

0007#001

Rules

RULE

Department of Agriculture and Forestry Office of the Commissioner

Pet Turtles (LAC 7:XXI.Chapter 23)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq. the Department of Agriculture and Forestry adopts regulations regarding the requirements for the operation and licensing for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is adopting these rules and regulations to insure that pet turtle farmers upgrade their facilities to assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella spp.* These rules comply with and are enabled by R.S. 3:2358.2.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 23. Pet Turtles

§2301. Definitions

A. In addition to the definitions listed below, the definitions in R.S. 3:2358.3 shall apply to these regulations.

Agent Can authorized representative of the Department of Agriculture and Forestry.

Approved Antibiotic Can antibiotic approved by the Department of Agriculture and Forestry for use in the Egg Immersion Method.

Approved Antibiotic Solution Can dissolved antibiotic at a concentration approved by the Department of Agriculture and Forestry for use in the Egg Immersion Method.

Bactericide Cany organic or inorganic substance, chemical, or compound that has the capacity to kill microorganisms.

Licensed Pet Turtle Farmer Can Louisiana individual, partnership, corporation or entity engaged in the collection, hatching, sale or distribution of turtles or turtle eggs using the Egg Immersion Method and who has been licensed by the Department of Agriculture and Forestry.

Chlorine Solution Can solution of chlorine at a concentration approved by the Department of Agriculture and Forestry.

Department Cthe Department of Agriculture and Forestry.

Department-issued Guidelines Cany document provided periodically by the Department of Agriculture and Forestry setting forth detailed procedures designed to implement these regulations.

Dip Solution Can approved antibiotic solution as defined above.

Document Cany form or document deemed necessary by the department for the operation of a Louisiana Pet Turtle Farm.

Egg Immersion Method Can sanitization process derived from the Siebeling method developed by Dr. Ronald J. Siebeling and approved by the department whereby pet turtle eggs are cleaned, disinfected and treated with an approved antibiotic solution in order to render the hatchling free from Salmonella or other bacteria harmful to humans or other pet turtles.

Egg Washing Machine Can machine intended for the washing of turtle eggs, or modified from a machine intended for the washing of eggs of commercial poultry.

Exporter Can person who is licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Farmer-Exporter Can licensed pet turtle farmer that is also licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Garasol Can antibiotic (Gentamicin sulfate) dissolved in water to give a concentration of 1,000 ppm or a concentration as approved by the Department of Agriculture and Forestry.

Laboratory Can certified laboratory as defined in R.S. 3:2358.3 and which employs at least one microbiologist.

Pet Turtle Can turtle with a carapace length of less than 4 inches that originates from a Louisiana pet turtle farm operated by a licensed pet turtle farmer.

Pet Turtle Farm Cany area of land or water used to breed, raise or keep pet turtles.

Quarantined Area Cany designated area or premises where pet turtle eggs or hatchlings are stored, processed or hatched which has been designated as quarantined by a Louisiana licensed, accredited and department-approved veterinarian due to a finding of contamination in a group or lot by Salmonella, Arizona or other bacteria harmful to other turtles or humans.

Turtle Lot Cany amount of pet turtles or pet turtle eggs up to 20,000 in number. The term turtle lot may be used interchangeably with the term turtle group, group of turtles, or group of turtle eggs.

Turtles Cany animals commonly known as turtles, tortoises, terrapins and all other animals of the order Testudinata, class Reptilia except marine species (families Dermochelidae and Cheloniidae).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1567 (August 2000).

§2302. Facilities

A. Effective January 1, 2001, all applicants for initial licensure as licensed pet turtle farmers shall be required to meet, prior to licensure, all standards of construction and operations established by these rules and regulations.

B. All licensed pet turtle farmers that are licensed prior to January 1, 2001, shall be required to meet all standards of

construction and operation established by these rules and regulations no later than January 1, 2002.

C. Each facility operated by a licensed pet turtle farmer shall be of sufficient size to contain no less than the following: turtle pond(s), turtle laying area, egg washing area, egg treatment area, hatching area, holding or post-hatching area, and inventory storage area.

D. Each facility shall possess hot and cold water, hand washing facilities, cooling and ventilation capability, be free of rodents and pests, be properly disinfected, utilize stainless steel or non-porous tables, buckets and baskets and have access to restroom facilities.

E. The physical structure shall consist of a free-standing building that is used only for the washing, treating, hatching, incubating, raising, shipping or holding of turtles or turtle eggs. Such building shall be separate and apart from the pond area and the egg laying area. No business activity other than the activities associated with the raising, treating, hatching, storing and marketing of turtles or turtle eggs shall be conducted within the confines of the building designated for turtle raising, treating, hatching, storing and marketing.

F. All floors in the washing or treating areas shall consist of concrete or non-porous covering with drainage sufficient to prevent the accumulation of water. All surfaces in the washing or treating areas which come in contact with turtles or turtle eggs shall be non-porous.

G. All washing areas and treating areas shall be well lighted and ventilated.

H. The hatching area shall be an identifiable room in which the temperature can be maintained and controlled.

I. The holding or post-hatching area shall be large enough to accommodate all designated groups of turtles that have not been sold. Lighting, ventilation and cooling shall be such so as to insure humane treatment of the turtles.

J. The turtle production area (ponds and laying areas) shall be free of debris, trash and offensive odors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1568 (August 2000).

§2303. Monitoring of Turtle Farms for Safety and Sanitization

A. State-employed veterinarians shall inspect the premises of licensed pet turtle farmers, including those areas involved in the washing, incubation and hatching of turtles, or other operations. At least one inspection shall be performed prior to the start of each egg laying season. Recommendations shall be made to farmers to ensure compliance with these regulations. At the time of inspection, state-employed veterinarians or their designees may randomly select eggs or turtles for submission to a laboratory for microbiological examination. The inspections shall be made to insure the following.

1. The egg immersion method of egg collection and sanitization is being conducted properly and is in accordance with procedures issued by the department.

2. All equipment used in the egg immersion method shall be clean and in working order.

3. Vacuum tanks used for the egg immersion method shall be airtight and constructed of smooth-finished material to facilitate decontamination.

4. The egg immersion method shall be performed in a designated building. Due care shall be applied to maintaining isolation of this area. Operators shall prevent spillage or transfer of the antibiotic solution used in the egg immersion method to any other area or the environment outside of the building designated for the egg immersion method.

5. Persons implementing the egg immersion method shall wash their hands in disinfectant and remove the garments recommended in department-issued guidelines prior to leaving the isolated area where the method is being performed.

B. State-employed veterinarians shall inspect the premises of turtle farmers to insure that no turtles which have been treated by the egg immersion method or any other method utilizing antibiotics shall be introduced into the environment.

C. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs which have been treated by the egg immersion method or any other method utilizing antibiotics are used to stock or restock the ponds of a licensed pet turtle farmer or non-licensed pet turtle farmers.

D. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs belonging to different groups are commingled without first receiving health certificates.

E. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that each turtle group is clearly identified and is not improperly commingled with saleable or hatchable eggs of other groups.

F. State-employed veterinarians or their designees shall inspect the records of licensed pet turtle farmers to verify that all documentation required by the department shall be kept current.

G. Samples of water from ponds may be taken by state-employed veterinarians or their designees and shall be transmitted to a laboratory for chemical and microbiological analysis, including, but not limited to pH, antibiotic and pesticide contaminants, and potentially pathogenic bacteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1568 (August 2000).

§2305. Collection of Egg and Turtle Samples

A. In order to ensure a representative sample from the turtle group and to prevent cross-contamination, the following procedures shall be followed.

1. Licensed pet turtle farmers shall inform the department in a timely manner of their intention to ship turtle hatchlings or eggs to arrange certification procedures.

2. Upon notification by the farmer, a department-employed veterinarian or designee shall inspect the group of turtles or turtle eggs bound for shipment and randomly select turtles or eggs for submission to a certified laboratory for microbiological examination.

3. The department-employed veterinarian shall inspect the premises and turtle group or eggs and shall issue a certificate of inspection subject to compliance with the requirements of these regulations. The certificate of inspection shall verify the species, number of turtles or eggs, destination, turtle group number and compliance with the egg immersion method.

4. All specimens shall be collected using approved methods to prevent contamination.

5. The transportation to department-approved laboratories for microbiological examination and handling of the samples of turtles and eggs shall be performed in such a manner as to maintain identity and integrity.

6. Licensed pet turtle farmers shall have the option of:

a. collecting samples under the on-site supervision of the department-employed veterinarian or designee; or

b. allowing the department veterinarian or designee to collect the samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended the Office of the Commissioner, LR 26:1569 (August 2000).

§2307. Movement of Pet Turtle Eggs and Pet Turtles

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed pet turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. A health certificate or a laboratory report pursuant to a microbiological examination shall be required for any intrastate movement of pet turtles or pet turtle eggs except for submission to a Louisiana certified laboratory for microbiological examination.

3. Turtles shipped to certified laboratories for microbiological examination shall be accompanied by appropriate documentation.

4. No pet turtles or their eggs originating outside of Louisiana shall be sold, held for sale, or offered for any other type of commercial or public distribution in Louisiana.

5. No dead turtles or non-viable eggs shall be shipped, transported or distributed.

6. Turtles or turtle eggs shall be shipped, transported or distributed only in packaging approved by the department.

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package and shall be accompanied by a health certificate and a certified laboratory report.

8. Official health certificates and appropriate affidavits shall accompany movement of all pet turtles and eggs shipped, transported or distributed for non-commercial purposes.

9. Pet turtle eggs that are offered for sale shall be washed and treated by the egg immersion method, possess a group designation number, be laboratory tested, and be declared salmonella-free, unless prior approval for sale has been granted by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1569 (August 2000).

§2309. Identification of Groups of Turtles and Turtle Eggs

A. All groups of turtles or turtle eggs produced by licensed pet turtle farmers in Louisiana shall be assigned an identification number in a department-approved manner.

B. No turtle group shall exceed 20,000 viable hatchlings or eggs.

C. All pet turtle eggs shall originate from department licensed pet turtle farmers. They shall be continuously identifiable and properly labeled.

D. All pet turtles, treated by the egg immersion method, on turtle farms operated by licensed pet turtle farmers, shall be placed in a designated lot and remain a component of the same lot until they are sold or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1669 (August 2000).

§2311. Microbiological Test Procedures

A. Samples of turtles or turtle eggs shall be subjected to microbiological examination using approved procedures and techniques based upon procedures set forth in *Official Methods of Analysis of the Association of Official Analytical Chemists*.

B. Turtle groups identified as contaminated with bacteria of the genus *Salmonella* or *Arizona* or any other microorganisms pathogenic to humans, domestic animals or aquatic species shall be subject to the notification provisions of R.S. 3:2358.11 and this Part.

C. All groups of turtles or groups of turtle eggs that are found to be positive for *Salmonella spp.* shall be quarantined and disposed of as provided by law and these regulations. Provided, however, the owner of each group of turtles or group of turtle eggs that test positive for *Salmonella spp.* may, within the time prescribed by law for disposal of such pet turtles, subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested by an approved diagnostic laboratory in accordance with normal protocol. The laboratory results of each subgroup of the previously test positive group shall be final. No further testing shall be allowed. Any subgroup which tests positive for *Salmonella spp.* shall be disposed of in accordance with the law and these regulations.

D. All pet turtles that are on turtle farms operated by licensed pet turtle farmers shall originate from eggs that are produced on turtle farms operated by licensed pet turtle

farmers and have been subjected to the egg immersion method treatments, random sampling and tested by an approved diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1569 (August 2000).

§2313. Issuance of Health Certificates

A. Accredited Louisiana licensed and department-approved veterinarians will issue official health certificates.

B. Health certificates shall not be issued on groups of turtles or eggs until they have been inspected by a department-approved veterinarian and shall state that the veterinarian has found them to be free of visible signs of infectious, contagious or communicable diseases, and a certified laboratory has found them to be free of bacteria pathogenic to humans, domestic animals and aquatic species.

C. Official Louisiana health certificates shall be issued only on turtles or turtle eggs produced by Louisiana licensed pet turtle farmers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1570 (August 2000).

§2315. Quarantine

A. In addition to the procedures set forth in R.S. 3:2358.11, upon the identification by laboratory examinations of salmonella or any other species of bacteria harmful to humans or other pet turtles in a group of turtles or turtle eggs, the following procedures for quarantine shall apply.

1. Notification of the test results and quarantine shall be made in person or by telephone, followed by written notification as set forth in R.S. 3:2358.11, by agents of the department, including at least one department veterinarian.

2. The quarantine and its related restrictions shall remain in effect until the farmer is otherwise notified by the department.

3. Immediately upon receipt of the personal notification, the licensed pet turtle farmer producing the quarantined eggs shall identify to the agents of the department all turtles or eggs belonging to the same group as the one which tested positive for the presence of salmonella or other harmful bacteria.

4. Licensed pet turtle farmers wishing to submit a quarantined turtle group for a second laboratory microbiological examination must do so prior to the end of the 21-day period specified in R.S. 3:2358.12, and must follow the same procedure established for an initial collection and submission of samples. Failure to timely obtain a second examination shall result in the implementation of the disposal procedures set forth in R.S. 3:2358.12.

5. Quarantined eggs or turtles shall be subject to inventory and verification by agents of the department.

records, physical examination and photographs may be used to verify the inventory of quarantined eggs or turtles.

6. Quarantined turtles and eggs shall be sealed under supervision of agents of the department to prevent the spread of pathogenic bacteria until the licensed pet turtle farmer receives notice of either:

a. the lifting of the quarantine; or

b. instructions dealing with the disposal of the contaminated turtle or egg group.

7. All turtles and/or eggs belonging to a group which has either received a second notice of contamination with harmful bacteria or otherwise ordered disposed of by the department shall be disposed of in a humane manner approved by the department within 21 days of the receipt of the second notice.

8. Areas where quarantined turtles or eggs have been kept shall be disinfected in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1570 (August 2000).

§2317. Form and Content of Records

A. In addition to those records required under R.S. 3:2358.7, licensed pet turtle farmers, exporters of pet turtles or eggs, certified laboratories and department-approved veterinarians shall be responsible for maintaining and submitting as requested proper records. Records shall include, but not be limited to, purchase and disposal of antibiotics, application of the egg immersion method, volume of eggs treated, laboratory reports and disposition of groups of eggs and turtles. These records must be current.

B. All turtles or turtle eggs that are offered for sale or sold by licensed pet turtle farmers-exporters shall be accompanied by a current chain of custody document, laboratory report and health certificate.

C. Each licensed pet turtle farmer, farmer-exporter or exporter shall be required to initiate and maintain accurate, current documentation on the origin and distribution of all groups of turtles or groups of turtle eggs.

D. The records shall be maintained in a manner that allows for an orderly inspection. The records shall include the following documents:

1. official certificate of inspection for pet turtles and eggs;

2. pet turtle group distribution document;

3. facility inspection reports (surveillance and monitoring);

4. health certificates;

5. laboratory reports;

6. U.S. Fish and Wildlife Service Form 3-177 (for exporters only);

7. turtle replenishing reports;

8. citations.

E. All documents are required to be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1570 (August 2000).

§2319. Pet Turtle Farmers; Licensing

A. In addition to the provisions below, the requirements for licensure set forth in R.S. 2358.5 shall apply.

1. Licenses for pet turtle farming shall be issued only by the Office of Animal Health Services of the Louisiana Department of Agriculture and Forestry.

2. Upon issuance of an initial license by the department, licensed pet turtle farmers shall be assigned a permanent licensed farmer identification code for use on all documents related to pet turtle farming.

3. Prior to the issuance or renewal of a pet turtle farmer license, an inspection of the farm premises shall be made by an accredited, Louisiana licensed and department approved veterinarian to ensure that all equipment required for sanitization and other procedures is present and in working order.

4. A map or schematic showing the locations of ponds or other breeding habitats, storage, treatment and incubation buildings and facilities shall be included with all applications for a pet turtle farmer license. Each pond or breeding habitat shall be designated by a letter, beginning with "A," and shall be designated in sequential order and properly labeled on the map or schematic.

5. Licenses for turtle farming shall be issued upon the satisfactory completion and acceptance by the department of the application form to be a licensed pet turtle farmer, accompanied by an application fee of \$250 by the person seeking such a license. The application form should specify the following, along with any other information required by the Commissioner of Agriculture and Forestry:

- a. name of applicant;
- b. date of application;
- c. address of applicant;
- d. telephone number of applicant;
- e. whether the applicant is an individual, corporation, subchapter "S" corporation, cooperative or partnership;
- f. principal officers of the applicant, if any;
- g. location of applicant's principal office and farming premises;
- h. location of all offices operated by applicant, along with the name of the manager and phone number of each;
- i. the dates upon which the applicant begins and ends his fiscal year;
- j. the names, businesses and phone numbers of three persons who can provide references as to the character and business standing of the applicant;
- k. the following phrase shall be included at the bottom of the application, which must be read by the applicant and which must be signed and dated by the applicant to signify his assent thereto:

The undersigned having read Part X of Chapter 16 of Title 3 of the Louisiana Revised Statutes of 1950, Act 770 of 1990 and the rules and regulations written in conformity therewith, and agreeing to abide by and comply therewith, applies for a license to operate as a licensed pet turtle farmer under the provisions of the aforementioned Acts of the Legislature, in

furtherance whereof, the statements and answers of the above questions, are made and declared to be true under penalty of perjury.

6. In the case of the transfer of ownership of the person or entity that is the licensed pet turtle farmer, that farmer must reapply with the department for licensing and must meet all of the qualifications required for the issuance of an initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1571 (August 2000).

§2321. Proper Disposal

A. Because of the danger posed by the emergence of bacteria resistant to antibiotics used to kill salmonella and other harmful bacteria, licensed pet turtle farmers shall follow approved disposal procedures, including but not limited to the following.

1. Eggs or turtles that have been found to contain Salmonella, Arizona or other harmful bacteria shall be disposed of in a humane manner approved by the department.

2. Chlorine or antibiotic solutions shall be disposed of in a manner approved by the department.

B. Dead or deformed turtles and also those turtles not sold within 12 months of certification shall be disposed of in a humane manner as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1571 (August 2000).

§2323. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entry onto any property or premises in the state of Louisiana for the purpose of carrying out the provisions of these regulations. Whenever reasonably possible, agents shall notify the turtle farmer before performing any inspections.

B. Agents of the department are authorized to inspect all records and premises maintained by licensed pet turtle farmers in order to enforce the provisions of R.S. 3:2358.1 et seq. and these regulations.

C. No person shall in any way interfere with an agent in making inspections on properties or premises in carrying out the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1571 (August 2000).

§2325. Department-issued Guidelines

A. Due to the unique nature and rapid development of this evolving program, the department finds it necessary to issue guidelines to delineate certain detailed procedures

which require periodic updates. These guidelines will be made available upon request or application for licensure as a licensed pet turtle farmer. Prior to any changes in these guidelines, except for emergencies, interested persons will be given a reasonable amount of time for comment and appeal. Licensed pet turtle farmers will be sent copies of these proposed changes by U.S. mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1571 (August 2000).

§2327. Violations and Penalties

A. For failure to implement the egg immersion method or Siebeling method of treatment in conducting his business, the offender shall be fined no more than \$1,000 and shall be further enjoined from operation of such business, and no further sales shall be allowed, until this method is implemented. No fine shall be assessed for non-willful deviation from the application of the regulations and guidelines, but the licensed pet turtle farm shall be enjoined, and no further sales shall be allowed, until deficiencies are adequately corrected.

B. It shall be a violation of these regulations for anyone to engage in the falsification or misrepresentation of groups of turtles or groups of turtle eggs for sampling, testing or retesting.

C. It shall be a violation of these regulations for anyone to alter or falsify or to provide documents for alteration or falsification of groups of turtles or groups of turtle eggs.

D. Unless otherwise provided, it shall be a violation of these regulations for any person to sell, transmit or have transmitted groups of turtles or groups of turtle eggs to any other person except a licensed and bonded freight forwarder, exporter, or approved research institution.

E. Any person found guilty of violating any of the provisions of this Chapter or those of R.S. 3:2358.1 et seq., is subject to the penalties provided by R.S. 3:2358.14, including fines of up to \$1,000 for each violation. Each day in which a violation occurs shall be considered a separate offense.

F. Prior to the assessment of any civil penalties, there shall be an adjudicatory hearing in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1572 (August 2000).

§2329. Repeal of Prior Rules and Regulations

A. All prior rules and regulations in this chapter adopted and/or promulgated in accordance with R.S. 56:638 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April

1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1572 (August 2000).

Bob Odom
Commissioner

0008#030

RULE

Department of Economic Development Division of Small and Emerging Business Development

Small and Emerging Business Development Program
(LAC 19:I.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, hereby adopts the following amendments to its rules relative to the Small and Emerging Business Development Program.

Title 19

CORPORATIONS AND BUSINESS

Part II. Small and Emerging Business Development Program

Chapter 1. General Provisions

§107. Eligibility Requirements for Certification

A. - D.1. ...

2. verification of signatories on business bank accounts;

D.3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:1572 (August 2000).

§115. Duration of Certification

A. - B. ...

C. When the applicant firm's score on financial measurements per their SIC code published by the *Robert Morris Associates* for liquidity, leverage, operating efficiency, and profitability equals to or better than the national average, the firm will be graduated from the program if the firm's participation in the program has been less than seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:52 (January 1997), amended LR 26:1572 (August 2000).

§117. Reports by Certified Small and Emerging Businesses

A. - B. ...

C. Notification of Changes. To continue participation, a certified firm shall provide the division with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1757.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:52 (January 1997), amended LR 26:1572 (August 2000).

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. - B. ...

1. ...

2. Determination of Assistance. In consultation with the business owner, the division's staff will determine areas in which the business owner needs assistance.

3. Referral to Additional Resources. The division will assist the firm in obtaining intensive technical and/or managerial assistance from other resources, such as Small Business Development Centers, Procurement Centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000).

Chapter 5. Mentor/Protégé Program

§501. General Policy

A. The policy of the state is to implement a Mentor/Protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. Tone Setting. Intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting.

2. Accountability. Responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time.

3. Partnering. Teaming of Small and Emerging Businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties.

4. Capacity Building. Enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities.

5. Flexibility. Promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding.

6. Education. Sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry.

7. Monitoring. Requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana state government.

8. Reporting. Informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development.

9. Continuous Improvement. Approach to improving the performance of the Mentor/Protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 26:1573 (August 2000).

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate Mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a Mentor/Protégé Program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are Mentor/Protégé Program participants shall be not less than 5 percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000).

§505. Incentives for Protégé Participation

A. Businesses participating as proteges will be eligible for the following program benefits.

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful Mentor/Protégé partnerships. SEB firms participating in the program will be included in the

Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000).

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor Firms:

- a. must be capable of contracting with the state;
- b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and
- c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé Firms:

- a. must be a certified Small and Emerging Business with the state of Louisiana Department of Economic Development;
- b. must be eligible for receipt of government and private contracts;
- c. must graduate from the program within a period not to exceed seven years or until the firm reaches the threshold of \$750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protege Plan

a. A Mentor/Protege Plan signed by the respective firms shall be submitted to the Department of Economic Development, Division of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The Mentor/Protege plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success. The plan shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted Mentor/Protege Agreement shall be reviewed by an Economic Development Small Business Advisor. The Small Business Advisor may recommend to the executive director of the Division of Small and Emerging Business Development acceptance of the submitted Agreement if the agreement is in compliance with the division's Mentor/Protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB's provided by the Department of Economic Development, Division of Small and Emerging businesses. A protégé selected from another source or reference must be referred to the Department of

Economic Development for certification as an SEB. The protégé must meet the department's guidelines for SEB certification as a condition of the Mentor/Protégé Plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000).

§509. Measurement of Program Success

A. The overall success of the Mentor/Protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;
2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and
3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000).

§511. Internal Controls

A. The Division of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating Mentor/Protégé agreements for goals and objective;
2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;
3. requesting and reviewing periodic reports and any studies or surveys as may be required by the division to determine program effectiveness and impact on the growth, stability and competitive position of Small and Emerging Businesses in the state of Louisiana; and
4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.1

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000).

§513. Non-Performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved Mentor/Protégé Agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet

the terms of the agreement are considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the Mentor/Protégé Agreement will be considered a default of state contract or purchasing agreement and.

C. Failure of the protégé to meet the terms of the Mentor/Protégé Agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000).

§515. Conflict Resolution

A. The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1575 (August 2000).

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A.1. - 2. ...

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:1575 (August 2000).

Henry J. Stamper
Executive Director

0008#042

RULE

Board of Elementary and Secondary Education

Bulletin 741C School Performance Scores (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed changes more clearly explain and refine existing policy as it pertains to the process for computing School Performance Scores during the first accountability cycle and subsequent cycles.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

A.1. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 25:1084 (June 1999), LR 26:1575 (August 2000).

Bulletin 741

Louisiana Handbook for School Administrators

School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

a. an average of the most recent two years' test data;

and

b. attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two years' data for other schools.

Weegie Peabody
Executive Director

0008#028

RULE

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
(LAC 28:XXXIX.503)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted an amendment to Bulletin 1566, Guidelines for Pupil Progression, referenced in LAC 28:I.907.A. The revision gives eighth grade students the ability to earn a maximum of one Carnegie unit of credit toward graduation for remedial courses. Prior to this

revision, these eighth grade students were required to take non-credit remedial courses in the areas in which they scored at the "Unsatisfactory" achievement level on LEAP 21.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression

§503. Regular Placement

A.1.a. - A.1.b.vi. ...

vii. Eighth grade students who are 16 years of age on or before September 30 must enroll in an alternative program or setting, Option 2 or Option 3.

(a). Option 2C placement in a transitional program at the traditional high school campus where students may receive a maximum of one Carnegie unit of elective credit for remedial courses in English language arts and/or mathematics and may take credit courses in other subjects. Students may remain in Option 2 for a maximum of two years and will participate in the Grade 8 LEAP 21.

A.1.b.viii. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2169 (November 1999), amended LR 26:1576 (August 2000).

Weegie Peabody
Executive Director

0008#029

RULE

Board of Elementary and Secondary Education

Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.Chapters 11-20)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 1706, the Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 1941 et seq.). The present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.

The revisions to *Bulletin 1706, The Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq. officially changes the state regulations to be in compliance with the recent revisions to the federal regulations of IDEA-Part B and in the state statute at R.S. 17:1941 et seq. The gifted/talented regulations are not federally mandated and the IDEA regulations are not applicable to Gifted/Talented students. Since service to students who are gifted/talented are required under state statute, a companion document had to be created to address this population.

Title 28

EDUCATION

Part XLIII. Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act

Subpart B. Regulations for Gifted/Talented Students

(Editor's Note: Bulletin 1706 was adopted by the Board of Elementary and Secondary Education in LR 4:337 (September 1978) in an uncoded

format, amended LR 7:407, 484, 625 (August, October, December 1981); LR 8:63, 323 (February, July 1982); LR 9:130, 549, 835, 836 (March, August, December 1983); LR 10:7 (January 1984); LR 11:252 (March 1985); LR 12:763 (November 1986); LR 14:11, 609 (January, September 1988); amended LR 16:297, 496 (April, June 1990); LR 17:956, 957 (October 1991); LR 18:310 1148 (April, November 1992); LR 19:171, 1131, 1416 (February, September, November 1993); LR 20:161 (February 1994); LR 21:550 (June 1995); LR 22:190 (March 1996); LR 24:283 (February 1998). This present revision is being published in codified form, hence historical notes will reflect a history by section from this time forward.)

Chapter 11. Responsibilities of the Board of Elementary and Secondary Education

§1101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the State Board) shall be responsible for the assurance of a free appropriate public education to all G/T students ages 3 through 21 years; and shall exercise supervision and control of public elementary and secondary education.

B. The state board shall be directly responsible for the provision of a free appropriate public education to G/T students, ages 3 through 21 years, who are within the jurisdiction of either Special School District Number or in the State Board Special Schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

C. The state ensures the use of whatever state, local, Federal, and private sources of support are available in the state to meet the requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000).

§1102. Issuance of Regulations

The state board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1942.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000).

§1103. Compliance with Federal Rules

A. The State Board has the responsibility of complying with rules and regulations governing grants for educational purposes from the Federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000).

Chapter 12. Responsibilities of the Superintendent of Public Elementary and Secondary Education and the Department of Education

§1201. General Responsibilities and Authorities

A. The State Superintendent of Public Elementary and Secondary Education (the Superintendent) and the State Department of Education (the Department) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the State Superintendent and the Department are listed below.

1. The Department shall approve, in accordance with standards approved by the State Board, each public school program that delivers special education.

2. The Department shall recommend to the State Board, in accordance with standards approved by the State Board, each participating private school program that delivers special education.

3. The Department shall receive, administer, and direct the distribution of Federal funds for the education of G/T students, except those received directly by LEAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000).

§1205. Preparation of Annual Budget

A. The Department shall prepare and submit to the State Board for review and approval for the next fiscal year a comprehensive budget that at a minimum proposes the appropriations by the Louisiana Legislature of whatever State funds are needed by the Department, Special School Districts, and city/parish LEAs to comply fully with all of the requirements established by R.S. 17:1941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1220. Personnel Standards

A. The Department shall develop as needed, Louisiana standards for all personnel who provide special education, administrative, ancillary, pupil appraisal and related services to G/T students (3 through age 21).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1230. Review of Enforcement Recommendations

A. The State Superintendent, after review of the recommendations from the Division of Special Populations, shall submit to the State Board at its next regularly scheduled meeting all recommendations of the Department to withhold State or Federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1240. Impartial Hearing Officers

A. The Department and each LEA shall maintain a list of qualified and impartial hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department and have met all other criteria established by the Department. The Department shall provide additional inservice training whenever warranted by changes in applicable legal standards or educational practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1251. Relationship between Special Education and Competency-Based Education

A. No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education (FAPE) to G/T students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1252. Louisiana Educational Assessment Program

G/T students shall be included in the Louisiana Educational Assessment Program with appropriate accommodations and modifications in administration, if necessary, as documented in the student's IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1261. Program Options

A. The Department shall ensure that each LEA shall take steps to ensure that its G/T students residing in the area served by the LEA have available to them the variety of educational programs and services available to all students in the area served by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1270. Interagency Agreements and Methods for Ensuring Services

A. The Department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is in accordance with prescribed guidelines.

1. The agreement shall be consistent with Chapter 18 of *Bulletin 1706 Subpart B* of these regulations.

2. The agreement shall be essential to the achievement of full compliance with these Regulations.

3. The agreement shall be designed to achieve or accelerate the achievement of the full educational goals for all G/T students.

B. The Department through the Governor shall ensure that an interagency agreement or other mechanism is in effect between each noneducational public agency to ensure that FAPE is provided, including the provision of these services during the pendency of disputes. The agreement must include the following:

1. an identification of or a method for defining the financial responsibility of each agency for providing services;

2. conditions and terms of reimbursement which an LEA must be reimbursed by other agencies;

3. procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings); and

4. policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services.

C. The requirements of this section may be met through only the legal documents that are listed below:

1. state statute or regulation;

2. signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services;

3. other appropriate written methods as determined by the Governor or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1271. Nondiscrimination

A. The Department shall comply with all statutes and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability and age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:00015780 (August 2000).

Chapter 13. Responsibilities and Activities of the Division of Special Populations

§1301. General Supervision

A. The Division of Special Populations is established within the Department to provide general supervision of all education programs for G/T students within the State. *General Supervision* is defined as the responsibility to perform functions prescribed by the State Board.

1. The Division shall ensure that any State standards affecting other State agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

2. The Division shall disseminate such standards and revisions to all public agencies bound by them and provide parents and all citizens with information requested regarding implementation of such State standards.

3. The Division shall provide technical assistance to all public agencies bound by such standards in their proper implementation.

4. The Division shall monitor according to written procedures the implementation of State standards in each public agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues.

5. The Division shall institute a system for complaint management and investigation regarding the implementation of State standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1302. Monitoring, Complaint Management and Investigation

A. The Division is authorized to establish a system of monitoring, complaint management and investigatory provisions of these regulations.

B. The Division shall monitor, in accordance with the procedures established in the *Compliance Monitoring Procedures Handbook*, all public and other education agencies for compliance with these and other applicable Federal regulations, State statutes and standards.

C. The Division shall receive and review complaints concerning suspected noncompliance of regulations concerning the education of G/T students. It shall conduct this requirement through prescribed procedures.

1. The Division shall investigate allegations of failure to comply with any provision of these regulations and other applicable State or Federal laws, regulations or State standards.

2. The Division shall conduct hearings in accordance with the provisions of the *Louisiana Administrative Code*.

3. The Division, in carrying out its investigatory responsibilities, may require LEAs to keep certain records and to submit to the Division complete and accurate reports at such time and in such form and containing such information as are determined necessary to enable the Division to fulfill its responsibilities for ensuring compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1330. State Policies and Procedures: Notice and Participation

A. Upon approval, the Division shall distribute to interested parties and shall post the final policies and procedures on the Department's official Internet Website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1355. Confidentiality of Records

A. The Division shall comply with all of the requirements of §1517 pertaining to confidentiality of personally identifiable information contained in educational records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1356. Notification of Child Identification Effort

A. Notice of the child identification effort regularly undertaken by the Department and LEAs must be published or announced in newspapers or other media with circulation adequate to notify parents throughout the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1369. Personnel Standards

A. Personnel of State and local public and private educational agencies, including local agency providers, that deliver special education services (including instructional, appraisal, related, administrative, and support services) to G/T children (3 through 21) shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which the person is providing special education or related services.

1. *The highest requirements in Louisiana applicable to a specific profession or discipline* means the highest entry-level academic degree needed for any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline. *Profession or discipline* means a specific occupational category that provides special education or related services to G/T students under these regulations, that

has been established or designated by the State, and that has a required scope of responsibility and degree of supervision.

2. *State-approved or State-recognized certification, licensing, registration, or other comparable requirements* means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession of discipline in the state.

B. The Department requires LEAs providing services to exceptional students to make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services. In geographic areas of the State where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet established standards may be hired as entry level personnel, consistent with State law, but must attain appropriate certification credentials to meet the requirements in *Bulletin 746: The La. Standards of State Certification for School Personnel*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1370. Comprehensive System of Personnel

Development

A. The Department shall develop and implement a comprehensive system of personnel development that meets the requirements of a State Improvement Plan designed to ensure an adequate supply of qualified special education, general education, and related services personnel, and early intervention service providers which meets the requirements of §1371 and §1372 below. The needs assessment for personnel development, under this section, will be updated (at least) every five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1579 (August 2000).

§1371. Adequate Supply of Qualified Personnel

A. The Department will analyze state and local needs for professional development for personnel to serve G/T students: the number of personnel providing special education and related services; relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals with temporary certification); and the training or retraining necessary to eliminate the shortages based, to the maximum extent possible, on existing assessments of personnel needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1579 (August 2000).

§1372. Improvement Strategies

A. The Department will describe the strategies the State will use to address the needs identified. The strategies will include how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with G/T students (including professional personnel who provide special education, general education, related services, or early intervention

services) have the skills and knowledge necessary to meet the needs of G/T students. The plan will include a description of how the Department will accomplish the following.

1. The Department shall prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of G/T students including how the State will work with other states on common certification criteria.

2. The Department shall work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with G/T students to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs.

3. The Department shall develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation.

4. The Department shall work in collaboration with other States, particularly the Departments of Education of neighboring, states, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel.

5. The Department shall acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, concerning how the State will, if appropriate, adopt promising practices, materials, and technology.

6. The Department shall encourage LEAs to recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are under represented in the fields of regular education, special education, and related services.

7. The Department shall develop a plan that is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training.

8. The Department shall provide for the joint training of parents and special education, related services, and general education personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1579 (August 2000).

§1373. Administration of Funds

A. The Division, in concert with other Divisions within the Department, shall ensure the proper receipt and disbursement of all State and Federal funds administered by the Department specifically for the provision of special education and related services for G/T students.

B. Fiscal review and compliance monitoring will be conducted in accordance with the *Compliance Monitoring Procedures Handbook* and in accordance with auditing procedures established by the Department.

C. The monitoring of disproportionality shall be responsibility of the Department.

1. The Division shall collect and analyze data to determine whether significant disproportionality based on

race, color, national origin, or gender is occurring in the state with respect to G/T students and in the placement in particular educational settings of these students.

2. If a significant disproportionality is determined, the Division shall provide for the review and, if necessary, revision of its policies, procedures and practices or shall require the affected LEA to revise its policies, procedures and practices to ensure it complies with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1579 (August 2000).

§1374. Nonbias of Testing and Evaluation Materials

A. The Division shall, with the approval of the SBESE, establish procedures as found in §1434 to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or gender bias.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1580 (August 2000).

Chapter 14. Responsibilities of Local Educational Agencies

§1401. Responsibilities of LEAs

A. Each LEA shall identify, locate, and evaluate each student suspected of being gifted/talented, 3 through 21 years of age, residing within its jurisdiction.

B. Each LEA is responsible for providing or causing to be provided a free appropriate public education to each eligible G/T student, 3 through 21 years of age, who resides within its jurisdiction, except those students enrolled by their parents in a private school program

C. *Free appropriate public education* means special education and related services that are provided at public expense, under public supervision and direction and without charge; that meet SBESE standards, including these Regulations and all applicable bulletins approved by the SBESE (i.e., Bulletin 741, *Bulletin 746*); that include preschool, elementary school, or secondary school education in the State; and that are provided in conformity with an individualized education program (IEP) that meets the requirements at §1440-1445.

1. Whatever State, local, Federal, and private sources of support are available may be used to provide a free appropriate public education, including the use of joint agreements between agencies for sharing the costs of those services.

2. Consistent with §1440 and §1443 of these Regulations, the LEA shall implement a student's IEP with no delay including any case in which the payment source for providing or paying for special education and related services to the student has yet to be determined.

D. *Jurisdiction* is the right of a LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school board as defined in the Louisiana Revised Statutes.

2. For SSD#1, the geographic area is the boundary of the State-operated treatment and care residential facilities.

3. For a State Board Special School, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by an LEA, this action is indicated by using the word *referral*. According to these Regulations, such a referral culminates in the establishment of responsibility for a FAPE for the student by the receiving LEA. All transfers of jurisdiction are considered significant changes in placement.

E. Students who are eligible to receive a free appropriate public education are described below.

1. Free appropriate public education must be available to all G/T students reaching the age of three years.

2. A G/T student shall remain eligible for services until reaching the age of 22 unless the student exits the school system with a high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1580 (August 2000).

§1403. G/T Students in Public Charter Schools.

A. G/T students who attend public charter schools and their parents retain all rights under these Regulations.

B. If the public charter school is an LEA that receives funding under the MFP, the Department is responsible for ensuring that the requirements of these regulations are met through assigning initial responsibility for ensuring the requirements of these regulations are met to another entity; however, the Department shall maintain the ultimate responsibility for ensuring compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1580 (August 2000).

§1411. Child Search (Child Find) Activities

A. Each LEA, in accordance with the requirements of this subpart, shall document that the effort of ongoing identification activities is conducted to identify and locate each student who is under its jurisdiction, who is suspected of being gifted/talented and in need of special education and related services, and who is one of the following:

1. enrolled in an educational program operated by an LEA;

2. enrolled in a private school program;

3. enrolled in a public or private preschool or day care program;

4. is not enrolled in school, except for students who have graduated with a regular high school diploma.

B. On going identification activities apply to highly mobile G/T students (such as migrant and homeless students) and students who are suspected of being G/T and disabled and in need of special education, even though they are advancing from grade to grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1580 (August 2000).

§1412. Responsibilities of the Child Search Coordinator

A. Each LEA shall designate an individual as a Child Search Coordinator, who shall be held accountable for certain responsibilities prescribed by the SBESE as listed below.

1. The Child Search Coordinator shall ensure that the progress of referrals and evaluation activities required by §1411, §1413-1414, and §1430-1436 for each student suspected of being G/T is tracked and that the collection and use of data to meet these requirements are subject to the confidentiality requirements in §1517 of these regulations.

2. The Child Search Coordinator shall ensure that the parents of each student initially identified as suspected of being gifted/talented and in need of special educational services is provided a copy of all safeguards as defined in §1504 of *Bulletin 1706, Part B*. The parents shall also be afforded an opportunity for an explanation of these rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1581 (August 2000).

§1413. Students in an Educational Program Operated by the LEA

A. A LEA shall identify a student as suspected of being G/T by the School Building Level Committee (SBLC). This committee shall coordinate and document the results, as appropriate, of educational screening, intellectual screening, talented screening, or other types of screening as needed, as defined in the *Pupil Appraisal Handbook*.

B. The SBLC, with the parents as invited participants, shall review all screening results to reach a decision whether to refer the student to pupil appraisal personnel for an individual evaluation. Parents shall be provided a report or summary by the SBLC on the status of the referral intervention at least once each grading period until a decision is reached. If the parents disagree with the SBLC decision, the parents shall be provided a copy of their rights which include a right to a due process hearing.

C. Within 10 LEA business days after receipt of the referral by the pupil appraisal office for an individual evaluation, pre-referral activities as listed in the *Pupil Appraisal Handbook* under "Initial Responsibilities" of the Evaluation Coordinator shall be conducted.

D. For an initial evaluation and the re-evaluation, the LEA shall obtain informed parental consent according to §1505 of *Bulletin 1706, Subpart B*. Receipt of parental consent for an individual evaluation by pupil appraisal personnel begins the sixty business days timeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1581 (August 2000).

§1414. Child Find for Students Enrolled in Private School Programs

A. Students enrolled in private school programs shall be identified according to the procedures noted in §1413.A and §1462.A of *Bulletin 1706, Subpart B* and shall be referred to the school system's Child Search Coordinator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1581 (August 2000).

§1415. Students Out of School and/or Former G/T Students Residing in the State

A. Students out of school, including students ages 3 through 22 years who are suspected of being G/T who have left a public school without completing their public education by obtaining a State diploma, shall be referred to the school system's Child Search Coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need, following the enrollment process. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1581 (August 2000).

§1417. Gifted/Talented Students Transferring from one LEA to another LEA within Louisiana

A. Students who have been receiving G/T services in one LEA in Louisiana and who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the new LEA with the current IEP or the development of a review IEP within five school days of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1581 (August 2000).

§1418. Evaluation and Re-evaluation

A. A full and individual evaluation shall be conducted for each student being considered for Gifted/Talented and related services under these Regulations to determine whether the student is a "G/T student" as defined in these Regulations; and to determine the educational needs of the student. The evaluation shall be conducted following the procedures in the *Pupil Appraisal Handbook*: and, if it is determined the student is a "G/T student," the results of the evaluation shall be used by the student's IEP team.

B. A re-evaluation of each G/T student will be conducted following the procedures in the *Pupil Appraisal Handbook*, and the results of any re-evaluations will be addressed by the student's IEP team in reviewing and, as appropriate, revising the student's IEP.

C. Informed parental consent shall be obtained before conducting an evaluation or a re-evaluation according to prior notice and consent as per §1504 and §1505 of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1581 (August 2000).

§1430. Pupil Appraisal Personnel

A. LEAs shall regularly employ pupil appraisal personnel to conduct individual evaluations.

B. LEAs may, when necessary, contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student.

C. LEAs may, when necessary, use a combination of the approaches listed herein in §1430 A and §1430B.

D. Regardless of the approach used for conducting individual evaluations, LEAs retain full responsibility. Any failure by an employee or contractor to meet any requirements of this section constitutes a failure by the LEA to comply with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1582 (August 2000).

§1431. Required Individual Evaluation

A. An initial evaluation shall be conducted whenever the student is not enrolled in special education and one of the following conditions exists.

1. Informed parental consent for an initial evaluation has been requested and received by the LEA.

2. A direct request for an individual evaluation of an enrolled student from sources other than the SBLC shall be routed through the SBLC for the collection of the required screening information and the conduct of the pre-referral procedures. If the LEA suspects that the student is exceptional, an evaluation shall be conducted. If the LEA disagrees with the referral source and does not suspect that the student is exceptional, it may refuse to conduct an evaluation. When the LEA refuses to initiate an evaluation upon parental request, the parent shall be provided a copy of all procedural safeguards, which include the right to a due process hearing.

3. A final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted.

4. A written request for an individual evaluation has been issued by a hearing officer or by the State Level Review panel.

B. An individual re-evaluation shall be conducted by the IEP Team and the evaluation coordinator if conditions warrant, but at least every three years whenever the student is enrolled in special education and one of the following occurs:

1. it is requested in writing by the student's teacher or by the local school system's special education supervisor/director;

2. it is requested in writing by the student's parent(s);

3. a final written decision has been issued by a court of competent jurisdiction requiring that an individual re-evaluation be conducted;

4. a student is suspected of no longer being exceptional and no longer in need of services.

C. A LEA is not required to conduct a re-evaluation of G/T students who transfer with a current evaluation into its jurisdiction from another jurisdiction in Louisiana.

D. In the event a parent has privately obtained an independent educational evaluation, the LEA shall consider the individual evaluation in accordance with §1503 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1582 (August 2000).

§1433. Evaluation Coordination

A. Upon identification of a student suspected of being exceptional, a qualified pupil appraisal staff member shall be designated as the evaluation coordinator.

B. The evaluation coordinator shall ensure that the evaluation is conducted in accordance with all requirements in the *Pupil Appraisal Handbook* including the following: initial responsibilities following receipt of referral, selection of participating disciplines, procedural responsibilities, and mandated timelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1582 (August 2000).

§1434. Evaluation Process and Procedures

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each exceptionality as listed in the *Pupil Appraisal Handbook*.

B. The determination of gifted/talented shall be based upon the "Criteria for Eligibility" established in the *Pupil Appraisal Handbook* before the initial delivery of special education and related services.

C. All evaluations shall be conducted according to the prescribed standards, listed below.

1. Tests and other evaluation materials used to assess a student under these Regulations shall be selected and administered so as not to be discriminatory on a racial or cultural basis, and shall be provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

2. Materials and procedures used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the student, including information provided by the parents, and information related to the student's achievement.

4. Any standardized tests that are given to a student shall have been validated for the specific purpose for which they are used; they shall be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) shall be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need, not merely those that are designed to provide a single general intelligence quotient. In no event shall IQ scores be reported or recorded in any individual student's evaluation report or cumulative folder.

6. No single procedure shall be used as the sole criterion for determining whether a student is a G/T student and for determining an appropriate educational program for the student.

7. The student shall be assessed in all areas related to the suspected G/T identification.

8. In evaluating each student suspected of being G/T according to established procedures, the evaluation shall be sufficiently comprehensive to identify all of the student's special education and related services needs.

9. Assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the student shall be selected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1583 (August 2000).

§1435. Determination of Eligibility and Placement

A. In interpreting evaluation data for the purpose of determining whether a student is a G/T student and what are the educational needs of the student, the multidisciplinary team shall comply with prescribed procedures.

1. The team shall draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background.

2. The team shall ensure that information obtained from all of these sources is documented and carefully considered.

B. Upon completing the administration of tests and other evaluation materials, the multidisciplinary team and the parent of the student shall determine whether the student is a G/T student, as defined in these regulations: and the LEA shall provide a copy of the evaluation report and the documentation of determination of eligibility to the parents.

C. A student may not be determined to be eligible under these regulations, if:

1. the determinant factor for that eligibility determination is limited English proficiency;

2. the student does not otherwise meet the eligibility criteria.

D. If a determination is made that a student is gifted/talented and needs special education and related services, an IEP shall be developed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1583 (August 2000).

§1436. Timelines

A. There shall be no more than ten business days from the date of receipt of the referral for an individual evaluation of an identified student by pupil appraisal personnel to the date when the request was made for parental approval to conduct the individual evaluation.

B. Each individual evaluation shall be completed and the evaluation report disseminated within sixty business days of receipt of parental approval.

C. Extensions of evaluation timelines shall be justified as defined in the *Pupil Appraisal Handbook*.

D. The required triennial re-evaluation shall be completed on or before the third year anniversary date and shall include the activities noted in the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1583 (August 2000).

§1437. Determination of Needed Data for Re-evaluations

A. In conducting re-evaluations under these regulations, the IEP team and the evaluation coordinator shall comply with prescribed procedures as described below.

1. The team and the evaluation coordinator shall review existing evaluation data on the student, including evaluations and information provided by the parents of the student and current classroom-based assessments. (The team may conduct its review without a meeting.)

2. On the basis of that review and input from the student's parents, the team shall identify what additional data, if any, are needed to determine:

a. what are the present levels of performance and educational needs of the student;

b. whether the student continues to need special education and related services; and

c. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student.

3. The team and the coordinator shall determine what tests and other evaluation materials shall be administered, as needed, to produce the data identified in 1437.A.2 above.

4. The LEA shall notify the student's parents, if the determination under 1437.A.2 above is that no additional data are needed to determine whether the student continues to be a G/T student, not only of that determination and the reasons for it but also of the right of the parents to request an assessment to determine whether, for purposes of services under these Regulations, the student continues to be a G/T student.

5. The LEA is not required to conduct the assessment described in 1437.A.4 above unless requested to do so by the student's parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1583 (August 2000).

§1440. IEP/Placement Responsibilities

A. General Responsibilities. Each LEA develops and implements an IEP for each G/T student served by that agency as described below.

1. Each LEA is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a G/T student in accordance with all the requirements of this subpart and *Louisiana's G/T IEP Handbook*.

2. The IEP shall be developed using a format approved by the Department.

3. The LEA shall provide a copy of each completed IEP/Placement document signed by the officially designated representative of the LEA at no cost to the student's parent(s).

4. At the beginning of each school year, each LEA shall have in effect an IEP for every G/T student receiving special education and related services in that LEA.

5. When the student's IEP is in effect, it shall be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation.

6. Each teacher and service provider shall be informed of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that shall be provided for the student in accordance with the IEP.

7. An IEP that is consistent with FAPE shall be developed and implemented for eligible students by their third birthday.

B. Each LEA shall comply with the prescribed time lines as described below.

1. Each initial IEP/Placement document shall be completed within thirty calendar days from the date of dissemination of the written evaluation report to the special education director/supervisor.

2. Implementation of educational placement shall begin as soon as possible but no later than ten calendar days following receipt by the LEA of formal parental approval.

C. IEP's shall be reviewed and revised following prescribed procedures described below.

1. Each LEA shall ensure that each IEP/Placement review meeting is conducted at least annually.

2. Each LEA shall ensure that the team reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved.

3. Each LEA shall revise the IEP, as appropriate, to address concerns in any areas noted in §1444.

4. More than one IEP/Placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for an IEP/Placement review meeting, the school system shall respond in 10 calendar days in writing to that request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1583 (August 2000).

§1441 IEP Team Participants

A. Each LEA shall ensure that the IEP team for each student with exceptionality includes all of the required participants, as listed below.

1. One or both of the parents of the student.

2. At least one regular education teacher of the student (If the student is, or may be, participating in the regular education environment); the teacher shall to the extent appropriate, participate in the development, review and revision of the student's IEP, including:

a. the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student;

b. when a regular education teacher calls for a reconvening of the individualized education program team for any G/T student assigned to his or her classroom on a full time basis in which the IEP requires an adjustment in the curriculum, instruction or services to be provided by the regular education teacher, this teacher shall participate on the IEP team and shall participate continuously thereafter for as long as the student is assigned to his or her classroom.

3. At least one special education teacher, or when appropriate, at least one special education provider of the student. For review IEP meetings, this participant should be a special education teacher of the student or a service provider of the student.

4. An officially designated representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of G/T students. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied.

5. An individual who can interpret the instructional implications of evaluation results. This person may be a member of the team as described in 2, 3, 4, and 6.

6. At the discretion of the parent or LEA, other individuals who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The determination of the knowledge or special expertise of any individual shall be made by either the parent or the LEA, whoever invited the individual to be a member of the IEP team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1584 (August 2000).

§1442. Parent Participation

A. LEAs shall take steps to ensure that one or both of the parents of the G/T student are present at each IEP/Placement meeting or are afforded an opportunity to participate. LEAs shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and shall schedule the meeting at a mutually agreed upon time and place:

1. this notice shall indicate the purpose, time, and location of the meeting, as well as who shall be in attendance;

2. this notice shall inform the parents of the participation of other individuals on the IEP team who have knowledge or special expertise about the student.

B. If neither parent can attend a scheduled IEP/Placement meeting for which arrangements have been made in accordance with these regulations, other methods shall be used by the LEA to ensure parental participation, including making individual or conference telephone calls.

C. The meeting may be conducted without a parent in attendance provided that certain procedures are followed, as described below.

1. Another method for parental participation is used and documented; or

2. The LEA has documented attempts to arrange a mutually agreed on time and place, such as:

a. detailed records of telephone calls made or attempted and the results of those calls;

b. copies of correspondence sent to the parents and any responses received;

c. detailed records of visits to the parents' home or place of employment and the results of those visits.

D. The LEA shall take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1584 (August 2000).

§1443. Parental Approval of IEP/Placement

A. When securing parental approval of the initial IEP/Placement document, the LEA shall follow prescribed procedures.

1. Each LEA shall obtain informed parental consent prior to providing initial special education and related services. The IEP will be considered in effect after the parents indicate formal written approval by signing the IEP/Placement document.

2. If the parents withhold written approval of the educational placement, the LEA special education supervisor shall within 10 business days either:

- a. recommend a modified educational placement to which the parents will provide approval; or
- b. indicate to the parents in writing that no placement modification will be made, in which case the student shall be maintained in the present placement or be offered placement in the LEA with approval of the parents until the matter is resolved.

3. The parent(s) may request a hearing in accordance with §1507 of these Regulations in order to resolve any disagreement over the proposed IEP/Placement of the student.

4. If the LEA wishes to override the parental decision to withhold a formal written approval for the initial placement of the student in special education, the LEA may appeal to the appropriate State court within the time prescribed by State Law.

B. In conducting a review IEP/Placement, the IEP team may make decisions without the involvement of the parents, when the LEA is unable to obtain the parents' participation in the decision. In this case, the public agency shall have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of §1442 of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1584 (August 2000).

§1444. G/T IEP Content and Format

A. Each completed IEP shall contain a general overview of the student's instructional needs. Required components are listed below:

1. the student's strengths and support needs;
2. the concerns of the parents for enhancing the education of their child;
3. the results of the initial evaluation or most recent re-evaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district wide assessment program;
5. the student's present levels of educational performance.

B. The IEP team shall also consider the following special factor and include, if needed, a statement addressing this issue on the IEP.

1. In the case of a student with limited English proficiency, it shall consider the language needs of the student as those needs relate to the student's IEP.

C. The IEP shall contain a statement of measurable annual goals, including benchmarks or short-term objectives, as listed below.

1. The statement shall relate to meeting the student's needs that result from the student's exceptionality and progress in an accelerated and enriched curriculum.
2. The statement shall relate to meeting each of the student's other educational needs that result from the student's exceptionality.
3. The statement shall relate to appropriate activities for the preschool-aged student.

D. The IEP shall contain a statement of the special education and related services and/or supplementary aids

and services to be provided to the student, or on behalf of the student and a statement of the program modifications or supports for school personnel that will be provided for the student to achieve the following as listed below:

1. To advance appropriately toward attaining the annual goals.

E. The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications shall be specified in the IEP.

F. The IEP shall contain a statement of how the student's progress toward the annual goals will be measured.

G. The IEP shall contain a statement of how the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their regular education student's progress:

1. their child's progress toward the annual goals; and
2. the extent to which the progress is sufficient to enable the student to achieve goals by the end of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1585 (August 2000).

§1445. IEP Accountability

A. The LEA shall provide special education and related services to a G/T student in accordance with the student's IEP.

B. The LEA shall make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.

C. No state agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and objectives or benchmarks. The State or public agency may establish its own accountability systems regarding teacher, school or agency performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1585 (August 2000).

§1446. Least Restrictive Environment of a G/T Student

A. For each educational placement of a G/T student, including a preschool student, the LEA shall ensure that prescribed placement procedures are implemented.

1. Placement shall be determined at least annually by a group of persons (including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options).

2. Placement must be based on an IEP/Placement document.

3. A continuum of alternative educational placements shall be available to the extent necessary to implement the IEP/Placement document for each G/T student. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student) the following:

- a. instruction in regular classes (provisions shall be made for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement), including;
 - b. resource room;
 - c. self contained;
 - d. pre-school.

4. Nonacademic and extracurricular services and activities shall be provided in the manner necessary to afford G/T students an equal opportunity for participation in those services and activities; these services may include counseling services, recreational activities, athletics, transportation, health services, special interest groups or clubs sponsored by the LEA.

B. Each completed IEP shall contain the prescribed placement components.

1. The IEP shall identify the specific educational environment for the G/T student.

2. The four assurances listed below shall be provided when site determination decisions are made by the LEA.

a. The placement shall be in the school which the student would attend if not G/T unless the IEP of the student requires some other arrangement. If the placement is not in the school the student would normally attend, the placement shall be as close as possible to the student's home.

b. The school and the class shall be chronologically age appropriate for the student. No student shall be placed in a setting that violates the maximal pupil/teacher ratio or the three-year chronological age span.

c. The school/setting selected shall be accessible to the student for all school activities.

d. If the placement is other than regular/general education, the classroom shall be comparable to and integrated with regular classes.

e. Any deviation from the four assurances above shall be documented and justified on the IEP. In selecting an alternative placement, the LEA shall consider any potential harmful effect on the G/T student or on the quality of services needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1585 (August 2000).

§1448. Change of Educational Placement

A. During each IEP review or revision, the educational placement of the G/T student may be changed: the student's moving from one setting to another will not require a re-evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

§1449. IEP Declassification Placement

A. When a re-evaluation indicates that a G/T student currently enrolled in special education no longer meets all the criteria in the *Pupil Appraisal Handbook* for classification as a G/T student, the LEA shall either:

1. place the student in regular education if the student is eligible for regular education;

2. recommend that the student be placed in an appropriate alternative placement for up to a one-year period of special education programming; the declassification program shall be provided in accordance with an IEP/Placement document and shall include a regular education membership using resource or itinerant services, if needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

§1462. G/T Students Enrolled by their Parents in Private Schools

A. As used in this section, *private school students* means students enrolled by their parents in private school or facilities.

B. Private school G/T students shall be identified, located, and evaluated through prescribed procedures.

1. Each LEA shall locate, identify, and evaluate all private school G/T students, including religious-school students residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for private school G/T students shall be comparable to activities undertaken for G/T students in public schools.

2. Each LEA shall consult with appropriate representatives of private school G/T students on how to carry out the activities in paragraph §1462.B.1 above.

C. The provision of services to G/T students shall follow basic requirements.

1. No LEA is required to provide services for G/T students enrolled in private schools or in home school programs.

D. Complaints are limited to the conditions listed below.

1. The due process procedures in §1507 of these regulations apply to complaints that an LEA has failed to meet the child find requirements, including the procedures for evaluation and determination of eligibility found at §1411 - 1438. of these regulations.

2. Complaints that an LEA has failed to meet the requirements of §1462 of these regulations may be filed under the procedure in §1506.A. of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

§1465. Facility Comparability

A. Facilities identified as being for G/T students and the services and activities provided therein shall meet the same standards and level of quality as do the facilities, services, and activities provided to other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

§1470. Local Advisory Panel

A. A local advisory panel for the education of G/T students may be appointed by each LEA for the purpose of providing policy guidance with respect to special education and related services for G/T students in their school district, with the approval of its governing authority. Membership of the panel should appropriately represent the populations served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

§1481. Appointment of a Supervisor/Director of Special Education

A. Each LEA shall employ a certified supervisor/director of special education on a full- or part-time basis.

B. Each LEA shall designate a contact person for G/T issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

§1482. Personnel Standards

A. Personnel of local public and private educational agencies, including other local agency providers to G/T students (three through age twenty-one), shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which a person is providing special education or related services. (See §1369 in *Bulletin 1706, Subpart B* for more details.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

§1483. Comprehensive System of Personnel

Development

A. LEAs shall have on file with the Department information to demonstrate that all personnel necessary to carry out these regulations within the jurisdiction of the agency are appropriately and adequately prepared, as consistent with the requirements of §1482 above

B. To the extent the LEA determines appropriate, it shall contribute to and use the comprehensive system of personnel development of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

§1486. Procedure for Determination of Eligibility for State or Federal Funds

A. Each LEA requesting State or Federal funds administered by the Department shall do so according to the procedures established by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

§1495. Interagency Coordination

A. Each LEA shall, upon request, assist the Department in the development and implementation of any interagency agreements designed to improve the delivery of special education and related services to G/T students.

B. Each LEA shall enter into interagency agreements in §1830 to the extent necessary to comply with all provisions of these regulations.

C. Each agreement shall be consistent with §1800 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

Chapter 15. Procedural Safeguards

§1501. General Responsibility

A. Each Local Educational Agency (LEA) shall establish and implement procedural safeguards that meet the requirements of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

§1502. Opportunity to Examine Records and Parental Participation in Meetings

A. Parents of a G/T student shall be afforded an opportunity to inspect and review all educational records with respect to the identification, evaluation and educational placement of the student and with respect to the provision of a FAPE to the student.

B. Parents of a G/T student shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of the student and the provision of a free appropriate public education to the student.

1. Each LEA shall provide notice consistent with §1504 of these regulations to ensure that parents of a G/T student have the opportunity to participate in meetings described in paragraph 1502.B. above.

2. A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision, if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities in which public agency personnel engage to develop a proposal or response to parents' proposal that will be discussed at a later meeting.

3. Each LEA shall ensure that the parents of each G/T student are members of any group that makes decisions on the educational placement of their child. (See §1442 of these regulations)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

§1503. Independent Educational Evaluation

A. The parents of a G/T student have a right to obtain an independent educational evaluation of the student subject to this section. The LEA shall provide to the parent, upon request for an IEE, information about where an independent educational evaluation may be obtained and the criteria by which it shall be conducted.

1. *Independent educational evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the school system responsible for the education of the student in question.

2. *Public expense* means that the school system either shall pay for the full cost of the evaluation or shall ensure that the evaluation is otherwise provided at no cost to the parent.

3. To avoid unreasonable charges for Independent Educational Evaluations (IEEs), an LEA may establish maximum allowable charges for specific tests. The maximum shall be established so that it allows parents to choose among the qualified professionals in the area and eliminates only unreasonably excessive fees. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

4. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's allowable charges.

B. An IEE is provided at public expense to the parents, if:

1. the parent disagrees with an evaluation provided by the LEA; or

2. a hearing officer requests an IEE as part of a due process hearing.

C. When an LEA is notified in writing by the parents that the parents disagree with the LEA's educational evaluation, the LEA has ten business days following the receipt of the notice to initiate a due process hearing to show that its evaluation is appropriate. If the LEA does not initiate a due process hearing within the 10 business days, the IEE shall be at public expense.

1. The request for an IEE may be presented orally if the parents are illiterate in English or have a disability that prevents the production of a written statement.

2. If, in a due process hearing, the hearing officer finds that the LEA's evaluation is appropriate, the parents still have the right to an independent evaluation, but not at public expense.

3. If the parents request an IEE, the LEA may ask for the parents' reasons why they object to the public evaluation. However, the explanation by the parents may not be required and the LEA may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.

D. An IEE obtained at public expense shall meet the same criteria established by these Regulations and the *Pupil Appraisal Handbook*. The LEA may not impose conditions on obtaining an IEE, other than the criteria contained in the *Pupil Appraisal Handbook*.

E. If the parents obtain an IEE at private expense and the IEE meets the criteria in the *Pupil Appraisal Handbook*, the results of the evaluation shall be considered by the LEA; any decision made with respect to the provision of a free appropriate public education to the student may be presented as evidence at a hearing as described in §1507 of these regulations regarding the student.

F. The LEA is not required to use the IEE obtained at private expense as its only criteria for deciding the content of the student's special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

§1504. Prior Notice and Procedural Safeguard Notice

A. Written notice shall be given to the parents of a G/T student a reasonable time before the LEA:

1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student; or

2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

B. The prior notice shall include prescribed information as listed below:

1. a description of the action proposed (or refused) by the school, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered with the reasons why those options were rejected;

2. a description of each evaluation procedure, test, record or report the LEA used as a basis for the proposed or refused action;

3. a description of any other factors that are relevant to the LEA's proposal or refusal;

4. a statement assuring that the parents of a G/T student have protections under the procedural safeguards; and

5. sources for parents to contact to obtain assistance in understanding the provisions of the procedural safeguards.

C. The notice shall be written in language understandable to the general public and provided in the native language of the parents or other mode of communication used by the parents, unless it is clearly not feasible to do so; and

1. if the native language or other mode of communication of the parents is not a written language, the Department and the LEA shall take steps to ensure that:

a. the notice is translated orally or by other means to the parents in their native language or other mode of communication;

b. the parents understand the content of the notice;

c. the LEA shall maintain written evidence that the requirements of paragraph C. of this section have been met.

D. Notices scheduling Individualized Education Program (IEP) Team meetings shall contain not only a description of the purpose, date, time, location of the meeting, but also a list of who will be in attendance.

E. If the notice relates to an action proposed by the LEA and requires parental consent under §1505 of these regulations, the LEA may give notice at the same time it requests parental consent.

F. Requirements for procedural safeguards notice are noted below.

1. A copy of the procedural safeguards shall be given to the parents of a G/T student, at a minimum:

a. upon the initial referral of the student for evaluation;

b. upon each notification of an IEP meeting;

c. upon re-evaluation of the student; and

d. upon receipt of a request for a due process hearing.

2. The procedural safeguards notice shall include a full explanation of all procedural safeguards available including the State's complaint procedures available in §1506 of these regulations.

3. The procedural safeguards notice shall meet the requirements of §1504.C. of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1588 (August 2000).

§1505. Parental Consent

A. Parental consent shall be obtained before the LEA conducts an initial evaluation or re-evaluation and before the LEA provides initial special education and related services to a G/T student.

B. Consent for the initial evaluation may not be construed as consent for initial placement as described in §1505A.2 above.

C. If re-evaluation involves initial criteria for any exceptionality, then written parental consent shall be obtained.

D. Parental consent is not required before the LEA reviews existing data as part of an evaluation or re-evaluation or before the LEA administers a test or other

evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

E. Whenever parental consent has been withheld, the LEA shall follow procedures to ensure a FAPE for the student.

1. If the parents' decision is to withhold consent for the initial evaluation or initial placement of the student in G/T services, the LEA may appeal. If the parents withhold consent for a re-evaluation, the LEA may request a due process hearing following the procedures outlined in §1507 of these regulations.

2. The parents may refuse special education services.

3. An LEA may not use a parents' refusal to consent to one service or activity to deny the parents or student any other service, benefit, or activity of the LEA except as required by these regulations

F. Informed parental consent need not be obtained for re-evaluation if the LEA can demonstrate-through detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, detailed records of visits made to the parent's home or place of employment, and the results of those visits-that it has taken reasonable measures to obtain that consent and the student's parent has failed to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1588 (August 2000).

§1506. Complaint Management and Mediation

A. Complaint management procedures have been established to resolve disputes regarding educational decisions between an LEA and parents.

1. Any individual or organization acting on behalf of a G/T student shall have a right to file a complaint when it is believed that there exists a violation of State law regarding the educational rights of a G/T student.

2. Complaints may be filed in writing, by telephone or in person. The complaint shall involve a violation that occurred not more than one year prior to the date of filing unless a longer period is reasonable because the violation is continuing, or because complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint was received under this Section.

3. Upon receipt, the complaint shall be reviewed; the LEA shall be notified in writing and asked to provide specific information regarding the complaint.

4. The complainant shall be given the opportunity to provide additional oral or written information during the course of the investigation.

5. All information relevant to the complaint shall be reviewed by the Department and a decision shall be made as to whether an on- site visit is needed. A determination shall be made as to whether the LEA is violating any requirements of applicable Federal or State statutes, regulations, or standards.

6. Within 60 days of the receipt of the complaint, the Department shall issue a letter of findings to the complainant and to the LEA on each of the allegations of the complaint and on the reasons for the Department's decision.

7. The Department shall ensure effective implementation of the final decision through technical

assistance, negotiations and corrective actions that achieve compliance. In resolving a complaint in which it has found a failure to provide appropriate services, the Department shall address how to remediate the denial of those services, including, as appropriate, not only the awarding of monetary reimbursement or other corrective action appropriate, to the needs of the student; but also appropriate future provision of services for all G/T students.

8. The Department shall allow for extensions of the 60 day time lines only if exceptional circumstances exist.

9. If a complaint received is the subject of a due process hearing or if it contains multiple issues, of which one or more is part of the hearing, the Department shall set aside any part of the complaint that is being addressed in the hearing until the conclusion of the hearing. Any issue of the complaint that is not a part of hearing action shall be resolved, using the time limit and procedures above.

10. If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the Department shall inform the complainant to that effect.

11. A complaint alleging a LEA's failure to implement a due process decision shall be resolved by the Department.

B. Mediation process procedures shall be available to parents and to the LEA personnel to allow them to resolve disputes involving any matter described in §1504.A.1. At a minimum, mediation shall be offered whenever a due process hearing is requested under §1507 and §1519.I and, §1519.L of these regulations.

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned by the Department.

2. Mediation shall not be used to deny or delay a parent's right to a due process hearing or to deny any other rights.

3. The Department shall maintain a list of individuals who are qualified mediators knowledgeable in laws and regulations relating to the provision of special education and related services.

4. The impartial mediator may not be an employee of any LEA or State agency that is providing direct services to the student. The mediator shall not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator shall not be an employee of a LEA solely because he or she is paid by the agency to serve as a mediator.

5. The Department shall bear the cost of the mediation process.

6. The mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

7. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

8. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1589 (August 2000).

§1507. Impartial Due Process Hearing

A. A parent or LEA may initiate a hearing on any of the matters described in §1504 A.1 and 2 of these regulations. A parent initiates a hearing by sending written notice to the LEA. The LEA initiates a hearing by sending a written notice to the parents and the Department. When a hearing has been initiated, the LEA shall inform the parents of the availability of mediation.

1. The written notice to the LEA for a due process hearing shall include the student's name and address, the name of the school the student is attending, a description of the nature of the problem, and a proposed resolution of the problem to the extent known and available to the person requesting the hearing.

2. The request for a due process hearing may be presented orally if the parents are illiterate in English or have a disability that prevents the production of a written statement.

3. A LEA may not deny or delay the parents' right to a due process hearing for failure to provide the required notice described above.

B. Any party to a hearing has the rights as described below.

1. The hearing shall be conducted at a time and place convenient to the parents, the student and the school system.

2. Any party to the hearing shall have the right to be accompanied and advised by counsel or by individuals with special knowledge or training with respect to the problems of exceptional students.

3. Any party to the hearing shall have the right not only to present evidence but also to confront, cross-examine, and compel the attendance of witnesses.

4. Any party to the hearing shall have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

5. At least five business days prior to a hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluation that the party intends to use at the hearing.

6. The hearing officer may bar any party that fails to comply with the above requirement from introducing the relevant evaluation or recommendations at the hearing without the consent of the other party.

7. Any party to the hearing shall have the right to obtain a written or electronic, at the option of the parents, verbatim record of the hearing at no cost.

8. Any party to the hearing shall have a right to obtain written, or, at the option of the parent, electronic findings of fact and decisions at no cost.

C. A parent involved in a hearing shall have the right to:

1. have the student who is the subject of the hearing present;

2. open the hearing to the public;

3. be informed, upon request, of any free or low-cost legal and other relevant services when either the parents or LEA initiates a due process hearing; and

4. be informed that, if the parent prevails in a due process hearing, the parents may be able to recover attorney fees.

D. The Department, after deleting any personally identifiable information, and shall upon request, make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1590 (August 2000).

§1508. Hearing Officer Appointment and Hearing Procedures

A. The hearing officer appointed shall be in compliance with requirements stipulated below.

1. A hearing officer shall be an impartial person knowledgeable about the legal and educational issues involved in assessing compliance with these Regulations.

a. A hearing officer may not be an employee of a public agency that is involved in the education or care of the student. A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.

b. No person who has a personal or professional interest that would conflict with his or her objectivity may be appointed to serve as a hearing officer.

2. The Department and each LEA shall maintain the list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers and, to the extent possible, shall include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

3. Appointments, which shall be for a period of three years, may be renewed. The Department shall annually review the activities of persons on the list and shall remove persons from the list if they leave the state, decline to participate actively in the hearing process, cease to be impartial, or do not carry out their responsibilities in a satisfactory fashion.

B. Hearing Procedures shall include the designating of a hearing officer as stipulated below.

1. The local special education administrator shall notify the Department of the need to assign a hearing officer within one day of receipt of a request for a hearing.

2. The hearing officer will be assigned within five days by the Department on a rotational basis from the Department's list of certified hearing officers. Consideration will be given to the location of the hearing when making the assignment.

3. After a hearing officer has been assigned, the Department shall provide both the complainant and local special education supervisor a written notice of the name of the hearing officer. The written notice shall be delivered by certified mail.

4. If the parent or LEA has reasonable doubt regarding the impartiality of a hearing officer, written information shall be submitted to the Department within three days of receipt of the notice of the assigned hearing officer.

5. The Department shall review any written challenge and provide a written decision and notice to the parent and LEA within three days after receipt of the written challenge.

6. If the Department determines that doubt exists as to whether the proposed hearing officer is truly impartial, another hearing officer shall be immediately assigned.

C. Procedures for conducting a hearing are stipulated below.

1. The hearing officer shall contact all parties to schedule the hearing and then shall notify in writing all parties and the Department of the date, time and place of the hearing.

2. The hearing shall be conducted in accordance with guidelines developed by the Department.

3. At the request of either party, the hearing officer shall have the authority to subpoena persons to appear at the hearing.

4. A final hearing decision shall be reached and a copy of the decision mailed to each party not later than 45 days after the receipt of the request for the hearing.

5. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall, on the day the decision is made to grant the extension, notify all parties and the Department in writing, stating the date, time, and location of the rescheduled hearing.

6. A decision made by the hearing officer shall be final unless an appeal is made by either party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1509. Appeal of the Hearing Decision

A. Any party aggrieved by the findings and decisions of the hearing may appeal the hearing decision.

B. A written request to review the hearing decisions shall be sent by certified mail to the Department within 15 days of receipt of the hearing decision. The request shall state the basis upon which the review is requested.

C. The Department shall notify all parties of the request and activate the State Level Review Panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1510. The State Level Review Panel

A. A state level review panel shall be composed of three hearing officers trained by the Department in special education law and due process procedures.

B. State Level Review Panel Members may not be employees of the State agency or of the LEA responsible for the education or care of the student. They shall not have participated in the due process hearing being appealed or have a personal or professional interest that would conflict with their objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1511. Appeal to the State Level Review Panel

A. In conducting the appeal, the panel shall issue a decision within 30 days from receipt of the request for an appeal.

1. The panel shall examine the entire hearing record.

2. The panel shall ensure that procedures were consistent with the requirements of due process.

3. The panel shall seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights stated in §1507.A and B of *Bulletin 1706, Subpart B*.

4. The panel shall afford all parties an opportunity for oral or written argument, or both, at the discretion of the reviewing panel. Any written argument(s) shall be submitted to all parties.

5. The panel shall make a final decision upon completion of the review.

B. In conducting the appeal, the panel shall provide copies of its written findings and the decision to all parties.

C. The Department, after deleting any personally identifiable information, shall annually make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1512. Appeal to State or Federal Court

A. Any party aggrieved by the decision and the finding of the State Level Review Panel has the right to bring a civil action in State or Federal court. The civil action shall be filed in State court within 30 days of the decision. This timeline does not apply to Federal court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1514. Student Status during Proceedings

A. During the pendency of any administrative or judicial proceeding regarding due process, the student involved shall remain in the current educational placement unless the parent and the LEA agree otherwise.

B. If the hearing involves an application for initial admission to a public school, the student with the consent of the parents, shall be placed in the public school program of the LEA until the completion of all the proceedings.

C. If the decision of a State Level Review Panel, as described in §1510 of these regulations in an administrative appeal agrees with the parent that a change of placement is appropriate, that placement shall be treated as an agreement between the State or the LEA and the parents for the purposes of §1514.A of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1515. Costs

A. LEAs shall be responsible for paying administrative costs or reasonable expenses related to participation of LEA personnel in a hearing or appeal. The expenses of the hearing officer, the review panel, and stenographic services shall be paid by the Department in accordance with its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1516. Surrogate Parents

A. An LEA shall ensure that the rights of a student are protected if no parent (as defined in §1904) can be identified; if the LEA, after reasonable efforts, cannot discover the whereabouts of a parent; or if the student is a ward of the State (including a ward of the court or of a State agency).

B. A surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education

C. A method for determining whether a student needs a surrogate parent and for assigning a surrogate parent shall be developed and implemented by each LEA.

1. A person assigned as a surrogate parent has no interest that conflicts with the interests of the student and; he/she is not an employee of the Department, the LEA, or any agency involved in the education or care of the student.

2. The person assigned shall have knowledge and skills that ensure adequate representation of the student.

D. An LEA may select as a surrogate parent a person who is an employee of a private agency that only provides only noneducational care for the student and who meets the standards in §1515.C of *Bulletin 1706, Subpart B*.

E. Payment of fees for service as a surrogate parent does not, in and of itself, render a person an employee of the LEA.

F. Any person appointed as a surrogate parent is protected by the "limited liability" of R.S. 17:1958.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1592 (August 2000).

§1517. Confidentiality of Information

A. The Department shall have established policies and procedures for the implementation of the confidentiality requirements the Family Educational Rights and Privacy Act (FERPA) of 1974.

B. The Department shall have given adequate notice to inform parents fully about the requirements under identification, location, a evaluation of exceptional students.

1. The notice shall provide a description of the extent to which the notice is given in the native languages of the various population groups in the State.

2. The notice shall provide a description of the students on whom personally identifiable information is maintained, the types of information sought, the method the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information.

3. The notice shall provide a summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information.

4. The notice shall provide a description of all of the rights of parents and students regarding this information, including the rights under the FERPA.

5. Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers, or media, or both, with circulation

adequate to notify parents throughout the state of the activity.

C. In ensuring access rights, each LEA shall permit parents to inspect and review any educational records relating to their child which are collected, maintained or used by the LEA under these regulations. The LEA shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student, and in no case shall the time exceed 45 days after the request is made. The LEA shall not destroy any educational records if there is an outstanding request to inspect and review the records.

1. The right to inspect and review any educational records includes the following:

a. the right to a response from the LEA to reasonable requests for explanations and interpretations of the records;

b. the right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; an

c. the right to have a representative of the parent inspect and review the records when written permission by the parent is presented.

2. Any LEA may presume that parents have the authority to inspect and review records relating to his or her child unless the LEA has been advised that the parents do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

D. In ensuring record of access, each LEA shall keep a record of parties attaining access to education records collected, maintained or used under these regulations (except access by parents or authorized parties of the LEA), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the record.

E. When any educational record includes information on more than one student, the parents of those students shall have a right to inspect and review only the information relating to their child or to be informed of that specific information.

F. Each LEA shall provide parents, on request, a list of the types and locations of education records collected, maintained or used by the LEA.

G. Each LEA may charge a fee for copies of records that are made for parents under these regulations if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; but an LEA may not charge a fee to search or retrieve information under these regulations.

H. Amendments of records at parents' request shall follow prescribed guidelines.

1. The parents shall have a right to have the child's records amended when the parent believes that the information contained in the records is inaccurate, misleading, or otherwise in violation of the privacy or other rights.

2. After the receipt of a request by a parent of a G/T student to amend the student's record, the LEA shall decide within a reasonable time whether to amend the student's record.

3. If the LEA refuses to amend the records as requested by the parent, the LEA shall inform the parents of the right to request a hearing as stated below.

I. The LEA shall, on request, provide an opportunity for a hearing to challenge information in educational records to ensure that they are not inaccurate, misleading, or otherwise in violation of the parents' and child's privacy or other rights of the students.

1. A hearing under these regulations shall be conducted according to the procedures under the Family Educational Rights and Privacy Act (FERPA).

J. Results of a hearing regarding records have the following stipulations.

1. If, as a result of a hearing, the LEA decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

2. If, as a result of a hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of privacy or other rights, the parents shall be afforded a right to place in the record comments they may have concerning the records or comments setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanations placed in the record shall be maintained by the LEA as part of the records of the student as long as the record portion is maintained by the LEA; and if the records of the student or the contested portion are disclosed by the LEA to any party, the explanation shall also be disclosed to the party.

K. Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of the LEA collecting or using the information under these regulations subject to K.2 below of this section, or used for any purpose other than meeting a requirement of these Regulations.

1. A LEA or institution subject to the FERPA may not release information from education records to another LEA without parental consent unless authorized to do so under FERPA.

2. If parents refuse to provide consent under this Section, the requesting agency may file a written complaint. Such a complaint shall be investigated by the Division according to adopted procedures for complaint management.

L. Each LEA shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

1. One official at each LEA shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

2. Any persons collecting or using personally identifiable information shall receive training or instruction regarding the State's policies and procedures.

3. Each LEA shall maintain for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

M. The LEA shall inform parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student.

1. The information shall be destroyed at the request of the parents. However, a permanent record of a student's

name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitation.

N. All rights of privacy afforded to parents are afforded to G/T students.

1. Under the regulations for the Family Educational Rights and Privacy Act of 1974, the rights of parents regarding education records are transferred to the student at age 18.

2. If the rights accorded to parents are transferred to a student who reaches the age of majority, the rights regarding educational records shall also be transferred to the student. However, the LEA shall provide any notice required, to the student and the parent.

O. *The Compliance Monitoring Procedures* includes the policies, procedures and sanctions that the State uses to ensure that the requirements of these Regulations are met.

P. Discipline procedures for G/T students are the same as for regular education students if no other *Pupil Appraisal Handbook* exceptionality is identified.

1. Discipline information remains with the regular education records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1592 (August 2000).

§1518. Transfer of Parental Rights at the Age of Majority

A. When a G/T student reaches the age of majority (18 years of age), which applies to all students, he or she shall be afforded those rights guaranteed at such age.

1. The LEA shall provide any notice required by these regulations to both the individual and the parent; and all rights accorded to parents under these regulations transfer to the student.

2. All rights accorded to parents under these Regulations shall transfer to students who are incarcerated in an adult or juvenile, State or local correctional institutions.

3. Whenever rights transfer under these Regulations pursuant to paragraph §1518.A, 1 and 2 of *Bulletin 1706, Subpart B*, the LEA shall notify the individual and the parent of the transfer of rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1593 (August 2000).

Chapter 16. Establishment and Operation of Special School District

§1630. General Responsibilities

A. Whenever a student enters the jurisdiction of the SSD consistent with the requirements of these regulations, SSD shall be responsible for either providing or causing to be provided all needed educational services to each student in full compliance with provisions of Chapter 4 of these regulations, and/or as stipulated in SDE *Bulletin 741*, as listed below.

1. The necessary certified personnel to ensure the conduct of an Individual Evaluation for each student within its jurisdiction in accordance with all requirements of §1430-1436 of these Regulations.

2. The development and implementation of an IEP for each G/T student in accordance with §1440-1446 of these

regulations accordance with §1440-1446 of these Regulations.

3. Adequate administrative and instructional personnel to implement each student's educational plan.

4. Adequate personnel to establish and maintain the appropriate relationships with each affected LEA to provide for a smooth transition of educational services for each student leaving SSD.

5. The transmission of all educational records of a student leaving SSD to the LEA in which the student will be enrolled or seeking to be enrolled.

6. The adherence to all procedural safeguards of Chapter 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1593 (August 2000).

§1693. Procedural Safeguards

A. Students and parents of G/T students enrolled in SSD shall be provided the procedural safeguards in accordance with Chapter 15 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1695. Monitoring and Compliant Management

A. Special School District shall develop an internal monitoring and compliant management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1695. Monitoring and Compliant Management

A. Special School District shall develop an internal monitoring and compliant management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

Chapter 17. Responsibilities of State Board Special Schools

§1705. General Responsibilities

A. Whenever a G/T student enters a State Board Special School in compliance with §1401.D.6 of these regulations, provision for a FAPE will be the responsibility of the LEA with jurisdiction.

B. State Board Special Schools shall, upon admitting a G/T student, assume the responsibility for providing the student a free appropriate public education in full compliance with all provisions of Chapter 14 of these regulations, including those related to child search, evaluation, IEP development and implementation, and placement; the provision of special education and related services; adherence to procedural safeguards; and certification of staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1707. Enrollment (Admission and Release)

A. Eligible students with exceptionalities shall be admitted to State Board Special Schools according to admission procedures established by the State Board Special School, approved by the State Board.

B. G/T students admitted to State Board Special Schools shall be released from enrollment according to procedures established by the State Board Special School, approved by the State Board, and in compliance with these regulations.

1. G/T students currently enrolled in State Board Special Schools shall not be referred to a city/parish LEA without a review of the current IEP/Placement (in compliance with §1440) being conducted by the State Board Special School and an LEA representative.

2. Prior to the release of any student placed in a State Board Special School through out- of- district placement procedures, the Division shall review and approve each release.

C. State Board Special Schools may enter into interagency agreements with Special School Districts for cooperative supportive efforts in the provision of services, such as child search, evaluation and coordination.

D. Admission to a State Board Special School does not necessarily mean that all educational services described in the IEP of the student shall be provided within such facility. Wherever appropriate, consistent with the rules for a least restrictive environment in §446, students admitted to State Board Special School programs shall participate in educational programs operated by city/parish school systems serving the geographic attendance area in which the facility is located.

§1709. Child Search Activities

A. State Board Special Schools shall cooperate with each LEA in which the parents of a G/T student enrolled in the State Board Special School are domiciled to permit the LEA to carry out its ongoing responsibility with respect to child search when a student is in a State Board Special School.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1712. Individual Evaluation

A. Individual evaluations in State Board Special Schools shall be conducted in compliance with all requirements of §1430-1436 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1713. IEP/Placement

A. IEP/Placement of students enrolled in a State Board Special School shall be reviewed or revised and implemented in accordance with §1440-1459 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1714. Procedural Safeguards

G/T students and parents of G/T students enrolled in a State Board Special School shall be afforded all the procedural safeguards provided by Chapter 15 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

Chapter 18. Interagency Agreements

§1801. General Statement

A. Under R.S. 17:1941-1958 et seq., the SBESE has authorized the Department, Division of Special Populations under R.S. 17:1941-1958 et seq., to enter into any agreement developed with another public or private agency, or agencies, whenever such an agreement is consistent with the regulations; is essential to the achievement of full compliance with the regulations; is designed to achieve or accelerate the achievement of the full educational goal for all G/T students; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the State. Each LEA and the Department shall enter into all interagency agreements or other mechanisms for interagency collaboration specified in the regulations by following all the requirements in this part.

B. As used in this part, *interagency agreement* means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1595 (August 2000).

§1810. Relationship Between LEAs and the Department

A. The relationship between the Department and the LEAs is defined by these regulations in regard to providing a free appropriate public education to G/T students. Interagency agreements are not necessary to define such relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1595 (August 2000).

§1820. Purpose of Interagency Agreements

A. The purpose of interagency agreements is to assure that the standards established by State mandates and the SBESE to ensure a free appropriate public education for G/T students are upheld when they are implemented by an approved public or private agency not within the governance of the SBESE.

B. The agreements are mandated to provide maximum use of both human and fiscal resources in the delivery of special education and related services and to identify or define a method for defining financial responsibility of each agency.

C. Agreements may be entered into with parties both inside and outside the state of Louisiana with special consideration being given to abide by the rules for least restrictive environment. Nothing in any agreement shall be construed to reduce assistance available or to alter eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1595 (August 2000).

§1830. Types of Interagency Agreements

A. SDE and SSD shall have agreements with the Department of Health and Hospitals (DHH), the Department of Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C), and/or other state agencies and their sub-offices where appropriate. LEAs shall have those agreements whenever necessary for the provision of a free appropriate public education. The State School for

the Deaf, State School for the Visually Impaired and the State Special Education Center now under the auspices of SSD shall have interagency agreements with 1) the LEA in whose geographic area they are located, 2) each LEA that places a student in the day programs of that facility, 3) regional state agencies, and 4) habilitation agencies with whom they share students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1595 (August 2000).

§1840. Mandatory Content of Interagency Agreements

A. Each agreement shall contain in writing information specified by Federal and State mandates and SBESE policy as listed below.

1. A statement describing the disparate governance being dealt with by the parties of the agreement.

2. The reason for writing the agreement.

3. The responsibilities of each party of the agreement for providing a FAPE, including policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services of service.

4. An identification of or a method for defining financial responsibility of each agency providing services, including conditions and terms of reimbursement.

5. All applicable State and Federal standards that will apply to the agreement being developed.

6. The data to be exchanged and the methods for exchanging it.

7. The statements with respect to Child Search and confidentiality issues.

8. The monitoring schedule and procedures.

9. The duration of the agreement.

10. The process for amending the agreement, to include the statement to the effect that the contract may be terminated upon thirty days written notice and the disposition of data/materials collected to that point.

11. Any information specific to an agency which is necessary for approval of the agreement by the Department.

12. The titles, names, and signatures of individuals authorized to enter into such agreements.

B. Interagency agreements shall be reviewed annually. It shall not be necessary to write a new agreement if there is documentation between parties that the existing signed agreement is still agreeable to all parties.

C. In addition, the agreements shall contain the three statements listed below for conformance to Division of Administration requirements.

1. The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the State, provided, however, that claims for money due or to become due to the Contractor from the State may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State

2. The Contractor shall agree to abide by all of the provisions of Louisiana Revised Statutes 43:31 in regard to printing of public documents. The contractor shall agree that prior to the final publication of any reports, documents, or

publications of whatever nature for delivery to or used by the State, that the final proofs will be proofread by personnel of the Department and that no final printing will occur until the Contractor has been advised by the Department in writing that the text of materials to be printed has been proofread and approved.

3. It is hereby agreed that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administrator auditors shall have the option of auditing all accounts of Contractor which relate to this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1595 (August 2000).

§1860. Resolving Interagency Disputes

A. The steps to be followed to resolve interagency disputes, to include funding, in an expeditious manner have been prescribed by the SBESE.

1. For agency disputes between educational agencies over which the SBESE has control, regular complaint procedures shall be followed.

2. Interagency disputes at the local, regional, or state level which involve either program or financial responsibility will be referred to the Office of the Governor.

3. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1596 (August 2000).

Chapter 19. Definitions

§1901. Terms

A. The terms defined in §1902-1999 of this Chapter are used throughout these regulations. Unless expressly provided to the contrary, each term used in these regulations shall have the meaning established by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1596 (August 2000).

§1902. Abbreviations/Acronyms Used in These

Regulations

- A. DSSCState Division of Social Services
- B. DHHCState Department of Health and Hospitals
- C. DPS&CCState Department of Public Safety and Corrections
- D. FAPECFree Appropriate Public Education
- E. FERPAFamily Educational Records and Privacy Act of 1974
- F. G/TGGifted and/or Talented
- G. IDEACPart B of the Individuals with Disabilities Education Act amends the Education for All Handicapped Children Act of 1975 formerly known as EHA (P.L. 94-142).
- H. IEPCThe Individualized Education Program required by §1440 of these Regulations
- I. LEACLocal Education Agency
- J. LRECLeast Restrictive Environment
- K. SBESECState Board of Elementary and Secondary Education

L. Section 504CSection 504 of the Rehabilitation Act of 1973, 29 USC 706 and the Regulation issued by the U.S. Department of Education at 45 CFR 84

M. SSD#1 and SSD#2CSpecial School District Number One and Two

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1596 (August 2000).

§1903. Abbreviated Terms

A. The ActCSections 1941 through 1958 of Chapter 8 of Title 17 of Louisiana Statutes of 1950, as amended

B. The DepartmentCThe State Department of Education

C. The DivisionCThe Division of Special Populations of the Louisiana Department of Education

D. The StateCThe State of Louisiana

E. The State BoardCThe State Board of Elementary and Secondary Education

F. The State Board Special SchoolsCThe Louisiana Special Education Center; The Louisiana School for the Deaf; The Louisiana School for the Visually Impaired

G. The Superintendent-The State Superintendent of Public Elementary and Secondary Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1596 (August 2000).

§1904. Definitions

*Age of Majority*Cas defined in Louisiana means eighteen years of age.

*At No Cost*Call specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to regular education students or their parents as a part of the regular educational program.

*Business Day*CMonday through Friday, except Federal and State holidays (unless holidays are specifically included in the designation of business day).

*Child Search Coordinator*Cthe LEA employee who is responsible for the child search and child identification activities including that of locating the student. Child search in these regulations equates to Child Find in IDEA.

*Combination Self-Contained and Resource Classroom*Cis an alternative education placement in which the same teacher provides special education instruction for students who receive instruction in various special education alternative placements. These placements include self-contained, resource, and regular class.

*Confidentiality of Information*Cinvolves the storage, disclosure to third parties, retention and destruction of personally identifiable information.

*Consent*Cmeans that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. the parent understands and agrees in writing to the carrying out of activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e. does not negate an action that has occurred

after the consent was given and before the consent was revoked).

Counseling Services—services provided by qualified social workers, psychologists, guidance counselors, or otherwise qualified personnel.

Day—calendar day unless otherwise indicated as business day or school day.

Destruction—physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Due Process—See §1507 of these regulations.

Education Records—the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

Educational Diagnostic Services—include:

1. identifying special needs of students by providing: consultation and collaboration with teachers, school administrators, students and parents, classroom, observations and academic support services;

2. preventing educational problems through early identification of at risk students;

3. consulting with teachers and other school staff members in planning, implementing and evaluating school programs and strategies to meet the educational needs of individuals and groups of students;

4. designing interventions which will increase success in the academic setting which address academic needs of specific students;

5. administering, analyzing and interpreting informal and formal tests which will assist in identifying educational strengths and/or weaknesses in students who may need special education and related services;

6. working as part of a multidisciplinary team to assess the educational psychological, social and health needs of individual students.

Educational Service Agency—a regional public multiservice agency that is authorized by State law to develop, manage, and provide services or programs to LEAs and recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the state. This authorization includes any other public institution or agency having administrative control and direction over a public elementary or secondary school and includes entities that meet the definition of intermediate educational unit.

Equipment—machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

Excess cost—those costs that are in excess of the average annual per student expenditure in a LEA during the preceding school year for an elementary or secondary school student, as may be appropriate.

Evaluation—a multidisciplinary evaluation of a child/student, ages 3-21 years, in all areas of suspected exceptional ability through a systematic process of review, examination, interpretation, and analysis of screening data, developmental status, intervention efforts, interviews, observations, test results, as required, and other assessment information relative to the predetermined criteria as defined in the *Pupil Appraisal Handbook*.

Evaluation Coordinator—the pupil appraisal person who, in addition to serving as an examiner in the individual evaluation, is assigned the responsibilities described in §1433 for a particular student.

Free Appropriate Public Education (FAPE)—special education and related services that:

1. are provided at public expense, under public supervision and direction, and without charge;

2. meet the standards of the Department;

3. include preschool, elementary school, or secondary school education in the State; and

4. are provided in conformity with an IEP.

Foster Parent—See Parent.

Gifted—children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

IEP Team—See §1441 of these regulations.

Include—the items named are not all of the possible items that are covered, whether like or unlike the one named.

Independent Educational Evaluation—an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student in question. See §1503 of these regulations.

Individualized Education Program—a written statement for each G/T student developed, reviewed, and revised in a meeting in accordance with §1440-1445.

Individualized Education Program—a written statement for each G/T student developed, reviewed, and revised in a meeting in accordance with §1440-1445.

Instruction in Regular Class—is an alternative education placement for eligible G/T students who receive special education and related services less than 21 percent of the school day outside the regular classroom.

Interagency Agreement—an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed. The statement is drawn up to be consistent with the mandatory provision of Part 1800 of *Bulletin 1706, Subpart B*.

Least Restrictive Environment—the educational placement of a G/T student in a manner consistent with the Least Restrictive Environment Requirements in §1446 of *Bulletin 1706, Subpart B*.

LEA—a public board of education or other public authority legally constituted within the state either to provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish, school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school including a public charter school that is established as a LEA under state law.

Native Language—when used with reference to an individual of limited English proficiency, means the

language normally is used by that individual, or in the case of a student, the language normally used by parents of the student. In all direct contact with the student, including the evaluation of the student, the language normally used by the student in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, braille, or oral communication).

Nonacademic and Extracurricular Activities See §446.A.10 of Bulletin 1706, Subpart B.

Parent

1. a natural or adoptive parent of a child;
2. a guardian but not the State if the child is a ward of the State;
3. a person acting in the place of a parent such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare; or
4. a surrogate parent who has been appointed in accordance with §1516 of *Bulletin 1706, Subpart B*. A foster parent may act as a "parent" under these regulations when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law, and the foster parent:
 - a. has an ongoing, long-term parental relationship with the child;
 - b. is willing to make the educational decisions required of parents under these regulations; and
 - c. has no interest that would conflict with the interest of the child. Louisiana Law requires that the rights and responsibilities of a parent established by these regulations shall be exercised by the G/T student who attains the age of 18 years.

Parent Counseling and Training As a related service means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP.

Participating Agency for confidentiality purposes, means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained under these regulations.

Personally Identifiable information includes:

1. the name of the student, the student's parent, or other family member;
2. the address of the student;
3. a personal identifier, such as the student's social security number or student number; or
4. a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

Prior Notice See §1504 of these regulations.

Psychological Services As a related service includes:

1. administering psychological and educational tests and other assessment procedures;
2. interpreting assessment results;
3. obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
4. consulting with other staff members in planning school programs to meet the special needs of students as

indicated by psychological tests, interviews, and behavioral evaluations;

5. planning and managing a program of psychological services, including psychological counseling for students and parents; and

6. assisting in developing positive behavior intervention strategies.

Public Agency Includes the SEA, LEAs, public charter schools that are not otherwise included as LEAs and are not a school of a LEA, and any other political subdivisions of the State that are responsible for providing education to G/T students.

Public Charter School See §1403 of these regulations.

Public Expense the LEA either pays for the full evaluation when an independent educational evaluation is being conducted or ensures that the evaluation is otherwise provided at no cost to the parent.

Pupil Appraisal Personnel personnel who meet the certification requirements for school personnel for such positions and who are responsible for the delivery of pupil appraisal services included in §1410-1436 in these Regulations.

Qualified Personnel personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education and related services.

Related Services transportation and such developmental, corrective, and other supportive services as are required to assist a G/T student to benefit from special education. Related services include speech/language pathology and audiological services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training.

Resource Departmentalized is an instructional setting in which students receive instruction from more than one special education teacher and each teacher teaches only a single content or subject matter area. The pupil/teacher ratio shall be consistent with those listed in Chapter 10 of these regulations. Instruction is provided for not more than the maximum allowed for that exceptionality in a self-contained class at any given period.

Resource Room is a type of alternative education placement for special education and related services designed or adapted as a location where G/T students may receive all or a part of the special education required by their IEPs, and in which all of the following exist:

1. the pupil/teacher ratios established in Chapter 20 are used;
2. only G/T students are enrolled;
3. instruction is provided for not more than 12 students;
4. special education is provided by a teacher certified generically or in the area of exceptionality for which special education is provided;

5. students receive special education and related services for at least 21 percent, but no more than 60 percent, of the school day outside the regular classroom.

School Building Level Committee is a committee of at least three school level staff members; it may be identified as an SBLC, SAT, STAT, etc., at the discretion of the LEA. The committee shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included—such as the guidance counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to problem solve concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school because of academic and/or behavior problems. In most instances, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal services for an individual evaluation.

School Day any day, including a partial day, that students are in attendance at school for instructional purposes. School day has the same meaning for all students in school.

School Health Services as a related services means services, as defined in the *Pupil Appraisal Handbook*, provided by a certified school nurse or other qualified person.

Self-Contained Departmentalized is an instructional setting in which students receive instruction from more than one special education teacher and in which each teacher teaches only one content area or subject matter. Pupil/teacher ratios shall be consistent with those listed in Chapter 10 of these regulations. Instruction is provided for not more than the maximum number allowed for that exceptionality in a self-contained class at any given period.

Self-Contained Special Education Class is a type of alternative education placement in which special education instruction and related services are provided outside the regular classroom more than 60 percent of the school day.

Social Work Services in Schools as a related service includes preparing a social or developmental history on a G/T student; group and individual counseling with the student and family; working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program and assisting in developing positive behavioral intervention strategies.

Special Education specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality.

Specially Designed Instruction adapting, as appropriate, to the needs of an eligible student under these regulations, the content, methodology or delivery of instruction to address the unique needs of the student.

Student with an Exceptionality a student who, when evaluated in accordance with §1430 - 1436 of *Bulletin 1706, Subpart B*, was determined according to the *Pupil Appraisal Handbook* to have an exceptionality that significantly affects educational performance to the extent that special education is needed.

Supplementary Aids and Services aids, services, and other supports that are provided in regular education classes

or other education-related settings to enable G/T students to be educated to the maximum extent possible.

Surrogate Parent See §1516 of these regulations.

Talented is possession of measurable abilities that give evidence of unique talent in visual and/or performing arts.

Transportation as a related service, means transportation required to assist a G/T student to benefit from a special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1599 (August 2000).

Chapter 20. State Program Rules for Special Education

§2001. Pupil/Teacher, and Pupil Appraisal Ratios for Public Education

A. In providing services to all identified exceptional students, the number of students in each instructional setting shall not exceed the following numbers:

Setting	Preschool	Elementary	Secondary
Self-Contained		25	27
Resource Center		55	55
Resource or Self-Contained Departmentalized		93	98
Instruction in Regular Class		25	27
Resource		30	30
Pre-school			
A. Full Day	19		
B. Half Day	23		

B. Pupil appraisal members shall be employed by LEAs at the following rate:

1. Public School Ratios Based on Membership Educational Diagnosticians 1:2,400 or major fraction thereof.
2. School Psychologists 1:2,400 or major fraction thereof.
3. Social Workers 1:3,200 or major function thereof.
4. LEAs may substitute one pupil appraisal professional for another provided that all pupil appraisal services are provided in accordance with these regulations and the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1599 (August 2000).

Weegie Peabody
Executive Director

0008#031

RULE

Board of Elementary and Secondary Education

Child Nutrition Program (LAC 28:I.943)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to LAC 28:I.943, promulgated by the Board of Elementary and Secondary Education in LR 15:9 (January 1989). The major change in the Child Nutrition Program Appeals Procedure is to increase the timeline for scheduling and holding a hearing

from 30 days to 90 days after the receipt of a request for appeal from an institution that is participating in, or applying to participate in, the United States Department of Agriculture meal reimbursement program. Other technical changes involve correction of the name of the section within the Louisiana Department of Education to whom appeal requests are submitted, and to clarify when the time frame for submission of the appeal results begins.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter B. State Plans
§943. Louisiana Child Nutrition Program Regulations

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

2. Louisiana Child Nutrition Programs Appeals Procedures

a. Purpose. The rules and regulations contained in this Subpart shall govern and control procedures used by the Louisiana Department of Education, Division of Nutrition Assistance (hereafter referred to as state agency) for taking action against a school food authority or a child and adult care food program sponsor (hereafter referred to as institution).

b. Service

i. The service of the Notice of Proposed Action, Request for Appeal and Decision shall be made personally or by official U.S. postal certified mail, return receipt requested.

ii. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

iii. Service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. Any other orders, notices, or documents served or exchanged pursuant to these rules shall be done through personal service or the U.S. mail, all postage prepaid.

(a). For purposes of determining whether services have been timely made, if the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day. If the deadline for service falls on a business day, service must be made before close of business that day.

C. Notice of Proposed Action. The state agency shall notify the institution, in writing, of the actions being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the institution;

2. the specific amount of the fiscal sanction assessed against the institution, if any;

3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings;

4. a statement of the time lines related to the proposed action;

5. a statement as to the consequences for failing to timely take corrective actions, make payments, or make a Request for Appeal;

6. a statement of the institution's right to appeal the proposed action.

D. Request for Appeal

1. Institutions wishing to appeal proposed actions shall serve a Request for Appeal upon the agency designated in the Notice of Proposed Action within 15 calendar days from the date of receipt of the Notice of Proposed Action.

2. The Request for Appeal shall contain the following information:

a. a listing of what specific violations set forth in the Notice of Proposed Action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

b. a statement specifying which of the following two forms of appeal an institution seeks:

i. a review of the records with the right to submit additional written information to dispute the proposed action; or

ii. a hearing. Appeals will be conducted by a fair and impartial hearing officer. The institution may be represented by legal counsel or another designated individual;

c. a statement as to the relief or remedy the institution seeks from the appeal.

E. Appeals on the Record; Submissions

1. Institutions opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer within 30 calendar days from the state agency's receipt of the Request for Appeal.

2. The state agency shall submit all documents and written information it wishes to have considered to the hearing officer within 30 calendar days from the state agency's receipt of the Request for Appeal.

F. Notice and Time of Hearing. If a hearing is requested, the hearing officer shall schedule a hearing to be held within 90 calendar days from the date of receipt of the Request for Appeal by the designated agency. The hearing officer shall notify the institution in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

G. Effect of Appeal Upon Agency Actions. The Notice of Proposed Action issued to the institution shall remain in effect until the decision is rendered in the appeal. Participating institutions may continue to operate under the program during an appeal of a proposed action, unless the state agency action is based on imminent dangers to the health or welfare of children and that basis is stated in the Notice of Proposed Action. Institutions who continue to operate while appealing a termination shall not be reimbursed for any meals served from the date of service of the Notice of Proposed Action to the date of receipt of the appeal decision, if the decision upholds the termination.

H. Default. The hearing officer may declare any party in default who, without good cause shown:

1. fails to file brief or memorandums or exchange information and evidence as may be required by the hearing officer or these rules;

2. fails to appear at or participate in any pre-hearing conference;

3. fails to appear at or to participate in the hearing.

I. EvidenceCOrder of Hearing

1. Evidence that is material and relevant to an issue or inquiry before the hearing officer is admissible, unless objected to on grounds set forth herein. The introduction of evidence may be limited or barred upon objection of any party, or by the hearing officer upon his own motions. Hearings conducted under this rule are not bound by the formal rules of evidence prescribed for civil actions in district or higher courts, and in this connection, the following rules apply.

a. Hearsay evidence may be introduced if it corroborates competent evidence found in the record. The hearing officer will determine how much weight, if any, to give to hearsay evidence. Evidence concerning the reliability and probative value of any introduced hearsay evidence may also be admitted.

b. Unduly repetitious evidence, whether testimonial or documentary, shall be excluded when such exclusion will not materially prejudice the rights of a party.

c. The hearing officer may allow oral testimony to be given under direct examination by narration rather than through question and answer. The hearing officer may allow or require any oral testimony to be submitted in written form upon agreement of both parties.

J. Hearing Conduct and Decorum. At any hearing or meeting, the hearing officer shall have the authority to regulate the course of the proceedings and the conduct of all persons present, including the right to have any person, for misconduct or refusal to obey orders, removed from the hearing, banned from further participation or introduction of evidence, dismissed as a party or subjected to such other sanctions or restrictions he deems appropriate. The hearing officer may, at any time, continue the meeting or hearing to another time and/or location and/or terminate the meeting or hearing to preserve order and decorum. The hearing officer is responsible for insuring that the hearing and/or review of records is conducted in an orderly, fair, and expeditious manner.

K. Decision, Judicial Review, Records

1. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision shall be rendered within 120 days from the receipt of the Request for Appeal by the state agency. The decision shall be served to the institution by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

2. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its Notice of Proposed Action and the decision thereon.

3. The appeal record of a hearing shall consist of the evidence submitted at the hearing, a statement of any matter officially noticed, offers of proof, objections and rulings thereon, a recording of the hearing procedures, and the hearing officer's decision. A verbatim transcript of the recorded proceedings shall not be accomplished unless requested by one of the parties, at its cost, or in the event of a judicial appeal.

4. The hearing officer shall be the custodian of the records. The appeal record shall be maintained for a period of not less than three years from the date the decision is mailed to the institution or the date of the submission of the final claim for reimbursement of the action involving the appeal or resolving of the action, whichever comes later.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 15:9 (January 1989), amended LR 16:297 (April 1990), LR 21:464 (May 1995), LR 26: (August 2000).

Weegie Peabody
Executive Director

0008#027

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students
(TOPS)CDefinitions (LAC 28:IV.301)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial AssistanceCHigher
Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions**

* * *

*Award Amount*Can amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's cost of attendance. For purposes of a TOPS award for a student enrolled in a Louisiana professional school shall be equal to the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school or the Weighted Average Award Amount, depending upon whether the Louisiana professional school is a public or private school.

* * *

*Tuition*Cthe fee charged each student by a postsecondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date. Tuition for purposes of a TOPS award for a student enrolled in Louisiana professional school shall be equal to the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school or the Weighted Average Award Amount, depending upon whether the Louisiana professional school is a public or private school.

*Undergraduate Student*Ca student who has not completed the requirements for a baccalaureate degree program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:1601 (August 2000).

Mark S. Riley
Assistant Executive Director

0008#005

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Opportunity Program for Students
(TOPS)C Establishing Eligibility
(LAC 28:IV.703 and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (TOPS)(R.S. 17:3042.1 and R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial AssistanceC Higher
Education Scholarship and Grant Programs**

**Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity;
Performance and Honors Awards**

§703. Establishing Eligibility

A. - A.5.a. ...

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)

1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years)
2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

A.5.a.ii. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:1602 (August 2000).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.6. ...

a. Core CurriculumCTOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and 1B (two units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units)
2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:64 (January 2000), LR 26:1602 (August 2000).

Mark S. Riley
Assistant Executive Director

0008#006

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)C Obligation, Deferment and Cancellation
(LAC 28:IV.911 and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28 EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.2. ...

3. the first two full semesters of full-time teaching will be applied toward the earliest dated disbursement not previously paid under §911.C, the second two full semesters the next earliest dated disbursement, and continuing until all disbursements have been fulfilled;

C. - C.3.a. ...

b. the date the recipient notifies LASFAC that monetary repayment is desired; or

C.3.c. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), amended LR 26:00160300 (August 2000).

§2105. Repayment Obligation, Deferment and Cancellation

A. - B.4. ...

5. recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher; or

6. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), amended LR 26:1603 (August 2000).

Mark S. Riley
Assistant Executive Director

0008#004

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Beneficial Environmental Projects (BEPs)
(LAC 33:I.2501-2505)(OS037)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Office of the Secretary regulations, LAC 33:I.Chapter 25 (Log #OS037).

This rule serves to facilitate the settlement of environmental actions and promote the use of beneficial environmental projects (BEPs). It establishes guidance for the use of BEPs in the settlement of enforcement cases with the department. Without this rule, projects that are otherwise advantageous to the state may be delayed, withdrawn, or not performed. R.S. 30:2011(D)(1), 2031, and 2050.7 require the department to promulgate rules to regulate the use of BEPs in the settlement of enforcement cases. The basis and rationale for this rule are to establish the use of beneficial environmental projects that will substantially benefit neighboring communities and reduce the load of pollutants discharged into the environment.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY Part I. Office of the Secretary

Subpart 1. Department Administrative Procedures Chapter 25. Beneficial Environmental Projects §2501. Applicability

A. These regulations apply when the department has decided to enter into a settlement in which a beneficial environmental project (BEP) is utilized. The department reserves the right to settle for the amount of cash penalty, if any, it deems appropriate in considering all of the circumstances relating to the case in which the settlement is perfected. The decision to enter into a settlement that includes a BEP is solely within the discretion of the department. Nothing in these regulations requires that the department enter into a settlement or that the settlement include BEPs. Any BEP may be accepted if it meets the terms of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1603 (August 2000).

§2503. Definitions

*Beneficial Environmental Project (BEP)*Ca project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to

undertake as a component of a settlement of a violation(s) or penalty assessment.

Environmental Mitigation Cthat which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

Not Otherwise Legally Required to Perform Cthe approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031 and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1603 (August 2000).

§2505. Project Categories

A. A BEP must be within one or more of the following categories.

1. Public Health. A public health project provides diagnostic, preventative, and/or remedial components of human health care that is related to the actual or potential damage to human health caused by a violation of environmental law or mismanagement of substances containing constituents detrimental to human health. This may include, but is not limited to, epidemiological data collection and analysis, medical examinations of potentially affected persons, collection and analysis of blood/fluid/tissue samples, medical treatment, and rehabilitation therapy.

2. Pollution Prevention

a. A pollution prevention project is one that reduces the generation of pollution through "source reduction," i.e., any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment, prior to recycling, treatment, or disposal. (After the pollutant or waste stream has been generated, pollution prevention is no longer possible and the waste must be handled by appropriate recycling, treatment, containment, or disposal methods.)

b. Source reduction may include equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, inventory control, or other operation and maintenance procedures. Pollution prevention also includes any project which protects natural resources through conservation or increased efficiency in the use of energy, water, or other materials. In-process recycling, wherein waste materials produced during a manufacturing process are returned directly to production as raw materials on site, is considered a pollution prevention project.

c. In all cases, for a project to meet the definition of pollution prevention, there must be an overall decrease in the amount and/or toxicity of pollution released to the environment, not merely a transfer of pollution among media. This decrease may be achieved directly or through increased efficiency (conservation) in the use of energy, water, or other materials.

3. Pollution Reduction. If the pollutant or waste stream already has been generated or released, a pollution reduction approach, which employs recycling, treatment, containment, or disposal techniques, may be appropriate. A pollution reduction project is one that results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment by an operating business or facility by a means which does not qualify as "pollution prevention." This may include the installation of more effective end-of-process control or treatment technology, or improved containment, or safer disposal of an existing pollutant source. Pollution reduction also includes "out-of-process recycling," wherein industrial waste collected after the manufacturing process and/or consumer waste materials are used as raw materials for production off-site.

4. Environmental Restoration and Protection. An environmental restoration and protection project is one that goes beyond repairing the damage caused by the violation to enhance the condition of any ecosystem or geographic area. These projects may be used to restore or protect natural environments (including ecosystems) and man-made environments (including the removal/mitigation of contaminated materials, such as soils, asbestos, and leaded paint, from facilities and buildings). Also included is any project which protects the ecosystem from actual or potential damage resulting from violations of state environmental regulations or improves the overall environmental condition of the ecosystem or geographic area. Examples of these projects include: restoration of a wetland; purchase and management of a watershed area or environmentally sensitive area; and providing for the protection of endangered species, i.e. developing conservation programs or habitat protection and enhancement.

5. Assessments and Audits

a. The four types of assessments/audits are:

- i. pollution prevention assessments;
- ii. site assessments;
- iii. environmental management system audits; and
- iv. compliance audits.

b. These assessment or audit projects must be performed by an entity approved by the department. The defendant/respondent must agree to provide a certified copy of the assessment or audit to the department along with an implementation report to detail the action(s) taken and/or to defend the facility's decision to forego implementation of the suggested changes listed in the audit report. Settlement agreements which include assessment and/or audit projects may be constructed with stipulated penalty amounts for failure to implement suggested changes included in the report that the department deems appropriate based on an assessment of the certified implementation report provided by the facility. Assessments and audits may not include projects that are required by enforcement and/or legal requirements.

6. Environmental Compliance Promotion. An environmental compliance promotion project provides training or technical support to identify, achieve and maintain compliance with applicable statutory and regulatory requirements; avoid committing a violation with respect to such statutory and regulatory requirements; go

beyond compliance by reducing the generation, release, or disposal of pollutants to a level below the legally required limits; or promote environmental education, including awareness of potential risks or harm to the public health and the environment. In all cases, the department will specify the approved party responsible for developing and providing the environmental compliance promotion project. Acceptable projects may include, but are not limited to, the production and or sponsorship of seminar(s) related to environmental obligations, regulations, and improvement techniques.

7. **Emergency Planning, Preparedness, and Response.** An emergency planning and preparedness project provides assistance to a responsible state or local emergency planning, preparedness, or response entity. This is to enable these organizations to further fulfill their obligations to collect information to assess the dangers of hazardous chemicals present in a response situation, to develop emergency plans and/or procedures, to train emergency response personnel, and to better respond to emergency situations. These projects may include providing computers and software, communication systems, chemical emission detection and inactivation equipment, or hazardous materials equipment or training.

8. **Other Projects.** Projects determined by the department to have environmental merit that do not fit within at least one of the seven categories above may be accepted if they are otherwise fully consistent with the intent of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031 and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1604 (August 2000).

James H. Brent, Ph.D.
Assistant Secretary

0008#039

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Emissions Control from Motor Vehicles and Related Fees
(LAC 33:III.223; 1901-1935)(AQ200)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions

of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations at LAC 33:III.223 and repealed LAC 33:III.1901-1935 and Chapter 19. Appendix (Log #AQ200).

The existing regulations at LAC 33:III.1901-1935 and the appendix at the end of Chapter 19 are being repealed, and the fees at LAC 33:III.223 are being amended, because the enhanced Motor Vehicle Inspection/Maintenance (I/M) Program was never implemented and was not reauthorized by the Louisiana Legislature in 1997. Although these regulations were promulgated in 1995, vehicle testing was not to begin until 1999, and only after reauthorization by the Legislature in 1997. As the Legislature did not reauthorize this enhanced program, the program was never implemented, and thus, these regulations are moot and obsolete and need to be repealed. The Legislature, by Act 576 of the 1999 Regular Session, did authorize a low enhanced, less stringent, less costly program for the control and abatement of motor vehicle emissions to include new evaporative system pressure tests. A gas cap pressure test was implemented effective January 1, 2000, and a fuel inlet pressure test is scheduled to be implemented later in the year. The new emissions testing will be performed as part of annual vehicle safety inspections, and thus, enforcement of program provisions and collection of fees for this new low enhanced vehicle inspection/maintenance (I/M) program will be governed by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section (DPS), with DEQ providing oversight, data collection support, and liaison activities. In accordance with R.S. 32:1306(C), DPS has promulgated a final Rule on December 20, 1999, necessary to implement the new requirements of this recently authorized low enhanced vehicle emissions I/M program. The basis and rationale for this rule are to repeal the regulations for control of emissions from motor vehicles that are now moot and obsolete.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor

[See Prior Text in Fee No. 0010-1720]						

Additional Fees		
Fee Number	Fee Description	Amount
*** [See Prior Text in Fee No. 2000-2300]		
2400	An application approval fee for Stage II Vapor Recovery	100.00
	An annual facility inspection fee for Stage II Vapor Recovery	150.00
2600 *NOTE 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	200.00
*** [See Prior Text in Fee No. 2620-2914]		

Explanatory Notes for Fee Schedule

[See Prior Text in Notes 1-17]

Note 18. Reserved.

[See Prior Text in Note 19 - Processing Timelines Table]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000).

Chapter 19. Repealed

Subchapter A. Repealed

§1901. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1224 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1903. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1224 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1905. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1224 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1907. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1225 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1909. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1226 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1911. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1227 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1913. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1228 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1915. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1228 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1917. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1228 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1919. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1229 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1606 (August 2000).

§1921. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1229 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1923. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1231 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1925. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1232 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1927. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1232 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1929. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1233 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1931. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1233 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1933. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1234 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

§1935. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1234 (November 1995),

repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

Appendix . Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1234 (November 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

James H. Brent, Ph.D.
Assistant Secretary

0008#040

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference Update C40 CFR Part 60
(LAC 33:III.3003)(AQ102)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.3003 (Log #AQ206*).

This rule is identical to federal regulations found in 40 CFR Part 60, July 1, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule incorporates by reference 40 CFR Part 60 as revised July 1, 1999, into LAC 33:III.Chapter 30. Louisiana receives delegation authority from the U.S. Environmental Protection Agency (EPA) for 40 CFR Part 60 Standards of Performance for New Stationary Sources (NSPS) by incorporating the federal regulations into the LAC. EPA's 105 Grant Objective requires that incorporation by reference of new and revised NSPS regulations be made annually. This rulemaking meets that requirement. The basis and rationale for this rule are to mirror the federal regulations.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1999, and specified below in

Tables 1 and 1.A are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
[See Prior Text in A - Ea]	
Eb	Standards of Performance for Large Municipal Waste Combustors for which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction Is Commenced After June 19, 1996
[See Prior Text in Ec - WWW]	

[See Prior Text in Table 1.A]

B. Reserved

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000).

James H. Brent, Ph.D.
Assistant Secretary

0008#021

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Land Disposal of Prohibited Waste by Deep Well Injection
(LAC 33:V.517, 1529, 2201-2269, 2273, 4357 and 5120)
(HW062)**

Editor's Note: This section is being republished to correct an error. This rule can be viewed in its entirety in the October 20, 1999 edition of the *Louisiana Register* on pages 1798-1803.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.517, 1529, 2201-2269, 2273, 4357, and 5120 (Log #HW062).

The rule states that if land disposal by deep well injection has been exempted by the US EPA from the land disposal prohibitions; a permit has been issued for the injection well by the Louisiana Office of Conservation; and the secretary of the Department of Environmental Quality has made a determination that there are no economically reasonable and environmentally sound alternatives to the injection of such hazardous waste, then the land disposal restrictions do not apply to the disposal of the hazardous waste by injection well. The US EPA currently reviews and renders a decision on all petitions for exemption from the land disposal restrictions for hazardous waste disposal by injections wells.

The Louisiana Office of Conservation is authorized to review and render a decision on applications for permits for all types of injection wells, including hazardous waste injection wells. This rule change will eliminate the department's duplication of work done by the US EPA and the Louisiana Office of Conservation. However, the department does retain the authority to grant or deny the use of injection wells for the disposal of hazardous waste based on the availability of economically reasonable and environmentally sound alternative methods of disposal. The basis and rationale for this rule is to bring the regulations in line with R.S. 30:2193.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

[See Prior Text in A-U]

V. for land disposal facilities, if an approval has been granted under LAC 33:V.2239, a petition has been approved under LAC 33:V.2241 or 2271, or a determination made under LAC 33:V.2273, a copy of the notice of approval or a determination is required; and

[See Prior Text in W]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR

10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), LR 25:1465 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), repromulgated LR 26:1609 (August 2000).

James H. Brent, Ph.D.
Assistant Secretary

0008#041

RULE

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Louisiana Pollutant Discharge Elimination
System (LPDES) Program (WP040)
(LAC 33:IX.2301, 2531 and 2533)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2301, 2531, and 2533 (Log #WP040*).

This rule is identical to federal regulations found in 40 CFR parts 136 and 40 CFR Chapter I, Subchapter N, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will update the CFR references in Chapter 23 to the current 1999 CFR. Authorized programs are required to adopt changes made to the federal regulations. The basis and rationale for this rule are to keep the LPDES program current with federal rules that are incorporated by reference into the state regulations.

This rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations**

**Chapter 23. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program
Subchapter A. Definitions and General Program
Requirements**

§2301. General Conditions

(See Prior Text in A - E)

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall

refer to those regulations published in the July 1999 *Code of Federal Regulations*, unless otherwise noted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000).

Subchapter N. Incorporation by Reference

The Louisiana Department of Environmental Quality incorporates by reference the following federal requirements.

§2531. 40 CFR Part 136

Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 1999, in its entirety.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000).

§2533. 40 CFR Chapter I, Subchapter N

Title 40 (Protection of the Environment) CFR, chapter I, subchapter N (Effluent Guidelines and Standards), revised July 1, 1999, parts 401 and 402, and parts 404 - 471 in their entirety.

(Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in part 403 of Subchapter N have been included in these regulations as Subchapter T.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000).

James H. Brent, Ph.D.
Assistant Secretary

0008#020

RULE

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Partial Lump-Sum Option Payment
(LAC 58:V.1901 and 1903)

Editor's Note: This rule is being repromulgated to correct a citation error. The original version may be viewed in the February 20, 2000 issue of the Louisiana Register.

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans (fund), pursuant to R.S. 11:3363(F), has added chapter LAC 58:V.19, Sections 1901 and 1903 in accordance with the Administrative Procedure Act. This chapter notifies the public that the board will offer an optional form of distribution of a member's retirement benefit as an initial partial lump sum benefit with a reduced monthly annuity payable for life. This Rule implements Act No. 1377 of the 1999 regular session.

Title 58
RETIREMENT

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 19. Partial Lump-Sum Option Payment

§1901. General Rules for Participation

A. If a member has not participated in the DROP, upon application for retirement, he may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal retirement benefit times 60.

B. The member's monthly retirement will be actuarially reduced based on the lump-sum amount withdrawn and the member's age at retirement. The partial lump-sum benefit, together with the member's reduced normal retirement benefit, must be actuarially equivalent to the member's normal retirement benefit as set forth in R.S. 11:3384.

C. The cost of living adjustment (COLA) granted by the Board of Trustees to retirees who elect to receive a reduced retirement benefit and a partial lump-sum benefit shall be based only on the reduced retirement benefit and shall not be based on the partial lump-sum benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000).

**§1903. Distributions from Partial Lump-Sum Option
Payment**

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are not eligible for rollover as is the case with DROP accounts. However, the amount of the PLOP may be left with the Fund and subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon whether the member retires before, during or after the calendar in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrence of the 10 percent early distribution penalty. In the event the PLOP remains on deposit with the Fund, all distribution rules applicable to DROP accounts apply, including the 10 percent early distribution penalty and recapture penalty, if applicable.

C. A member who retires during or after the calendar year in which the member reaches age 55 may receive distribution of his PLOP account in accordance with rules applicable to DROP accounts, will not be subject to the 10 percent early distribution penalty or recapture penalty, but will be subject to those DROP rules requiring mandatory distributions of the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000).

Richard Hampton
Secretary-Treasurer

0008#016

RULE

**Office of the Governor
Office of Elderly Affairs**

State Plan on Aging
(LAC 4:VII.1301 - 1323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has repealed and amended LAC 4:VII 1301-1323.

The purpose of this amended rule is to acknowledge that the Office of Elderly Affairs will develop a State Plan that will be submitted to the U. S. Department of Health and Human Services, Administration on Aging to receive grants from its allotment under Title III of the Older Americans Act of 1965 as amended (the Act). Title III authorizes formula grants to state agencies on aging to assist states and local communities to develop comprehensive and coordinated systems for the delivery of services to older persons.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1301. State Plan On Aging

A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:

1. identification by the State of the sole State agency that has been designated to develop and administer the plan;
2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the Commissioner through the rulemaking process;
3. a resource allocation plan indicating the proposed use of all Title III funds administered by the State agency and the distribution of Title III funds to each planning and service area;
4. identification of the geographic boundaries of each planning and service area and of area agencies on aging;
5. prior Federal fiscal year information related to low income minority and rural older individuals;
6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:
 - a. preference is given to older persons in greatest social or economic need in the provision of services under the plan;
 - b. procedures exist to ensure that all services under this part are provided without use of any means tests;
 - c. all services provided under Title III meet any existing State and local licensing, health and safety requirements for the provisions of those services;
 - d. older persons are provided opportunities to voluntarily contribute to the cost of services;

e. other such assurances as are needed for compliance with the Act, Regulations, other applicable federal law, State Statutes, and/or State policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), repealed and promulgated LR 26:1611 (August 2000).

§1303. Development of the State Plan

A The State Agency will develop a State Plan according to the following:

1. elect to utilize a one, two, three, or four-year format for the State Plan;
2. develop a data profile on the older Louisianian from available census data;
3. conduct statewide needs assessment activities including, but not limited to, public hearings;
4. assurances for state and area agencies on aging as set forth by the Older Americans Act;
5. goals and objectives;
6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;
7. conduct public hearings and incorporate written and verbal comments into the revised Plan, as appropriate;
8. submit final revised plan for approval by the Governor;
9. submit approved plan from the Governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), repealed and promulgated LR 26:1611 (August 2000).

§1305. Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.

2. Descriptive Statement

a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.

b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.

c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of

the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intra-state funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.

d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.

3. Numerical Statement of the Intrastate Funding Formula

- a. Base allocation per PSA: \$12,000 per parish
- b. Formula Allocation per PSA:

Factors	Weight
i. <u>PSA 60+Population</u>	
State 60+Population	1.0
ii. <u>PSA 60+Population</u>	
<u>Below Poverty Threshold</u>	
State 60+Population	
Below Poverty Threshold	0.9
iii. <u>PSA Land Mass in Square Miles</u>	
State Land Mass in Square Miles	1.0
iv. <u>PSA 75+Population</u>	
State 75+Population	0.1
v. Sum	3.0

$$4. \text{ PSA Formula} = \frac{(i) \times 1 + (ii) \times 0.9 + (iii) \times 1 + (iv) \times 0.1}{3}$$

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 23:1146 (September 1997),repealed and promulgated LR 26:1611 (August 2000).

§1307-1323. Reserved

Paul F. "Pete" Arceneaux
Executive Director

0008#035

RULE

Department of Health and Hospitals Board of Dentistry

Restricted Licensees; Adverse Sanctions; Temporary Licensees; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations
(LAC 46:XXXIII.105, 116, 120, 306, 502, 503, 706, 710, 1305, 1607 and 1619)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.105, Restricted Licensees, 116 Reconsideration of Adverse Sanctions, 120 Temporary Licensees, 306 Requirements of Applicants for Licensure by Credentials (dentists), 502 Authorized Duties of Expanded Duty Dental Assistants, 503 Guide to Curriculum Development for Expanded Duty Dental Assistants, 706 Requirements of Applicants for Licensure by Credentials (hygienists), 710 Administration of Local Anesthesia For Dental Purposes, 1305 Air Abrasion Units, 1607 Exemptions and 1619 Violations. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§105. Restricted Licensees

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within 60 days of receiving said license, except those licenses issued for less than one year.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 26:1612 (August 2000).

§116. Reconsideration of Adverse Sanctions

A. - C. ...

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action. The applicant is not thereafter entitled to appear before the full board relative to this application; only applications which have been found to have substantial merit by the committee are to be submitted to the full board.

E. The full board, at its next meeting, may consider those applicants found by the committee to have substantial merit in open meeting if requested to do so by the applicant. In the absence of such a request, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the

board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 26:1612 (August 2000).

§120. Temporary Licensees

A. Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than seven months. Section 120 does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000).

Chapter 3. Dentists

§306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 15. ...

16. has furnished three current letters of current recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

17. - 20. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:1612 (August 2000).

Chapter 5. Dental Assistants

§502. Authorized Duties of Expanded Duty Dental Assistants

A. A person licensed to practice dentistry in the state of Louisiana may delegate to any expanded duty dental

assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. - 15. ...

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 26:1613 (August 2000).

§503. Guide to Curriculum Development for Expanded Duty Dental Assistants

A. ...

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. - 15. ...

16. clinical and written exams;

17. lecture on the placement of pit and fissure sealant;

18. lab on placement of pit and fissure sealant; performance evaluation lab shall be practicing on typodonts.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998), LR 26:1613 (August 2000).

Chapter 7. Dental Hygienists

§706. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. - 14. ...

15. has furnished three current letters of current recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

16. - 19. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:1613 (August 2000).

§710. Administration of Local Anesthesia for Dental Purposes

A. - E. ...

F. Deleted.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 26:1613 (August 2000).

Chapter 13. Dental Laser and Air Abrasion Utilization §1305. Air Abrasion Units

A. Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 24:1117 (June 1998), LR 26:1613 (August 2000).

Chapter 16. Continuing Education Requirements

§1607. Exemptions

A. - B. ...

C. Due to the fact that dental and dental hygiene licenses are issued on a biennial basis, dentists and dental hygienists must accumulate one-half of the continuing education hours required under LAC 46:XXXIII.1611 and 1613 during the second year of the biennial period in which they received their initial licensure. For example, if a dentist receives his license immediately after graduation in June 1999, and he/she does not have to renew his/her license until the year 2001, that licensee need only accumulate 20 hours of continuing education, one-half of which must be clinical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:1613 (August 2000).

§1619. Violations

A. Violation Table

	Minimum	Maximum
1. First violation of continuing education	\$500.00	\$2,000.00
a. For completion of 3/4th or more of the requirement	\$500.00	
b. For completion of 1/2 to 3/4th of the requirement	\$1,000.00	
c. For completion of 1/4th to 1/2 of the requirement	\$1,500.00	
d. For completion of 0 to 1/4th of the requirement	\$2,000.00	
2. Second violation	\$1,000.00	\$4,000.00
3. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.		
4. A second violation of the continuing education requirements shall be reported to the National Practitioner Data Bank, whereas the first violation will not.		
5. After a second violation of continuing education requirements, the licensee shall be placed on a minimum of a two-year period of probation, depending upon the number of hours not completed.		
6. A third violation of continuing education requirements will result in the suspension of a dental or dental hygiene license for a period of not less than six months.		
7. Any subsequent violation of continuing education requirements will result in the revocation of a dental or dental hygiene license.		

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)and(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 26:1614 (August 2000).

C. Barry Ogden
Executive Director

0008#012

RULE

**Department of Health and Hospitals
Board of Nursing**

**Criminal History Record Information
(LAC 46:XLVII.3330)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to the criminal history record information. The amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

§3330. Criminal History Record Information

A. Authority of the Louisiana State Board of Nursing (board). The board derives its authority to obtain criminal history record information from R.S. 37:920.1.

B. The following applicants for licensure or permission to enroll in clinical nursing courses shall submit to a criminal history record information check:

1. registered nurse by examination;
2. registered nurse by endorsement;
3. advanced practice registered nurse, if records not checked in relation to the RN license reinstatement of RN and/or APRN license, if license has not been active for five years or more;
4. registered nurse students prior to enrollment in the first clinical nursing course.

C. The board may require criminal history record information checks of the following individuals:

1. an applicant for any license, permit, reinstatement, or permission to enroll in clinical nursing courses if there is reason to believe there is information relative to evaluating the applicants eligibility or disqualification for licensure;
2. a licensee as part of the investigation process if there is reason to believe there is information relative to eligibility or disqualification for continued licensure.

D. The applicant or licensee must review and sign the Authorization to Disclose Criminal History Record Information.

E. The applicant or licensee must contact the state or local police/sheriff department and submit two fingerprint cards to be completed. The law enforcement agency may specify a designated location and fee for the completion of the fingerprint cards.

F. The two completed fingerprint cards must be returned to the board office by the applicant or licensee with the required fee. The cards and fee will be forwarded to the Louisiana Department of Public Safety. The second card will be forwarded to the Federal Bureau of Investigations by the Louisiana Department of Public Safety.

G. The submission of the fingerprint cards and the signed Authorization to Disclose Criminal History Record Information must be received prior to the license being processed or during the semester that the first clinical nursing course has begun.

H. The processing of the license or the entry into clinical nursing courses may not be delayed awaiting these reports; however, future action may result if the criminal history record information so indicates. If the criminal history record reveals criminal activity which constitutes grounds for denial under R.S. 37:921. or LAC 46:XLVII.3331, then the license issued shall be recalled or the progression in clinical nursing courses may be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:920.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 26:1614 (August 2000).

Barbara L. Morvant
Executive Director, M.N., R.N.

0008#037

RULE

**Department of Health and Hospitals
Board of Nursing**

Disciplinary Proceedings (LAC 46:XLVII.3403 and 3404)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 has amended the Professional and Occupational Standards pertaining to the Proceedings Against a Registered Nurse; Advanced Practice Registered Nurse; Registered Nurse Applicant; APRN Applicant or a Student Nurse and repeal LAC 46:XLVII.3404, Proceedings Involving Students Enrolled in Clinical Nursing Course. The amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

**Chapter 34. Disciplinary Proceedings; Alternative to
Disciplinary Proceedings**

**§3403. Proceedings Against a Registered Nurse,
Advanced Practice Registered Nurse, Registered
Nurse Applicant, APRN Applicant or a Student
Nurse**

A. The board may deny, revoke, suspend, probate, limit, reprimand, or restrict any license to practice as a registered nurse or an advanced practice registered nurse, impose fines, assess costs, or otherwise discipline an individual in accordance with R.S. 37:921-925 and the board may limit, restrict, delay or deny a student nurse from entering or

continuing the clinical phase of education in accordance with R.S. 37:921-925.

B. - C. ...

D. Grounds for disciplinary proceedings are specified in R.S. 37:921:

1. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:921, R.S. 37:922 and R.S. 37:923.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 21:269 (March 1995), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 26:1615 (August 2000).

§3404. Proceedings Involving Students Enrolled in Clinical Nursing Courses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:921, R.S. 37:922 and R.S. 37:923.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 24:1293 (July 1998), repealed by the Department of Health and Hospitals, Board of Nursing, LR 26:1615 (August 2000).

Barbara L. Morvant
Executive Director

0008#038

RULE

**Department of Health and Hospitals
Board of Nursing**

Official Office of the Board
(LAC 46:XLVII.3305)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 has amended the Professional and Occupational Standards pertaining to the appointing authority of the executive director. The amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter A. Board of Nursing

§3305. Official Office of the Board

A. ...

B. An executive director, who shall be a registered nurse, shall be appointed by the board to carry out functions of the board relative to its statutory requirements and other work defined by the board. The executive director serves as appointing authority and may appoint any additional employees for professional, clerical, and special work necessary to carry out the board's functions and with the board's approval, may establish standards for the conduct of employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:919 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board

of Nursing, LR 22:104 (February 1996), LR 24:1293 (July 1998), amended LR 26:1615 (August 2000).

Barbara L. Morvant
Executive Director

0008#036

RULE

**Department of Health and Hospitals
Board of Pharmacy**

Drug Returns (LAC 46:LIII.3517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby amends the referenced rule.

The full text of this rule may be obtained by contacting the Louisiana Board of Pharmacy at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, LA 70808, or by telephoning (225) 925-6496.

Any person may submit data, views, or positions, orally or in writing, to the Louisiana Board of Pharmacy as indicated above.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 35. Pharmacy Prescription Drugs

§3517. Drug Returns

A. Drugs dispensed on prescription to a patient shall not be accepted for return, exchange, or re-dispensing by any pharmacist or pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed except:

1. in a hospital with a permitted hospital pharmacy on site, drugs may be returned to the pharmacy in accordance with good professional practice standards;

2. in facilities licensed by the Louisiana Department of Health and Hospitals where United States Pharmacopoeia (USP) storage requirements can be assured, legend drugs, except controlled substances, dispensed in unit dose or in individually sealed doses may be transferred to a provisional permitted pharmacy for relabeling and dispensing to the indigent, free of charge, pursuant to a valid prescription order.

a. The pharmacist-in-charge (PIC) of the provisional permitted pharmacy shall be responsible to determine the suitability of the product for reuse.

i. No product where integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

ii. A re-dispensed prescription medication shall be assigned the expiration date stated on the package.

iii. No product shall be re-dispensed more than one time.

b. Pursuant to a voluntary agreement between a facility licensed by the Louisiana Department of Health and Hospitals and a pharmacy holding a provisional permit from the Louisiana Board of Pharmacy, legend drugs, except controlled substances, may be transferred from the facility to the pharmacy provided the following procedures are satisfied.

- i. The physical transfer shall be accomplished by a person authorized to do so by the provisional permitted pharmacy.
- ii. The patient from whom the prescription medication was obtained shall document their consent for the donation; the consent shall be maintained on file at the facility.
- iii. The patient's name, prescription number, and any other identifying marks, shall be obliterated from the packaging prior to removal from the facility.
- iv. The drug name, strength, and expiration date shall remain on the medication package label.
- v. An inventory list of the drugs shall accompany the drugs being transferred; at a minimum, the list shall contain the medication name, strength, expiration date, and quantity.
- vi. Expired drugs shall not be transferred; personnel designated by the facility shall destroy them on-site.

AUTHORITY NOTE: Promulgated in accordance with LRS 37:1182.A.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1616 (August 2000).

Malcolm J. Broussard, RPh
Executive Director

0008#034

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary CodeCCommercial Body Art

In accordance with the Administrative Procedure Act, the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, Sanitarian Services Section, Food and Drug Unit is adopting the following rules pertaining to the regulation of commercial body art facilities. These rules are being promulgated as required by Act 393 of 1999 which enacted LSA - R.S. 40:2831 through 40:2834.

These final rules will be incorporated into the State Sanitary Code and, when adopted, will become Chapter XXVIII of that Code as provided for in LSA - R.S. 40:4.

This chapter of the Sanitary Code establishes uniform rules for the operation of commercial body art facilities within the state. A commercial body art facility means any location, place, area, or business, whether permanent or temporary, which provides consumers access to personal service workers who for remuneration perform tattooing of the skin, body piercing or the application of permanent cosmetics to the skin. These rules do not apply to ear piercing with a disposable single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear. These rules do not apply to physicians licensed by the Louisiana State Board of Medical Examiners.

Chapter XXVIII. Commercial Body Art Regulation

28:001. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code are defined for the purposes thereof as follows:

*Antiseptic*CAn agent that destroys disease causing microorganisms on human skin or mucosa.

*Aftercare*Cwritten instructions given to the consumer, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information when to seek medical treatment, if necessary.

*Body Art*Cthe practice of physical body adornment by registered establishments and operators utilizing, but not limited to, the following techniques: tattooing, cosmetic tattooing, body piercing, branding and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, and shall not be performed in a commercial body art facility. This definition does not include the piercing of the lobe of the ear using pre-sterilized single use stud and clasp ear piercing system.

*Body Piercing*Cpuncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except puncturing the lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition.

*Branding*Cinducing a pattern of scar tissue development by means of a heated instrument.

*Client*Ca consumer requesting the application of a tattoo, body piercing services or permanent cosmetic application services.

*Commercial Body Art Facility*Cas defined herein and in LSA-R.S. 40:2831(1) means any location, place, area, or business, whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Chapter, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear;

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

*Contaminated Waste*Cany liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially

infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."

Consumer Any individual who is provided access to a commercial body art facility which is required to be registered pursuant to the provisions of this chapter.

Disinfection The destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

Department The Department of Health and Hospitals.

Ear Piercing The puncturing of the lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers instructions.

Equipment All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a commercial body art facility.

Hand Sink A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

Invasive Entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

Jewelry Any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium or platinum, a dense, low-porosity plastic and which is free of nicks, scratches or irregular surfaces and which has been properly sterilized prior to use.

Manager Any individual designated by the owner to manage the daily business of a commercial body art facility.

Operator Any individual designated by the registrant to apply or to assist in the performance of body art procedures upon the consumer for remuneration. The term includes technicians who work under the operator and perform body art activities.

Owner Any person who operates a commercial body art facility.

Person Any natural person, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

Protective Gloves Gloves made of vinyl or latex.

Registrant Any person who is registered with the department as required by R.S. 40:2832.

Sanitize To adequately treat equipment by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms without adversely affecting the equipment or its safety for the consumer.

Sharps Any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.

Sharps Container A puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the international "biohazard" symbol.

Single Use Products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

Sterilization A very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

Tattooing Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

Temporary Commercial Body Art Facility Any place or premise operating at a fixed location where an operator performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

Temporary Demonstration Registration The registration issued by the Department to a *temporary commercial body art facility*, as defined herein, as required by Section 28:018 of this Chapter and R.S. 40:2832 for a period of time not to exceed 14 consecutive calendar days.

Temporary Operator Registration The registration issued by the Department to an *operator*, as defined herein, to perform body art procedures at a temporary commercial body art facility approved and registered by the Department.

Universal Precautions A set of guidelines and controls, published by the Center for Disease Control (CDC) as "guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

28:002. Facility Standards

All commercial body art facilities shall meet the following criteria.

28:002-1. All areas shall be kept clean and in good repair.

28:002-2. All procedure surfaces, including counters, tables, equipment, chairs, or recliners, that are in treatment and sterilization areas shall be made of smooth, nonabsorbent, and nonporous materials.

28:002-3. All wall, floor, and ceiling surfaces within each procedure area shall be smooth, free of open holes or cracks, light colored, washable and in good repair. Walls, floors and ceilings shall be maintained in a clean condition.

28:002-4. Surfaces or blood spills shall be cleaned using an EPA registered, hospital-grade disinfectant.

28:002-5. Each facility shall provide a handwashing sink to be used solely for handwashing in body art procedure area for the exclusive use of the operator. A separate restricted area away from public access shall be provided in each facility for the purpose of handling contaminated equipment, instruments and sterilization operations. Also, a separate instrument sink shall be provided for the sole purpose of cleaning instruments and equipment prior to sterilization in addition to the sink that is located in the restrooms. These sinks shall be provided with hot (120 degrees Fahrenheit minimum) and cold running water under pressure dispensed from a mixing valve. There shall also be available at all sinks and lavatories, powdered or liquid soap in a soap dispenser, disposable single use towels or automatic hand drying device, and a refuse container.

28:002-6. Toilet facilities shall be kept clean and in good repair and in working order at all times. If only one restroom is provided, it must contain a water closet and a handwashing sink equipped with a powdered or liquid soap dispenser and disposable single use towels or automatic hand drying device, as must all restrooms.

28:002-7. The facility shall be provided with adequate and sufficient artificial or natural lighting equivalent to at least 20 foot candles three feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

28:002-8. The facility shall be well ventilated with natural or mechanical methods that remove or exhaust fumes, vapors, or dust in order to prevent hazardous conditions from occurring or to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

28:002-9. If a room used for any business purposes other than body art procedures is the same room or is adjacent to a room used for body art procedures, then the department may require that one or more of the following requirements be satisfied if there are conditions that the department considers a possible threat to the health of the employees, the customers, or the public:

(a) A solid partition shall separate the premises used for other business purposes from the commercial body art area. The partition may contain a door, provided it remains closed except for entering and leaving.

(b) A separate outside entrance shall be provided for the facility.

28:002-10. Pets or other animals shall not be permitted in the commercial body art facility. This prohibition shall not apply to trained guide animals for the disabled, sightless, or hearing impaired; or fish in aquariums.

28:003. Required equipment; articles and materials: Commercial body art facility registrants and operators shall provide and maintain the following tattooing and/or piercing equipment and supplies at the place of business:

28:003-1. Tattoo machine or hand pieces, of non porous material which can be sanitized;

28:003-2. Stainless steel or carbon needles and needle bars;

28:003-3. Stainless steel, brass or lexan tubes that can be sanitized;

28:003-4. Stencils, plastic acetate or single use disposable carbon paper;

28:003-5. Sterilization bags with color strip indicator;

28:003-6. Disposable protective gloves;

28:003-7. Single use or disposable razors, tongue depressors, lubricants or medicines;

28:003-8. Single use towels, tissues or paper products;

28:003-9. Sharps container and BIOHAZARD waste bags;

28:003-10. Commercially purchased inks, dyes and pigments;

28:003-11. A trash receptacle(s);

28:003-12. Commercially available spore tests performed monthly;

28:003-13. Single-use hollow piercing stainless steel needles;

28:003-14. Approved equipment for cleaning and sterilizing instruments;

28:003-15. All tables or chairs made of nonporous material that can be cleaned and sanitized;

28:003-16. All piercing instruments shall be made of stainless steel;

28:003-17. Bleach or hard-surface disinfectants, or both;

28:003-18. Antibacterial hand soap; and

28:003-19. Minimum of 10 pre-sterilized needle/tube packs or 10 single use needle/tube packs per artist in respect to tattooist.;

28:004. Practice standards; restrictions

28:004-1. Prior to any body art procedure, a consent form shall be completed and signed by each client. Aftercare instructions shall be given to the client both verbally and in writing after every service. The written care instructions shall advise the client to consult the body art operator or a qualified health care professional at the first sign of abnormal inflammation/swelling or possible infection.

28:004-2. Registrants may obtain advice from physicians regarding medical information needed to safeguard consumers and body art operators.

28:004-3.

(a). Registrants shall keep an individual written record of each client. That record shall include the name and address of the client; the date of each service; description of service; the color, manufacturer and lot number of each of each pigment used for each tattoo or permanent cosmetic procedure performed.

(b). The following information should be requested by the registrant or operator and recorded on the client's written record required in 28:004-3(a): In order to promote proper healing of the body art procedure performed, we ask that you disclose if you have, or have had, any of the following conditions which may affect the healing process:

a. diabetes;

b. history of hemophilia (bleeding);

c. history of skin diseases, skin lesions or skin sensitivities to soap, disinfectants, etc.;

d. history of allergies or adverse reactions to pigments, dyes or other skin sensitivities;

e. history of epilepsy, seizures, fainting or narcolepsy.

f. pregnancy or breast-feeding/nursing;

g. immune disorders;

h. scarring (keloid).

(c). Each commercial body art facility shall display a sign clearly visible to each client which bears the following wording: "There may be risks associated with the procedures of commercial body art, which includes permanent tattoos, body piercing and permanent cosmetic application, that may adversely affect the healing process if you have, or have had, any of the following conditions:

- a. diabetes;
- b. history of hemophilia (bleeding);
- c. history of skin diseases, skin lesions or skin sensitivities to soap, disinfectants, etc.;
- d. history of allergies or adverse reactions to pigments, dyes or other skin sensitivities;
- e. history of epilepsy, seizures, fainting or narcolepsy.
- f. pregnancy or breast-feeding/nursing;
- g. immune disorders;
- h. scarring (keloid).

The sign required in this sub-section shall be printed in upper and lower case letters which are at least one-half inch and one-quarter inch in height respectively.

28:004-4. For permanent cosmetic procedures, operators shall take photographs for corrective procedures before and after the procedure and retain such photographs.

28:004-5. Records shall be kept for a minimum of three years.

28:004-6. Inks, dyes, or pigments shall be purchased from a commercial supplier or manufacturer. Products banned or restricted by the Food and Drug Administration shall not be used.

28:004-7. Registrants or operators shall not perform tattooing and body piercing for any of these individuals:

- a. On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;
- b. On persons who show signs of intravenous drug use;
- c. On persons with sunburn or other skin diseases or disorders such as open lesions, rashes, wounds, puncture marks in areas of treatment;
- f. On persons with psoriasis or eczema present in the treatment area;
- e. On persons under 18 years of age without the presence, consent and proper identification of a parent, legal custodian parent or legal guardian as prescribed in R.S. 14:93.2 (A) and (B). Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent.

28:004-8. Use of a piercing gun to pierce shall be prohibited on all parts of the body, including the outer cartilage perimeter of the ear with the exception of the ear lobe.

28:004-9. Use of personal client jewelry or any apparatus or device presented by the client for use during the initial body piercing shall be sterilized prior to use. Each facility shall provide pre-sterilized jewelry, apparatus, or devices, which shall be of metallic content recognized as compatible with body piercing.

28:004-10. No person afflicted with an infectious or communicable disease that may be transmitted during the performance of body art procedures shall be permitted to work or train in a commercial body art facility.

28:004-11. No commercial body art facility shall require an operator to knowingly work upon a person suffering from any infectious or communicable disease that may be transmitted during the performance of permanent color, tattoo application, or body piercing.

28:004-12. Nothing shall prohibit a commercial body art facility operator from refusing to provide services to anyone under the age of 18.

28:005. Operator Training

28:005-1. Each commercial body art facility registrant shall establish and maintain procedures to ensure that all operators that perform commercial body art procedures receive adequate training and hold a current certificate in CPR, first aid, blood borne pathogens and disease transmission prevention.

28:005-2. Commercial Body Art Trainer means any person who provides training in the commercial body art field to students for a fee. The training facility shall be a fully accredited educational institution and the curriculum shall include training specified in 28:005-1.

28:005-3. Commercial body art facility registrants and owners must only hire operators who have registered with the department and have received training as required in Subsections 28:005-1 and 28:005-2.

28:006. Hand Washing and Protective Gloves

28:006-1. Prior to and immediately following administering services to a client, all registrants and operators shall thoroughly wash their hands and nails in hot, running water with soap and rinse them in clear, warm water.

28:006-2. All registrants and operators shall wear protective gloves during services. Protective gloves shall be properly disposed of immediately following service.

28:006-3. Protective gloves will be changed during a procedure if the need of additional supplies are needed.

28:007. Preparation and Aftercare of Treatment Area on Clients

28:007-1. Body art operators shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing with an EPA-approved antiseptic solution applied with a clean, single-use paper product, before placing the design on the client's skin or beginning tattooing or permanent cosmetic work.

28:007-2. If the area is to be shaved, the operator shall use a single-use disposable safety razor and then rewash the client's skin.

28:007-3. Substances applied to the client's skin to transfer the design from stencil or paper shall be single use.

28:007-4. Aftercare shall be administered to each client following service, as stated in sections 28:004-1 and 28:016-12 of this chapter.

28:008. Cleaning Methods Prior to Sterilization

28:008-1. Each operator shall clean all non-electrical instruments prior to sterilizing by brushing or swabbing to remove foreign material or debris, rinsing, and then performing either of the following steps:

- a. Immersing them in detergent and water in an ultrasonic unit that operates at 40 to 60 hertz, followed by a thorough rinsing and wiping; or

- b. submerging and soaking them in a protein-dissolving detergent or enzyme cleaner, followed by a thorough rinsing and wiping.

28:008-2. For all electrical instruments, each operator shall perform the following:

- a. first remove all foreign matter; and
- b. disinfect with an EPA -registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity used according to manufacturer's instructions.

28:009. Instrument Sterilization Standards

28:009-1. Commercial body art facility operators shall place cleaned instruments used in the practice of tattooing, permanent cosmetics or piercing in sterile bags, with color strip indicators, and shall sterilize the instruments by exposure to one cycle of an approved sterilizer, in accordance with the approved sterilization modes in section 28:010 of this chapter.

28:009-2. The provisions of this chapter shall not apply to electrical instruments.

28:010. Approved Sterilization Modes

28:010-1. Instruments used in the practice of commercial body art services shall be sterilized, using one of the following methods:

- a. In a steam or chemical autoclave sterilizer, registered and listed with the Federal Food and Drug Administration (FDA), and used, cleaned, and maintained according to manufacturer's directions; or
- b. With single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers.

28:010-2. Facility registrants and operators shall sterilize all piercing instruments that have or may come in direct contact with a client's skin or be exposed to blood or body fluids. Piercing needles shall not be reused. All piercing needles shall be single use.

28:010-3. All sterilizing devices shall be tested on a monthly basis for functionality and thorough sterilization by use of the following means:

- a. Chemical indicators that change color, to assure sufficient temperature and proper functioning of equipment during the sterilization cycle; and
- b. A biological monitoring system using commercially prepared spores, to assure that all microorganisms have been destroyed and sterilization has been achieved. This testing shall be performed on a monthly basis for tattoo and body piercing facilities.

28:010-4. Sterilization device test results shall be made available at the facility at all times for inspection by the state health officer for a minimum of three years.

28:011. Waste Receptacles

28:011-1. Following body art procedures for each client, the registrant or operator shall deposit all waste material related to treatment in a container of the type specified in Section 28:011-3 of this Chapter.

28:011-2. Waste disposed in a reception area and restrooms shall be limited only to materials that are not used in providing body art services to clients or are practice related.

28:011-3. Waste disposal containers shall be constructed of non-absorbent and readily cleanable materials, shall have smooth surfaces and shall be kept clean and in good repair.

28:01. Linens

28:012-1. Each registrant or operator shall use clean reusable linens or disposable linens for each client.

28:012-2. A common towel shall be prohibited.

28:012-3. Air blowers may be substituted for hand towels.

28:012-4. Each registrant or operator shall store clean linens, tissues, or single-use paper products in a clean, enclosed storage area until needed for immediate use.

28:012-5. Each registrant or operator shall dispose of or store used linens in a closed or covered container until laundered.

28:012-6. Each registrant or operator shall launder used linens either by a regular, commercial laundering or by a noncommercial laundering process that includes immersion in water at 160 degrees Fahrenheit for not less than 15 minutes during the washing and rinsing operations.

28:013. Clean Instruments and Products Storage

28:013-1. Before use, disposable products that come in contact with the areas to be treated shall be stored in clean containers that can be closed between treatments.

28:013-2. Clean, sterilized reusable instruments that come in contact with the areas to be treated shall be packed in self-sealing sterilization packages and stored in clean, dry covered containers.

28:013-3. Clean, sterilized reusable transfer instruments, including forceps, trays, and tweezers, shall be packed in self-sealing sterilization packages and stored in clean, dry covered containers.

28:014. Chemical Storage

28:014-1. Each registrant or operator shall store chemicals in labeled, closed containers in an enclosed storage area. All bottles containing poisonous or caustic substances shall be additionally and distinctly marked as such and shall be stored in an area not open to the public.

28:015. Handling Disposable Materials

28:015-1. All potentially infectious waste materials shall be handled, stored and disposed of in a manner specified in Chapter 27 of the State Sanitary Code.

28:015-2. Each registrant or operator shall dispose of disposable materials coming into contact with blood, body fluids, or both, in a sealable plastic bag that is separate from sealable trash or garbage liners or in a manner that protects not only the registrant or operators and the client, but also others who may come into contact with the material, including sanitation workers. Waste materials shall be kept secured from public access. Waste dumpsters shall be kept locked.

28:015-3. Disposable, sharp objects that come in contact with blood or body fluids shall be disposed of in a sealable, rigid, puncture-proof container that is strong enough to protect the registrant or operators, clients, and others from accidental cuts or puncture wounds that could happen during the disposal process.

28:015-4. Registrants or operators shall have both sealable plastic bags or sealable rigid containers available at the facility.

28:015-5. Each registrant or operator shall follow universal precautions in all cases.

28:016. Tattoo and Permanent Cosmetic Procedures; Preparation and Aftercare

28:016-1. During preparation, performance of service, and aftercare phases all substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Use of a covered spray bottle to apply liquid to skin is acceptable and will enhance the prevention of cross-contamination. Single use tubes or containers and applicators shall be discarded following tattoo service.

28:016-2. The client's skin shall be cleansed, excluding the areas surrounding the eyes, by washing with a Food and Drug Administration (FDA) compliant antiseptic solution applied with a clean single-use paper product before placing the design on the client's skin or beginning tattooing work.

28:016-3. If the area is to be shaved, the operator shall use a single use disposable safety razor and then rewash client's skin.

28:016-4. Substances applied to client's skin to transfer design from stencil or paper shall be single use. Paper stencils and skin scribes shall be single-use and disposed of immediately following service.

28:016-5. Body pencils used during a tattoo and permanent cosmetic service shall have the tip removed, the body and tip of the pen disinfected, and the tip sharpened to remove exposed edge after use on a client and prior to use on another client.

28:016-6. The plastic or acetate stencil used to transfer the design to the client's skin shall be thoroughly cleansed and rinsed in an Environmental Protection Agency (EPA) approved high-level disinfectant according to the manufacturer's instructions and then dried with a clean single-use paper product.

28:016-7. Individual portions of inks, dyes, or pigments dispensed from containers or bottles into single-use containers shall be used for each client. Any remaining unused ink, dye or pigments shall be discarded immediately following service and shall not be re-used on another client.

28:016-8. Excess ink, dye, or pigment applied to the client's skin shall be removed with clean single-use paper product.

28:016-9. Use of styptic pencils or alum solids to check any blood flow is prohibited.

28:016-10. Upon completion of tattooing, the operator shall cleanse the skin, excluding the area surrounding the eyes, with a clean, single-use paper product saturated with an EPA-approved antiseptic solution.

28:016-11. A sanitary covering shall be placed over designs and adhered to the skin with suitable medical skin tape.

28:016-12. Each operator shall provide aftercare, which shall consist of both verbal and written instructions concerning proper care of the tattooed skin. Instructions shall specify the following information:

- a. care following the procedure;
- b. advise clients to contact the body art operator or a qualified health care professional at the first sign of abnormal inflammation, swelling or possible infection; and
- c. restrictions.

28:017. Body Piercing Procedures

Body piercing operators shall be responsible for adhering to the following standards while serving clients in the commercial body art facility.

28:017-1. Each operator shall observe and follow thorough hand washing procedures with soap and water or an equivalent hand washing product before and after serving each client and as needed to prevent cross contamination or transmission of body fluids, infections or exposure to service-related wastes or chemicals.

28:017-2. Each operator shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing it with an FDA registered antiseptic solution applied with a clean, single-use paper product before and after piercing the client's skin.

28:017-3. All substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Single use swabs, applicators, lubricants, cups, skin scribes or marking instruments shall be discarded following the piercing service.

28:017-4. Any type of marking pen used by the operator shall be applied on cleansed skin only or shall be a surgical marking pen sanitized by design, including alcohol-based ink pens. The operator shall remove the tip of each body pencil used during a piercing, shall disinfect the body and the tip of the pencil, and shall sharpen the tip to remove the exposed edge prior to disinfection.

28:017-5. Use of styptic pencils or alum solids to control blood flow shall be prohibited.

28:017-6. Aftercare shall be administered to each client following service. Aftercare shall consist of both verbal and written instructions concerning proper care of the pierced area. Instructions shall specify the following information:

- a. care following service;
- b. advise clients to contact the body art operator or a qualified health care professional at the first sign of abnormal inflammation, swelling or possible infection; and
- c. restrictions.

28:017-7. Operators who have open sores or bleeding lesions on their hands shall not have client contact until the lesions have healed to the scab phase. Each operator shall cover them with protective gloves or impervious bandages prior to contact with clients.

28:017-8. Operators shall wear eye goggles, shields, or masks if spattering is likely to occur while providing services.

28:018. Registration

28:018-1. Each person owning or operating a commercial body art facility or facilities within the State of Louisiana on January 1, 2000 shall register each facility with the department no later than March 1, 2000.

28:018-2. Each person acquiring or establishing a commercial body art facility within the State of Louisiana after January 1, 2000, shall register the facility with the department prior to beginning operation of such a facility.

28:018-3. No person shall operate a commercial body art facility without first having registered that facility as provided by Subsections 28:018-1 and 28:018-2 of this section. The application for registration of commercial body art facilities shall be submitted on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

28:018-4. Each person managing a commercial body art facility and each person acting as an operator as defined in Section 28:001 of this Chapter on January 1, 2000, shall register with the department no later than March 1, 2000.

28:018-5. Each person who begins to act as a manager or operator in a commercial body art facility after January 1, 2000, shall register the facility as required in this Chapter prior to beginning operation of such a facility.

28:018-6. No person shall act as a manager or operator in a commercial body art facility without having first registered as provided in Subsections 28:018-4 and 28:018-5 of this section. The applications for registration shall be submitted on forms provided by the department and shall contain all of the information required by such forms and any accompanying instructions.

28:018-7. Any person or facility approved by the department for training commercial body art operators pursuant to R.S. 37:2743(A)(4) shall register with the department upon approval. The applications for registration shall be submitted on forms provided by the department and shall contain all of the information required by such forms and any accompanying instructions.

28:018-8. As part of the application for registration process, owners of commercial body art facilities shall submit a scale drawing and floor plan of the proposed establishment to the department for a review. This shall apply to new construction and to renovation of any existing property.

28:019. Registration Application Form

28:019-1. The department shall require at least the following information for registration:

a. name, physical address, mailing address and telephone number and normal business hours of each commercial body art facility;

b. name, residence address, mailing address and telephone number of the owner of each commercial body art facility;

c. for each manager or operator: name, residence address, mailing address, telephone number, place(s) of employment as a manger or operator, training and/or experience, proof of attendance of an approved operator training course as specified in Section 28:005 of this Chapter;

d. name, mailing address, telephone number and owner, manager or contact person for each operator training facility.

28:020. Registration Fees

28:020-1. The following fees shall accompany each application for initial registration:

Registrant	Fee
Owner of facility	\$1,000.00
Manager of facility	\$200.00
Operator	\$100.00
Training Facility or Person	\$3,000.00

Make check or money orders payable to the Department of Health and Hospitals.

28:021. Issuance of Certificate of Registration

28:021-1. A certificate of registration shall be issued upon receipt of an application and the required registration fee provided that no certificate of registration will be issued until an inspection has been made of the commercial body art facility and it has been found to be operating in compliance with the provisions of R.S. 40:2831 through 40:2834 and the provisions of this Chapter of the Sanitary Code.

28:021-2. Certificates of registration shall be displayed in an open public area of the commercial body art facility.

28:021-3. Certificates of registration shall expire annually on December 31.

28:021-4. Certificates of registration shall be issued only to the applicants and shall not be transferable.

28:022. Renewal of Certificate of Registration

28:022-1. Each registrant shall file applications for renewal of certificate of registration annually on forms provided by the department. The renewal application shall be forwarded to the mailing address of the registrant as listed on the last application for registration submitted to the department.

28:022-2. The following fees shall accompany each application for registration renewal:

Registrant	Renewal Fee
Owner of facility	\$500.00
Manager of facility	\$150.00
Operator	\$60.00
Training Facility or Person	\$1,000.00

Make check or money orders payable to the Department of Health and Hospitals.

28:022-3. Provided that a registrant files a required application with the department in proper form not less than 30 days prior to the expiration date stated on the certificate of registration, the certificate shall not expire pending final action on the application by the department.

28:023. Temporary Commercial Body Art Facility/Operator Registration

28:023-1. Temporary commercial body art facilities and, when required, operator registrations may be issued for body art services provided outside of the physical site of a registered permanent facility for the purposes of product demonstration, industry trade shows or for educational reasons.

28:023-2. Temporary commercial body art facility and/or operator registrations will not be issued unless:

a. the applicant furnishes proof of compliance with Section 28:018 of this Chapter relating to operator's registration;

b. the applicant is currently affiliated with a permanent fixed location or permanent facility which, is registered by the department;

c. applicants who reside outside of Louisiana must demonstrate to the department that they hold a valid registration or license to operate a commercial body art facility at a permanent fixed location issued by the state or local regulatory authority within their respective state;

d. the temporary site complies with Section 28:025 of this Chapter.

28:023-3. In lieu of attendance at a bloodborne pathogens training program approved by the department within the past year as specified in Section 28:005 of this Chapter, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.

28:023-4. Temporary registrations expire after 14 consecutive calendar days or at the conclusion of the special event, whichever is less.

28:023-5. Temporary commercial body art facility and/or operator registrations will not be issued unless the applicant has paid a reasonable fee as set by the department.

28:023-6. The temporary commercial body art facility and/or operator registration(s) shall not be transferable from one place or person to another.

28:023-7. The temporary commercial body art facility and/or operator registrations shall be posted in a prominent and conspicuous area where they may be readily seen by clients.

28:024. Temporary commercial body art facility/operator registration requirements

28:024-1. A temporary registration may be issued by the Department for educational, trade show or product demonstration purposes only. The registration may not exceed 14 calendar days.

28:024-2. A person who wishes to obtain a temporary demonstration registration must submit the request in writing for review by the Department, at least thirty (30) days prior to the event. The request should specify:

- a. The purpose for which the registration is requested.
- b. The period of time during which the registration is needed (not to exceed 14 consecutive calendar days per event), without re-application;
- c. The fulfillment of operator requirements as specified in Section 28:005 of this Chapter;
- d. The location where the temporary demonstration registration will be used;

28:024-3. The applicant's demonstration project must be contained in a completely enclosed, non-mobile facility (e.g. inside a permanent building).

28:024-4. Compliance with all of the requirements of this Code, including but not limited to:

- a. Conveniently located handwashing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Antiseptic single use hand wipes, approved by the Department, to augment the handwashing requirements of this section must be made readily available to each operator;
- b. A minimum of 80 square feet of floor space;
- c. At least 100 foot candles of light at the level where the body art procedure is being performed;
- d. Facilities to properly sterilize instruments - evidence of spore test performed on sterilization equipment thirty (30) days or less prior to the date of the event, must be provided; or only single use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed;
- e. Ability to properly clean and sanitize the area used for body art procedures.

28:024-5. The facility where the temporary demonstration registration is needed must be inspected by the Department and a certificate of registration issued prior to any body art procedures being performed.

28:024-6. Temporary demonstration registrations issued under the provisions of Section 28:024-5 of this Chapter may be suspended by the Department for failure of the holder to comply with the requirements of this Chapter.

28:024-7. All temporary demonstration registrations and the disclosure notice must be readily seen by clients.

28:025. Report of Changes

28:025-1. The registrant shall notify the department in writing before making any change which would render the information contained in the application for registration inaccurate. Notification of changes shall include information required Section 28:018 of this Chapter.

28:026. Transfer of Registrations

28:026-1. Certificates of registration issued to commercial body art facilities, facility managers, body art operators and operator trainers shall not be transferrable.

28:027. Enforcement

28:027-1. The Office of Public Health shall enforce the provisions of this Chapter in accordance with Chapter I of this Code.

28:028. Facility Inspections

28:028-1. The department shall conduct at least one inspection of a commercial body art facility prior to

approving the business to offer body art application services under provisions of this Chapter and R.S. 40:2831 through 2834. The department may conduct additional inspections as necessary for the approval process, and may inspect a registered commercial body art facility at any time the department considers necessary.

28:028-2. In an inspection, the department shall be given access to the business=premises and to all records relevant to the inspection.

28:029. Suspension or Revocation of Approval

28:029-1. The department may suspend or revoke the approval and registration of a commercial body art facility at any time the department determines that the business is being operated in violation of the provisions of R.S. 40:2831 through 2834, or the provisions of R.S. 14:93.2, which prohibits the tattooing and body piercing of minors without parental or custodial consent.

28:029-2. In addition to suspension or revocation of approval and registration by the department, if a commercial body art facility violates the provisions of R.S. 14:93.2, it shall be subject to the penalties provided therein.

28:029-3. The department may suspend or revoke the registration of a manager or operator at a commercial body art facility or the registration of a registered training facility at any time the department determines that the registrant is operating in violation of the provisions of R.S. 40:2831 through 2834 or the provisions of R.S. 14:93.

28:029-4. In addition to suspension or revocation of registration by the department, a registrant who violates the provisions of R.S. 14:93.2 shall be subject to the penalties provided therein.

28:029-5. The department may suspend or revoke the approval and registration of a commercial body art facility for any of the following reasons:

- a. failure to pay a registration fee or an annual registration renewal fee;
- b. the applicant obtained or attempted to obtain an approval or registration by fraud or deception;
- c. a violation of any of the provisions of this Chapter of the State Sanitary Code.

28:030. Injunctive Relief

28:030-1. If the department or state health officer finds that a person has violated, is violating, or threatening to violate the provisions of R.S. 40:2831 through 2834 or the provisions of this Chapter of the Sanitary Code and that violation or threat of violation creates an immediate threat to the health and safety of the public, the department or state health officer may petition the district court for a temporary restraining order to restrain the violation or threat of violation. If a person has violated, is violating, or threatening to violate provisions of R.S. 40:2831 through 2834 or the provisions of this Chapter of the Sanitary Code, the department or state health officer may, after sending notice of said alleged violation to the alleged violator via certified mail and the lapse of ten days following receipt of the notice by the alleged violator may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

28:030-2. On application for injunctive relief and a finding that a person is violating or threatening to violate provisions of R.S. 40:2831 through 2834 or the provisions of this Chapter of the Sanitary Code, the district court may grant

any injunctive relief warranted by the facts. Venue for a suit brought under provisions of this section shall be in the parish in which the violation is alleged to have occurred.

28:031. Severability

See State Sanitary Code, Chapter 1, Section 1:006.

* * *

AUTHORITY NOTE: Promulgated under authority of R.S. 40:2831 through R.S. 40:2834, Commercial Body Art Regulation Act; R.S. 40:4; R.S. 40:5.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of Public Health, LR 10:210 (March 1984), amended LR 26:1624 (August 2000).

David W. Hood
Secretary

0008#091

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary CodeCWater Supplies (Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The first amendment is specifically necessary due to a federal rule promulgated by USEPA in the *Federal Register* dated August 19, 1998 (Volume 63, Number 160, pages 44526 through 44536), which is entitled "National Primary Drinking Water Regulations: Consumer Confidence Reports; Final Rule". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which will require all community water systems [public water systems (PWSs) which provide water to year-round residents, such as systems serving subdivisions, mobile home parks, municipalities, etc.] to provide to their consumers an annual report on the quality of the drinking water supplied to them. This report is termed the annual Consumer Confidence Report. DHH-OPH adopts this rule by reference.

The second amendment is due to a federal rule promulgated by USEPA in the *Federal Register* dated August 14, 1998 (Volume 63, Number 157, pages 43846 through 43851), which is entitled "Revision of Existing Variance and Exemption Regulations To Comply With Requirements of the Safe Drinking Water Act; Final Rule".

This federal rule was also promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996). The reason for this amendment to Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an equivalent state rule which authorizes the State Health Officer to issue variances to small PWSs (serving less than 10,000 individuals) under USEPA's new small system variance criteria. This rule is intended to provide a mechanism for small PWSs to be able to obtain regulatory relief for some regulated contaminants under certain conditions, including, but not limited to, an affordability criterion. Variances generally allow a PWS to provide drinking water that may be above the maximum contaminant level (MCL) on the condition that the quality of the drinking water is still protective of public health. The duration of small PWS variances generally coincides with the life of the technology; however, DHH-OPH is required under federal rule to review each small PWS variance it issues at least every five years after the compliance date established in the small PWS variance itself. The review consists of whether the PWS continues to meet the eligibility criteria for such variance and is complying with the terms and conditions of the small PWS variance itself. A small PWS variance is not available for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant. DHH-OPH also adopts this rule by reference.

The Consumer Confidence Report portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a community water system. Local governmental units owning or operating a community water system are already subject to the requirements of the federal Consumer Confidence Report rule and were required to provide their first Consumer Confidence Report (covering calendar year 1998) to their consumers by October 19, 1999. The second annual Consumer Confidence Report (covering calendar year 1999) was required by federal rule to be provided to consumers no later than July 1, 2000. Community water systems are required to provide a Consumer Confidence Report to consumers no later than July 1 of each of the years following.

The small PWS variance portion of the rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accordance with R.S. 49:972(B)(6) local governmental units may be positively affected if they own or operate a small PWS and become eligible for a small PWS variance. Local governmental units owning or operating a small PWS which cannot, among other criteria, afford to comply [either by treatment, alternative sources of water supply, restructuring or consolidation changes (including ownership change and /or physical consolidation with another PWS), or obtaining financial assistance pursuant to Louisiana's Drinking Water Revolving Loan Fund program or any other federal or state program] in accordance with affordability criteria established by DHH-OPH may potentially be able to obtain a small PWS variance and, in essence, obtain some

regulatory relief for some regulated contaminants. Of course, there are other criteria, unrelated to affordability, which must also be met before any small PWS variance will be granted.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is amended as follows.

Title 48
HEALTH AND HOSPITALS
Chapter XII. Sanitary Code
Water Supplies

12:001 Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

National Primary Drinking Water Regulations Regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

- a.) Subpart **HC** Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75),
- b.) Subpart **LC** Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (40 CFR 141.130 through 141.135),
- c.) Subpart **MC** Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144), and
- d.) Subpart **PC** Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:1037 (May 2000), repromulgated LR 26:1275 (June 2000), amended LR 26:1625 (August 2000).

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accordance with Sections 1415 and 1416 of the federal Safe Drinking Water Act and subpart K (Variances for Small System) of 40 CFR part 142. The owner of the public water supply which receives a variance and/or exemption shall fully and timely comply with the all the terms and conditions of any compliance and/or implementation schedule specified by the State Health Officer in conjunction with the issuance of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and

Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repromulgated LR 26:1039 (May 2000), LR 26:1277 (June 2000), amended LR 26:1625 (August 2000).

David W. Hood
Secretary

0008#094

RULE

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Durable Medical Equipment Program
Augmentative and Alternative Communication (AAC) Devices

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing removes the age restriction for rental or purchase of augmentative and alternative communication devices for eligible recipients and expands the criteria for consideration of these devices for prior authorization under the Durable Medical Equipment Program.

I. Definitions

Augmentative and Alternative Communications (AAC) Devices Electronic or non-electronic aids, devices, or systems that assist a Medicaid recipient to overcome or ameliorate (reduce to the maximum degree possible) the communication limitations that preclude or interfere with meaningful participation in current and projected medically necessary daily activities. Examples of AAC devices include:

1. communication boards or books, speech amplifiers, and electronic devices that produce speech and/or written output;
2. devices that are constructed for use as communication devices as well as systems that may include a computer, when the primary use of the computer serves as the recipient's communication device; and
3. related components and accessories, including software programs, symbol sets, overlays, mounting devices, switches, cables and connectors, auditory, visual, and tactile output devices, printers, and necessary supplies, such as rechargeable batteries.

Meaningful Participation Effective and efficient communication of messages in any form the recipient chooses.

Speech-Language Pathologist Can individual who has:

1. been licensed by the Louisiana Board of Examiners for Speech Pathologists and Audiologists;
2. a Certificate of Clinical Competence in speech language pathology from the American Speech-Language-Hearing Association;

3. completed the equivalent educational requirements and work experience necessary for the certificate; or

4. completed the academic program and is acquiring supervised work experience to qualify for the certificate.

II. Recipient Criteria

Consideration shall be given for Medicaid reimbursement for AAC devices for Medicaid recipients if the device is considered medically necessary, the recipient has the ability to physically and mentally use a device and its accessories, and if the following criteria is met.

A. Medical Necessity Determinations

1. The following medically necessary conditions shall be established for recipients who/whom:

a. have a diagnosis of a significant expressive or receptive (language comprehension) communication impairment or disability;

b. impairment or disability either temporarily or permanently causes communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

c. had a speech-language pathologist (and other health professional, as appropriate):

i. perform an assessment and submit a report pursuant to the criteria set forth in sub-section B. Assessment/Evaluation; and

ii. recommend speech-language pathology treatment in the form of AAC devices and services; and

iii. document the mental and physical ability of a recipient to use, or learn to use, a recommended AAC device and accessories for effective and efficient communication; and

iv. prepare a speech-language pathology treatment plan that describes the specific components of the AAC devices and the required amount, duration, and scope of the AAC services that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities; and

d. requested AAC devices constitute the least costly, equally effective form of treatment that will overcome or ameliorate communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities.

2. The following are additional general principles relating to medical necessity determinations for AAC devices:

a. no cognitive, language, literacy, prior treatment, or other similar prerequisites must be satisfied by a recipient in advance of a request for AAC devices;

b. the unavailability of an AAC device, component, or accessory for rental will not serve as the basis for denying a prior approval request for that device, component, or accessory;

c. the cause of the recipient's impairment or disability (e.g., congenital, developmental, or acquired), or the recipient's age at the onset of the impairment or disability, are irrelevant considerations in the determination of medical need;

d. recipient participation in other services or programs (e.g., school, early intervention services, adult services programs, employment) is irrelevant to medical necessity determination for AAC devices.

B. Assessment/Evaluation

1. An assessment, or evaluation, of the individual's functioning and communication limitations that preclude or interfere with meaningful participation in current and projected daily activities must be completed by a speech-language pathologist with input from other health professionals, (e.g., occupational therapists and rehabilitation engineers) based on the recommendation of the speech language pathologist and a physician's prescription, as appropriate.

2. Requests for AAC devices must include a description of the speech-language pathologist's qualifications, including a description of the speech-language pathologist's AAC services training and experience.

3. An assessment (augmentative and alternative communication evaluation) must include the following information about the recipient:

a. identifying information:

i. name;

ii. Medicaid identification number;

iii. date of the assessment;

iv. medical and neurological; diagnoses (primary, secondary, tertiary);

v. significant medical history;

vi. mental or cognitive status; and

vii. educational level and goals;

b. sensory status:

i. vision and hearing screening (no more than one year prior to AAC evaluation);

ii. if vision screening is failed, a complete vision evaluation;

iii. if hearing screening is failed, a complete hearing evaluation;

iv. description of how vision, hearing, tactile, and/or receptive communication impairments or disabilities affect expressive communication;

c. postural, mobility, and motor status:

i. gross motor assessment;

ii. fine motor assessment;

iii. optimal positioning;

iv. integration of mobility with AAC devices;

v. recipient's access methods (and options) for AAC devices;

d. current speech, language, and expressive communication status:

i. identification and description of the recipient's expressive or receptive (language comprehension) communication impairment diagnosis;

ii. speech skills and prognosis;

iii. language skills and prognosis;

iv. communication behaviors and interaction skills (i.e., styles and patterns);

v. functional communication assessment, including ecological inventory;

vi. indication of past treatment, if any;

vii. description of current communication strategies, including use of an AAC device, if any;

Note: If an AAC device is currently used, describe the device, when and by whom it was previously purchased, and why it is no longer adequate to meet the recipient's communication needs.

e. communication needs inventory:

- i. description of recipient's current and projected communication needs;
- ii. communication partners and tasks including partners' communication abilities limitations, if any; and
- iii. communication environments and constraints which affect AAC device selection and/or features (e.g., verbal and/or visual output and/or feedback; distance communication needs);
- f. summary of Communication Limitations. Description of the communication limitations that preclude or interfere with meaningful participation in current and projected daily activities (i.e., why the recipient's current communication skills and behaviors prevent meaningful participation in the recipient's current and projected daily activities);
- g. AAC devices assessment components:
 - i. vocabulary requirements;
 - ii. representational system(s);
 - iii. display organization and features;
 - iv. rate enhancement techniques;
 - v. message characteristics, speech synthesis, printed output, display characteristics, feedback, auditory and visual output;
 - vi. access techniques and strategies; and
 - vii. portability and durability concerns, if any.
- h. identification of AAC devices considered for recipients:
 - i. identification of the significant characteristics and features of the AAC devices considered for the recipient; and
 - ii. identification of the cost of the AAC devices considered for the recipient (including all required components, accessories, peripherals, and supplies, as appropriate);
- i. AAC device recommendation:
 - i. identification of the requested AAC devices including all required components, accessories, software, peripheral devices, supplies, and the device vendor;
 - ii. identification of the recipient's and communication partner's AAC devices preference, if any;
 - iii. assessment of the recipient's ability (physically and mentally) to use, or to learn to use, the recommended AAC device and accessories for effective and efficient communication;
 - iv. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is better able to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities, as compared to the other AAC devices considered;
 - v. justification stating why the recommended AAC device (including description of the significant characteristics, features, and accessories) is the least costly, equally effective, alternative form of treatment to overcome or ameliorate the communication limitations that preclude or interfere with the recipient's meaningful participation in current and projected daily activities;
- j. treatment plan and follow-up:
 - i. description of short term communication goals (e.g., 6 months);

- ii. description of long term communication goals (e.g., 1 year);
- iii. assessment criteria to measure recipient's progress toward achieving short and long term communication goals;
- iv. description of amount, duration, and scope of AAC services required for the recipient to achieve short and long term communication goals; and
- v. identification and experience of AAC service provider responsible for training (these service providers may include, e.g.: speech-language pathologists, occupational therapists, rehabilitation engineers, the recipient's parents, teachers and other service providers);
- k. summary of alternative funding source for AAC device:
 - i. description of availability or lack of availability, of purchase of AAC device through other funding sources.

C. Trial Use Periods

1. In instances where the appropriateness of a specific AAC device is not clear, a trial use period for an AAC device may be recommended (although it is not required) by the speech-language pathologist who conducts the AAC evaluation.
2. Prior authorization for rental of AAC devices shall be approved for trial use periods when the speech-language pathologist prepares a request consistent with the established requirements. The reasons for a trial use period request include, but are not limited to:
 - a. the characteristics of the recipient's communication limitations;
 - b. lack of familiarity with a specific AAC device; and
 - c. whether there are sufficient AAC services to support the recipient's use of the AAC device, or other factors.
3. If the speech-language pathologist recommends a trial use period, the pathologist must prepare a request that includes the following information:
 - a. the duration of the trial period;
 - b. the speech-language pathologist information and the recipient information as required in B. Assessment/Evaluation;
 - c. the AAC device to be examined during the trial period, including all the necessary components (e.g., mounting device, software, switches, or access control mechanism);
 - d. the identification of the AAC service provider(s) who will assist the recipient during the trial period;
 - e. the identification of the AAC services provider(s) who will assess the trial period; and
 - f. the evaluation criteria, specific to the recipient, that will be used to determine the success or failure of the trial period.
4. Trial use period requests must request Medicaid funding for the rental of all necessary components and accessories of the AAC device. If an accessory necessary for the trial use of a device by a recipient is not available for rental, but the communication device is available for rental for trial use, Medicaid may consider the purchase of the accessory for the trial use of the communication device by that recipient.

5. Trial periods may be extended and/or different AAC devices provided, when requested by the speech-language pathologist responsible for evaluating the trial use period.

6. Results of trial use periods must be included with any subsequent request for prior authorization of purchase of the AAC device. Recommendations for the purchase of an AAC device, as a result of a trial use period of the device, must clearly indicate the patient's ability to use the device during the trial period.

D. Repairs

1. Medicaid will cover repairs to keep AAC devices, accessories, and other system components in working condition. Medicaid coverage for repairs will include the cost of parts, labor, and shipping, when not otherwise available without charge pursuant to a manufacturer's warranty.

a. Providers of AAC devices are expected to comply with the Louisiana New Assistive Devices Warranty Act.

i. One of the provisions of this law is that all persons who make, sell, or lease assistive devices, including AAC devices, must provide those who buy or lease the equipment with a warranty which lasts at least one year from the time the equipment is delivered to the customer.

ii. If, during the warranty period, the equipment does not work, the manufacturer or dealer must make an attempt to repair the equipment.

b. Medicaid additionally requires providers to provide the recipient with a comparable, alternate AAC device while repairing the recipient's device during a warranty period.

c. Medicaid coverage may be provided for rental of an alternate AAC device during a repair period after expiration of the warranty.

d. Medicaid will not cover repairs, or rental of a loaner device, when repairs are made during a warranty period.

2. When a device is received by the provider for the purpose of repair, the provider will conduct an assessment of the device to determine whether it can be repaired, and if so, prepare a written estimate of the parts, labor, and total cost of the repair, as well as the effectiveness (i.e., estimated durability) of the repair. If the manufacturer or provider concludes that the device is not repairable and a replacement device is needed, written notice will be provided to the recipient.

3. Medicaid coverage for repairs greater than \$300.00 must be accompanied by a statement from the speech-language pathologist. The statement must indicate:

a. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in [B.2. (b through g, and j)]; and

b. whether the device remains the speech language pathologist's recommendation for recipient's use.

E. Replacement or Modification

1. Modification or replacement of AAC devices will be covered by Medicaid subject to the following limitations:

a. requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three or more years from the date of purchase of the current device and accessories in use;

b. requests for modification or replacement require prior authorization and must include the recommendation of the speech-language pathologist;

c. requests for replacements of AAC devices may be submitted for identical or different devices;

d. requests for replacements of identical AAC devices must be accompanied by a statement from the provider that the current device can not be repaired or that replacement will be more cost effective than repair of the current device. Data must be provided about the following:

i. age;

ii. repair history:

(a). frequency;

(b). duration; and

(c). cost; and

iii. repair projections (estimated durability of repairs);

e. requests for modification or replacement of AAC devices with different devices must include the following additional information:

i. a significant change has occurred in the recipient's expressive communication, impairments, and/or communication limitations. Modification or replacement requests due to changed individual circumstances must be supported by a new assessment of communication limitations by a speech-language pathologist, and may be submitted at any time; or

ii. even though there has been no significant change in the recipient's communication limitations, there has been a significant change in the features or abilities of available AAC devices (i.e., a technological change) that will overcome or permit an even greater amelioration of the recipient's communication limitations as compared to the current AAC device. A detailed description of all AAC device changes and the purpose of the changes must be provided with the results of a re-evaluation by a speech-language pathologist;

f. requests for replacements of AAC devices due to loss or damage (either for identical or different devices) must include a complete explanation of the cause of the loss or damage and a plan to prevent the recurrence of the loss or damage.

III. Prior Authorization

A. All requests for AAC devices and accessories must be prior authorized by Medicaid in accordance with the criteria described in this rule.

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability, or lack of availability, of purchase through other funding sources.

C. When the medical necessity cannot be determined for an AAC device pursuant to the criteria stated above and to the information submitted in support of a prior authorization request, the following steps shall be taken.

a. If Medicaid determines that any essential information in establishing medical necessity for the AAC device is incomplete, or has been omitted in the prior authorization request as required in Sub-section B. Assessment/Evaluation, Medicaid will make direct contact with the speech-language pathologist who conducted the assessment for the recipient. Medicaid will then identify the specific, additional information that is needed and request that the additional information be submitted; and/or

b. If Medicaid determines that an additional interpretation of information in the prior authorization request is needed by the medical reviewer in establishing medical necessity for an AAC device, Medicaid will seek the advice of speech language pathologist(s) with extensive AAC experience recommended to Medicaid by the American Speech Language & Hearing Association (ASHA), the United States Society for Augmentative and Alternative Communication (USSAAC), and/or the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA), who shall provide the required interpretation.

i. Only one request for additional information by direct contact with the speech/language pathologist and/or only one interpretation will be made per prior authorization request;

ii. If additional information requested by Medicaid from the speech/language pathologist who conducted the assessment, or if an additional interpretation requested from a consulting speech-language pathologist, is not received by Medicaid within the 25 day time frame required of Medicaid for a prior authorization determination, a decision will be made by the medical reviewer for Medicaid based on the information that has been submitted with the prior authorization request and on the reviewer's interpretation of that information. If the additional information or additional interpretation is provided at a later time, another request will need to be submitted by the provider to the Prior Authorization Unit for additional review.

David W. Hood
Secretary

0008#093

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Pharmacy Program Average Wholesale Price

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act.

Rule

A. The Department of Health and Hospitals, Bureau of Health Services Financing limits payments for prescription drugs to the lower of:

1. Average Wholesale Price (AWP) minus 15 percent for independent pharmacies (all other Medicaid enrolled

pharmacies) and 16.5 percent for chain pharmacies (more than 15 Medicaid enrolled pharmacies under common ownership);

2. Louisiana's maximum allowable cost limitation plus the maximum allowable overhead cost;

3. federal upper limits plus the maximum allowable overhead cost; or

4. provider's usual and customary charges to the general public. General public is defined as all other non-Medicaid prescriptions including third-party insurance, pharmacy benefit management plans and cash.

David W. Hood
Secretary

0008#092

RULE

**Department of Labor
Office of Workforce Development**

**Workforce Development Training Fund
(LAC 40:XVI.101, 105, 107, 109 and 111)**

The Department of Labor, pursuant to authority vested in the department by R.S. 23:1514 and in accordance with applicable provisions of the Administrative Procedure Act, has amended and reenacted rules governing the workforce development training account, LAC 40:XVI.101, 105, 107, 109, and 111 to provide for requirements for submission of applications, invoice reimbursement procedures, and an appeal process under the training account.

Title 40

LABOR AND EMPLOYMENT

Part XVI. Customized Training

Chapter 1. Workforce Development Training Fund

§101. Definitions

Applicant Cthe business or businesses who are members of a consortium requesting training assistance from LDOL under this program.

Contract Ca legally enforceable agreement between LDOL, the applicant and a training provider governing the terms and conditions of the training award.

Contractee Cthe applicant and training provider that are party to a training award contract with LDOL under this program.

LDOL Cthe Louisiana Department of Labor.

Monitoring Entity Cmeans a public entity contracted or selected to monitor the compliance of a contractee with the terms and conditions of a training award contract.

Account Cthe Workforce Development Training Account.

Secretary Cthe secretary of the Department of Labor.

Training Provider Cthe entity providing the customized training for the awardee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 26:1625 (August 2000).

§105. Criteria

A. Employer(s) must have been in business in the state for at least three years, contributing to the workforce

development training account, and be in full compliance with Louisiana unemployment insurance laws. In the case of a buyout or merger, LDOL will use data from the Tax Operations Unit of the Office of Regulatory Services to determine whether or not an applicant will be allowed to carry over operation time of a previous entity.

B. ...

C. No single employer or consortium shall receive training funds more than once in a 24 month time period. No single employer or consortium shall receive more than 5 percent of the total funds available to the program during a fiscal year. An employer with multiple operation sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, as long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number.

D. - F. ...

G. Preference will be given to employers that have:

1. - 2. ...
3. hired recent recipients of public assistance such as JTPA/WIA, unemployment benefits, FITAP, and rehabilitative services;
4. hired individuals recently released from a correctional facility;
5. participated in a workplace safety consultation with employees of the Office of Workers= Compensation Administration;
6. listed job openings with LDOL;
7. never received a training award under this program.

H. Employers seeking a training award may not select as a training provider:

1. any entity whose principal owner is an immediate family member, as defined in the Code of Governmental Ethics, of an individual in a management position with the employer who has the authority to make decisions regarding the training program; or
2. any related business such as a parent, subsidiary, or partner of the employer.

I. Nothing contained herein shall prohibit the selection of a proprietary school or private institution as a training provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended, LR 26:1630(August 2000).

§107. Application Procedure

A. LDOL will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. ...
2. the company=s overall training plan, including:
 - a. a summary of the types and amount of training currently provided by the company and a description of how the company determined its training needs; and
 - b. the specific training programs for which LDOL assistance is requested including descriptions of the training

methods, the training providers, and the costs associated with the proposed training; and

3. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended, LR 26:1630 (August 2000).

§109. Submission and Review Procedure

A. ...

B. If any applicant is submitting an application in conjunction with a private training provider, the applicant shall also submit a cost/price/performance analysis on a form provided by LDOL at the time the application is submitted.

C. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LDOL staff will then make a recommendation to the secretary of the Department of Labor. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Labor;
2. the governor.

A copy of the application shall be sent to the executive director of the Louisiana Workforce Commission. No funds spent on the project prior to the secretary=s approval will be considered eligible project costs.

The secretary will issue a Letter of Commitment to the applicant within five working days of the application approval by the governor.

If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended, LR 26:1630 (August 2000).

§111. General Award Provisions

A. Award Contract

1. A contract will be executed between LDOL, the applicant (and/or company(ies) receiving training) and the training provider. The contract will specify the performance objectives expected of the company(ies) and the training provider and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training.

2. - 3. ...

4. The cost associated with the contract between the monitoring entity and the applicant will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.

5. ...

B. Use of Funds

1. ...

2. Eligible training costs may include, inter alia, the following:

- a. instruction costs: wages for instructors and training coordinators employed by the applicant or training provider, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and training provider), and travel for trainees; travel expenses reimbursable under this agreement will comply with State Travel Regulations, PPM 49;

c. ...

d. other costs: facility rental associated with the training contract and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training.

3. Training costs ineligible for reimbursement include:

a. ...

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless such property will be owned by a public training provider at the conclusion of the training contract;

c. out-of-state, publicly supported and private schools;

d. - g. ...

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of original invoices to LDOL to the attention of the Incumbent Worker Training Program Manager, Office of Workforce Development by mail or hand delivery. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement. LDOL shall make a determination regarding an invoice within 15 working days after receipt of the invoice and will make payment within 15 working days of approval of said invoice. Certain invoices that need priority attention shall be clearly marked "priority" and LDOL shall make a good faith effort to expedite the processing of such invoices. Invoices regarding the purchase of equipment must be accompanied by documentation confirming delivery.

2. Invoices will be eligible for reimbursement at 100 percent of the total invoice amount until the sum of disbursements under a contract are equal to 90 percent of the total grant award. After the applicant and the training provider have achieved 100 percent of their contracted performance objectives or have substantially complied with the terms of the contract as determined by the secretary, the remaining 10 percent of the grant award will be made available for reimbursement.

3. ...

D. Compliance Requirements

1. Training Providers shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with LDOL. Training providers shall also be responsible for providing documentation to LDOL on a quarterly basis regarding the satisfaction of the business receiving training under the contract.

2. In the event the applicant or training provider fails to meet its performance objectives specified in its contract with LDOL, LDOL shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant and/or training provider in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event LDOL decides to withhold award funds, modify the terms and conditions of an award, or reclaim disbursed funds from the applicant and/or training provider, LDOL shall provide notice of such determination to the applicant and training provider within three working days of such decision.

a. The applicant or training provider may appeal an adverse decision made by LDOL by providing written notice of objection to the secretary within five working days of receipt of the adverse decision. If a request for an appeal is made, then the appellant shall submit documentation to support the appeal within ten working days after forwarding notice of the appeal. The secretary shall review the evidence submitted and render a written decision within twenty working days after receiving notice of the appeal. If no appeal is filed within the applicable time period, the decision of LDOL shall become final.

b. If after review of the appeal, the secretary renders a decision that is adverse to the appellant, then the matter shall be submitted to the Office of the Governor for resolution.

4. In the event the applicant or monitoring entity knowingly files a false statement in its application or in a progress report, the applicant or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. LDOL shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the applicant and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended, LR 26:1631 (August 2000).

Garey Forster
Secretary

0008#045

RULE

Louisiana Lottery Corporation

On-Line Lottery Games
(LAC 42:XV.Chapter 1)

The Louisiana Lottery Corporation in compliance with, and under authority of R.S. 49:950 et seq., and R.S. 47:9001 et seq., has amended the rules and regulations pertaining to the operations of on-line lottery games in particular LAC 42:XV.141 to allow the Louisiana Lottery Corporation to offer the Multi-State Lottery Association on-line game "Rolldown."

Title 42

**LOUISIANA GAMING
Part XV. LOTTERY**

Chapter 1. On Line Lottery Games

§141. Multi-State Lottery

A. This section authorizes the Louisiana Lottery Corporation, through an agreement with the Multi-State Lottery Association (MUSL), to offer the following games: "PowerBall,@ "Daily Millions," and "Rolldown."

Introduction of any new game conducted by MUSL may only be accomplished by amendment of this Section to include the game as an authorized game. The detailed information regarding the Rules of the PowerBall game, the Daily Millions game, and the Rolldown game will be contained in a game directive promulgated by the president. The game directive must be signed by the president prior to the start of the game. The game directive will be distributed and posted at every corporation office and will be available for public inspection during the sales period of PowerBall, Daily Millions, and Rolldown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9001 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Lottery Corporation on October 21, 1994, and promulgated in *THE ADVOCATE*, October 28, 1994, amended LR 23:67 (January, 1997), amended LR 26:1632 (August 2000).

Charles R. Davis
President

0008#026

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Driver's License General Requirements (LAC 55:III.118, 135, 138, and 141)

Pursuant to the authority contained in R.S. 32:408.1 and R.S. 32:412, and in accordance with the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of Motor Vehicles amends LAC 55, Part III, Chapter 1, Subchapter A, §118, regarding third-party tester agreements, and adopts §135, and to repeal §139 and §141 regarding the renewal of driver's license by electronic commerce.

The amendment to §118 resolves a technical issue that was raised in current litigation. The enactment of §135 and the repeal of §139 and §141 are required as a result of the passage of Act No. 6 of the 2000 Special Session which amended R.S. 32:412.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§118. Administrative Actions

A. The department may suspend, revoke or cancel any certification, agreement, license, or permit granting the status of a third-party tester or third-party examiner for any violation of R.S. 32:401 et seq., LAC 55, Part III, Chapter 1, or the agreement signed by the third-party tester or third party examiner. Additionally, the department may impose a fine or other sanction for violation of R.S. 32:401 et seq., or LAC 55, Part III, Chapter 1, or the agreement signed by the third party examiner or third party tester.

B. The department shall deny any application, including any renewal application, for an agreement and a certification, as a third-party tester or third-party examiner if the applicant does not possess the qualification contained in R.S. 32:408.1 and LAC 55, Part III, Chapter 1. The

department may also deny any renewal application if the department determines that the applicant has not administered skills test in accordance with the law and the agreement between the parties.

C. Any request for an administrative hearing to review the suspension, revocation or cancellation of any certification, license, or permit issued pursuant to R.S. 32:408.1 or LAC 55, Part III, Chapter 1, any other action, order or decision of the department regarding a third-party tester or a third-party examiner shall be in writing and received by the department within 30 days of the date the notice was mailed or hand delivered as the case may be.

D. Since the agreement between the parties is subject to contract law, and is not an order or decision for purposes of administrative law, no administrative hearing shall be granted in connection with the denial of an application for a new or renewal application to be certified as a third-party tester or third party examiner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:2315 (December 1998), amended LR 26:1632 (August 2000).

§135. Renewal by Electronic Commerce

A. In addition to renewing a class "D" or "E" driver's license by mail, an individual who has received an invitation to renew pursuant to LAC 55, Part III, Chapter 1, §129 may choose to renew his or her driver's license by contacting the Department via the Internet or by telephone.

B. Prior to initiating the renewal process via the internet or by telephone, the individual shall be required by the department to provide information verifying the individual's identity including the individual's license number, the individual's date of birth, and the date the individual's license expires.

C. Any individual who chooses to renew his or her driver's license by electronic commerce shall be required to give express consent to any disclosure of personal information over the Internet that may be necessary in order to complete the renewal process. This consent shall be obtained by any means appropriate based upon the method chosen to renew the license.

E. Notwithstanding any other provision of LAC 55, Part III, Chapter 1 to the contrary, a class "D" or "E" driver's license which has been expired for a period of six months or less may be renewed by mail or electronic commerce upon the payment of the special late fee specified in R.S. 32:412(D)(3)(d).

F. Except as otherwise provided in §135, the rules governing renewal of class "D" or "E" driver's licenses by mail shall apply to renewals by electronic commerce.

G. All money submitted with an application to renew a class "D" or "E" driver's license by mail shall be in the form of a personal check with the applicant's name and address preprinted on the check, a money order, a cashier's check, or a certified check.

H. All fees due in connection the renewal of a class "D" or "E" driver's license by electronic commerce shall be paid using an approved credit card in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:1633 (August 2000).

§139. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:183 (February 1995); repealed LR 26:1633 (August 2000).

§141. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 21:184 (February 1995); repealed LR 26:1633 (August 2000).

Jerry W. Jones
Undersecretary

0008#044

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Special Identification Cards (LAC 55:III.1929)

Pursuant to the authority contained in R.S. 40:1321, and in accordance with the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of Motor Vehicles adopts LAC 55.III.1929, regarding the renewal of special identification card by mail or electronic commerce.

This Rule will allow any individual who has previously been issued a Louisiana special identification card the opportunity to renew the identification card by means of the U.S. mail, the internet, or the telephone. This rule making is required as a result of the passage of Act No. 7 of the 2000 Special Session which amended R.S. 40:1321.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 19. Special Identification Cards

§1929. Renewals

A. In addition to renewing a special identification card by mail, an individual who has received an invitation to renew pursuant to R.S. 40:1321 may choose to renew his or her special identification card by contacting the department via the internet or by telephone.

B. Prior to initiating the renewal process via the internet or by telephone, the individual shall be required by the department to provide information verifying the individual's identity including the individual's identification card number, the individual's date of birth, and the date the individual's identification card expires.

C. Any individual who chooses to renew his or her identification card by electronic commerce shall be required to give express consent to any disclosure of personal information over the Internet or telephone line that may be necessary in order to complete the renewal process. This consent shall be obtained by any means appropriate based upon the method chosen to renew the license.

D. Except as otherwise provided in §1929, the rules governing renewal of special identification cards shall apply to renewals by mail or electronic commerce.

E. All money submitted with an application to renew a special identification card by mail shall be in the form of a personal check with the applicant's name and address preprinted on the check, a money order, a cashier's check, or a certified check.

H. All fees due in connection with the renewal of a special identification card by electronic commerce shall be paid using an approved credit card in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:1633 (August 2000).

Jerry W. Jones
Undersecretary

0008#043

RULE

**Department of Social Services
Office of Family Support**

**Food Stamp Program C Quarterly Reporting
(LAC 67:III.2013 and 2015)**

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

In an effort to improve program administration and lessen the burden of responsibility on recipients, the agency requested and received approval from the United States Department of Agriculture, Food and Nutrition Service, Waiver #990070, under the authority of 7 CFR 273.3(c)(1)(ii), to waive the requirement that certain food stamp households report changes within ten days of the date of the change and to otherwise implement a quarterly reporting system for all non-public assistance (NPA) households with earned income (with some exceptions).

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter S. Quarterly Reporting

§2013. Monthly Reporting and Retrospective Budgeting
Repealed.

§2015. Quarterly Reporting

A. All NPA households with earned income will submit a reporting form to the agency on a quarterly basis, with the following exceptions:

1. migrant or seasonal farmworker households;
2. households in which all members are homeless; or
3. households whose only income is from self-employment.

B. Households required to quarterly report will be assigned a certification period of 12 months.

C. All households in quarterly reporting are required to:

1. timely provide a completed quarterly report form and all necessary verification; and

2. report current household circumstances and changes which the household knows will occur.

E. Failure to provide a complete quarterly report form and verification will result in case closure.

F. Benefits will be determined prospectively based on verified circumstances.

G. Any change in benefits as a result of quarterly reporting will be effective the month following the month in which the quarterly report was required.

H. Other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a) and 273.3(c)(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1634 (August 2000).

J. Renea Austin-Duffin
Secretary

0008#064

RULE

Department of Social Services Office of Rehabilitation Services

Rehabilitation Services Applicant/Client Appeal Rights (LAC 67:VII.107)

In accordance with the provisions of R.S. 49:953B, the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services, has amended its Vocational Rehabilitation Services Policy Manual, §107.Applicant/Client Appeal Rights.

The rule governing Applicant/Client Appeal Rights outlines the due process policy for anyone who is dissatisfied with a decision made by the agency.

This rule is being amended as the Louisiana Rehabilitation Services' (LRS) appeals process has undergone a significant change as a result of the 1998 amendments to the Rehabilitation Act. The fourth level of review by the Director of LRS was removed. However, it is within the express authority of the Rehabilitation Act for LRS to implement this level of review. It is significant to note that although the new amendments do allow for a fourth level of review, the characteristic of this fourth level of review is that it must be conducted, at a minimum, by the DSS Secretary.

Currently, the final administrative level of appeal is the impartial hearing officers, who are required to review agency determinations and issue decisions based upon the provisions of the State Plan, the Rehabilitation Act (including regulations implementing the Act) and state regulations or policies that are consistent with the federal requirements specified in the Act.

DSS General Counsel has strongly recommended to LRS to put the fourth level review in place, and LRS did so with an emergency rule effective February 25, 2000. This recommendation was necessary due to the influx of controversial rulings from impartial hearing officers, which have exposed the agency to sanctions or penalties by the United States as being contrary to the State Plan, the Rehabilitation Act (including regulations implementing the

Act) and State regulations or policies that are consistent with the federal requirements specified in the Act. These unlawful rulings have not been based upon the Act's authorities (including specific guidance and directives by RSA), but have evidenced the hearing officers' subjective interpretation of the substantive law.

Because the Rehabilitation Act requires implementation of the hearing officer's decision pending a civil action for review, LRS may be mandated to comply with and/or implement a decision which violates the law and policy of the State Plan, the Rehabilitation Act (including regulations implementing the Act) and state regulations or policies that are consistent with the federal requirements specified in the Act, as well as a disregard of a specific directive of Rehabilitation Services Agency (RSA), the federal agency authorized to implement and administer the provisions of the Act. However, said compliance with the hearing officer's decision would subject Louisiana Rehabilitation Services to an audit exception by RSA and concurrent sanctions. Moreover, such unauthorized spending, when paired with the resultant sanctions/loss of federal funding, would greatly reduce the services available and imperil the public health, safety, and welfare of the state's VR population. These unlawful decisions have and will result in VR Program abuse, as numerous clients have been advised to resort to the appeals process in bad faith in order to take advantage of these beneficial rulings.

The LRS policy manual is referenced in LAC 67:VII as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§107. Applicant/Client Appeal Rights

A. - B.11.f. ...

C. Fair Hearing

1. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review; or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing will be conducted by an Impartial Hearing Officer after receipt of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute.

2. An Impartial Hearing Officer shall be selected on a random basis or by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

3. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the fair hearing process unless the services

being were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

4. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

- a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;
- d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;
- e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and
- f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

D. Review of Fair Hearing Decisions

1. The impartial review for decisions rendered by impartial hearing officers is the final level of appeal within the Department of Social Services regarding disputes arising within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the impartial review by the Department of Social Services, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant/client's representative) or the Agency must be by civil action through the public court system.

2. The decision of the impartial hearing officer be final unless the applicant/client or the Agency requests a review of the Impartial Hearing Officer's decision by making a written request to the Secretary of the Department of Social Services within 20 days. The Secretary cannot delegate the responsibility for making this final decision to any officer or employee of Louisiana Rehabilitation Services. The applicant/client and the Agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

3. The Department of Social Services' Secretary may not overturn or modify a decision of an Impartial Hearing Officer, or part of such a decision, that supports the position of the applicant/client unless the Secretary determines, based on clear and convincing evidence, that the decision of the Impartial Hearing Officer is clearly erroneous on the basis of being contrary to the State Plan, the Rehabilitation Act (including regulations implementing the Act) or any State regulation or policy that is consistent with the federal requirements specified in the Act.

4. The Secretary shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services. This decision shall include a full report of the findings and grounds for the decision.

E. Civil Action. Any party aggrieved by a final decision from an impartial review by the Department of Social Services may bring civil action for review of such decision. The action may be brought in any state court of competent jurisdiction or in district court of the United States of competent jurisdiction without regard to the amount in

controversy. If a party brings a civil action, the final decision of the Department of Social Services shall be implemented pending review by the court. In any action brought under this subsection, the court shall:

- 1. receive the records relating to the hearing;
- 2. hear additional evidence at the request of a party to the action; and
- 3. base the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 25:1266 (July 1999), LR 26:1635 (August 2000).

J. Renea Austin-Duffin
Secretary

0008#065

RULE

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Class "B" Child Day Care (LAC 48:I.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, has repealed §§5355-5733 and promulgated the following in Title 48, Part I, Subpart 3, Licensing and Certification.

This rule is authorized by Revised Statute 46:1401 et seq. These standards have been revised to supersede any previous regulations heretofore published, and are effective October 1, 2000.

**Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 53. Day Care Centers
§5355. Purpose**

A. Licensing Authority
1. The Louisiana Committee on Private Child Care shall meet to develop minimum standards for licensure of Class B facilities and consult with the Department on matters pertaining to decisions to revoke or refuse to grant Class B license. The licensing authority of this committee is established by Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1401 et seq., relative to the licensing and regulation of child care facilities and child placing agencies.

2. The law provides a penalty for operating a center without a valid license (see R.S. 1421). The penalty for the operation of a center without a valid license is a fine of not less than \$75 not more than \$250 for each day of operation without a license.

3. If any child care facility operates without a valid license issued by the Department, the Department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may

include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons, or any other group operating the child care facility from continuing the violation.

4. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals all child care facilities and child-placing agencies that are subject to the provisions of the law. These inspections are not to exceed one year, and will be made as deemed necessary by the department without previous notice.

B. Waivers

1. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived as long as the health and well being of the staff and/or the children are not placed in danger. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000).

§5357. Definitions

A. The following are definitions of terms used in these minimum standards.

Bureau Bureau of Licensing of the Louisiana Department of Social Services.

Child Care Center is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver. A recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code and does not operate more than twenty-four hours in a continuous seven-day week is not considered a day care center.

Child Care Staff is an individual directly involved in the care and supervision of the children in the center.

Class A License is issued to centers that meet Class A minimum standards.

Class B License is issued to centers that meet Class B minimum standards.

Committee on Private Child Care writes and oversees the implementation of the Class B minimum standards.

Corporal Punishment shall be defined as and limited to a spanking.

Department the Department of Social Services.

Director is an individual employed by the owner of the center or by a board of a church or other organization to be responsible for the operation of the child care center.

Discipline Policy is a policy that is to be made available to each parent/guardian and outlines the discipline (corporal

or noncorporal punishment) plan to be administered by the center.

Hereditary Relationship is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Incident Report is a record book that staff can record injuries in that a child may have arrived at school with. Each entry should be recorded, signed by the person making the report, and signed by a witness to the injury and report.

Master Card, Child's is an information form that gives identifying and pertinent information on each child.

Medication Permission Slip is an authorization form which gives the child care center parents' permission (and dosage instructions) regarding administering medication to their child.

Montessori School is a school that has a BESE Board Certification to be a Montessori School classification.

Owner is the individual or organization that owns the center, but who may employ a person to be a full-time director responsible for the operation of the center or who may retain the responsibility as director.

Personnel Health Record gives medical information of employees indicating a current check of communicable diseases.

Shall or Must mandatory.

Spanking is striking by the director's open hand on the clothed buttocks of a child older than 24 months of age as punishment.

Substitute Employee is an individual hired to take the place of any staff member.

Temporary Employee is an individual who, on an occasional basis, works under the supervision of a regular staff member.

Voluntary Worker is an individual who volunteers services or supplements the regular staff, on an occasional basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000).

§5359. Procedures

A. Initial Application

1. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein.

2. Before beginning operation, it is mandatory to obtain licenses from the Department of Social Services, Bureau of Licensing. To do so, the following steps should be followed.

a. Prior to purchasing, leasing, etc. carefully check all local zoning and building ordinances in the area where you are planning to locate. Standards from the Office of Public Health, Sanitation Services; Office of the State Fire Marshal, Code enforcement and Building Safety; and City Fire Department (if applicable) should be obtained.

b. After securing a building, obtain an application form issued by:

Department of Social Services
Bureau of Licensing
P. O. Box 3078

Baton Rouge, LA 70821-3078

Phone: (225) 922-0015

Fax: (225) 922-0014

c. The completed application shall indicate Class "B" license. Anyone applying for State or Federal funding shall apply for a Class "A" license. Licensure fees are required to be paid by all centers. A Class "B" may not be changed to a Class "A" license if revocation procedures are pending. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from annual license fees.)

d. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a center:

- i. Office of Public Health, Sanitation Services;
- ii. Office of the State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable);
- v. City or Parish Building Permit Office.

e. After the application has been received by the Bureau of Licensing, the Bureau will request the Office of State Marshal, Office of City Fire Department (if applicable), Office of Public Health and any known required local agencies to make an inspection of the location, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist will visit the center to conduct a licensing survey.

f. A license will be issued on an initial application when the following items have been met and written verification is received by the Bureau of Licensing:

- i. fire approval (state and city, if applicable);
- ii. health approval;
- iii. zoning (if applicable);
- iv. full licensure fee paid (if applicable);
- v. three positive references on the Director;
- vi. licensure survey verifying substantial compliance.

3. When a center changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed above shall be resubmitted, except references if the Director remains the same.

4. When a center changes ownership, a new application and fee shall be submitted. All approvals listed above shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a center requires approval from agencies listed above and the Bureau of Licensing.

6. The Bureau is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked due to center's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If a Director or member of his immediate family has had a previous license revoked, refused, or denied, upon

re-application, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal, or denial have been corrected and the Director and/or center is in substantial compliance with all minimum standards.

9. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one person to another or from one location to another. If the location or ownership of the facility is changed, the license shall be automatically revoked. A new application form shall be completed prior to all changes of ownership or location.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial applications, including all church owned and operated centers. This fee will be applied toward the total licensure fee, which is due prior to licensure of center. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all Changes of Ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from license fees.) License fee schedules (based on capacity) are listed below:

License Fee Schedules	
Capacity	Fee
15 or fewer	\$25
16-50	\$100
51-100	\$175
101 or more	\$250

3. Other Licensure Fees:

a. Twenty-five dollar replacement fee for any center replacing a license when changes to the license are requested by the Director, i.e., changes in capacity, name change, age range change. (There is no processing charge when the request coincides with regular renewal of license.)

b. Five dollar processing fee for issuing a duplicate license with no changes.

C. Exemptions

1. The only exemption to licensure is private or public day schools serving children in grades one and above or pre-kindergartens and kindergartens. Also exempt are state certified Montessori schools and camps, as well as all care given without charge.

D. Licensing Changes

1. Bureau of Licensing shall be notified before changes are made which might have an effect upon the license (for example, a change in age range of children to be served or a change in space of facility).

E. Relicensing. The relicensing survey is similar to the original licensing survey.

1. Renewal applications will be mailed to centers approximately 60 days prior to the expiration for execution. The application shall indicate any changes the center needs to make (example: hours of operation, ages of children, etc.).

2. Relicensing surveys will be made by the Department of Social Services, Bureau of Licensing, Office

of the State Fire Marshal, the Office of Public Health and others as the City Fire Marshal, Zoning (if applicable). Approvals of each must be received by the Department of Social Services, Bureau of Licensing before a new license will be issued. The director will review with the licensing specialist the findings and will be furnished a copy for any necessary action. It is the responsibility of the center owner/director to obtain the approvals before the current license's expiration date.

3. The Department of Social Services and the Office of the State Fire Marshal must approve any proposed structural changes, ratio adjustments, and variance of space used before changes are made which may affect the center's license.

F. Denial, Revocation or Nonrenewal of License. An application for a license may be denied, or a license may be revoked, or renewal thereof denied, for any of the following reasons:

1. violation of any provision of R.S. 46:1401 et seq. or failure to meet any of the minimum standards, rules, regulations or orders of the Department of Social Services promulgated thereunder;

2. cruelty or indifference to the welfare of the children;

3. conviction of a felony or any offense of a violent or sexual nature or an offense involving a juvenile victim, as shown by a certified copy of the record of the Court of conviction, of the applicant;

a. or, if the applicant is a firm or corporation, any of its board members or officers;

b. or of the person designated to manage or supervise the center;

4. history of noncompliance;

5. disapproval from any agency whose approval is required for licensure;

6. nonpayment of licensure fee and/or failure to submit application for renewal prior to the expiration of the current license;

7. any validated instance of cruel, severe, or unusual punishment, physical or sexual abuse and/or neglect if the owner is responsible or if the employee who is responsible remains in the employment of the center;

8. the center is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

9. any proven act of fraud such as falsifying or altering document(s) required for licensure;

10. center refuses to allow the Bureau to perform mandated duties, i.e., denying entrance to the center, lack of cooperation for completion of duties, etc.

G Appeal Procedure

1. If the license is denied, refused or revoked, the Bureau shall notify the day care center of the reasons for denial, refusal or revocation.

a. The day care operator may appeal this decision by submitting a written request including reasons to the Appeals Bureau, P.O. Box 2944, Baton Rouge, LA 70821-9118. This written request must be postmarked within 30 days of the operator's receipt of the above notification.

b. The Appeal's Bureau shall hold a hearing after receipt of such a request.

c. Within 90 days after the date the appeal is filed, the Appeal's Bureau shall advise the appellant by registered letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the center shall immediately terminate operation.

H. Advertising

1. Any Class "B" facility which advertises the fact that it is licensed under Louisiana law shall clearly indicate in its advertising that it holds a Class "B" license. In printed materials, Class "B" shall be printed in the same size type as the words "licensed" or "license". In broadcast advertising, a facility shall not advertise the fact that it is licensed without indicating in the same advertisement that the kind of license held is a Class "B" license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000).

§5361. General Requirements

A. The Director shall be responsible for ensuring that the minimum licensing requirements are met.

B. A current child day care license shall be on display, except for church affiliated centers (R.S. 46:1412.C) that choose to keep the license on file and available upon request.

C. A center shall maintain in force at all times current commercial liability insurance for the operation of a center and vehicle (if transportation is provided) to insure medical coverage for children in the event of accident or injury. Documentation shall consist of the insurance policy or current binder that includes the name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. Current written report from the Office of State Fire Marshal.

E. Current written report from the Office of Public Health.

F. Current written report from City Fire (if applicable).

G. Certificate of Occupancy (zoning) (if applicable).

H. Incident log for staff to record any injuries that a child may have upon arrival to the child care center.

I. Each person living in a private residence, part of which is used as a child care facility, shall meet the same medical requirements as employed personnel.

J. Each child living in a private residence, part of which is a child care facility shall meet the same medical requirements as the children enrolled in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000).

§5363. Transportation

A. A center that provides transportation of children assumes additional responsibility and liability for the safety of the children.

B. Transportation Plan

1. If transportation is provided, even on an irregular basis, the center shall have a written statement identifying the type of transportation provided, i.e., to and from home,

to and from school, to and from swimming or dancing lessons, field trips, etc.

2. If transportation to/from home and/or school is provided the center shall have a written plan that states the following:

- a. geographical areas served;
- b. time schedule of the services; and
- c. fee, if any, for transportation services.

C. Transportation Furnished by the Center

1. When transportation is provided, the director shall insure that:

a. transportation arrangements conform to state laws;

NOTE: For additional information regarding state laws, contact the Office of Public Safety.

b. at least two staff, one of whom may be the driver, shall be in each vehicle unless the vehicle has a communication device and child/staff ratio is met in the vehicle;

c. at least one staff in each vehicle shall be currently certified in CPR;

d. children are under the direct supervision of staff at all times. The driver or attendant shall not leave the children unattended in the vehicle at any time while transporting children;

e. each child shall board the vehicle from the curbside of the street and/or shall be safely escorted across the street;

f. each child is delivered to a responsible person authorized in writing by the parent;

g. a designated staff person shall be present when the child is delivered to the center;

h. good order shall be maintained on the vehicle;

i. the driver shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle and all children were picked up and dropped off at the correct locations;

j. the vehicle shall be maintained in good repair; and

k. the use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

2. Children shall not be transported in the back of a pickup truck.

3. All drivers and vehicles shall be covered by liability insurance as required by law.

4. The driver shall hold a valid appropriate Louisiana driver's license.

5. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom child may be released.

6. The center shall maintain a daily transportation attendance record.

7. The vehicle shall have evidence of a current safety inspection.

8. There shall be first aid supplies in the vehicle, i.e. Band-Aids, peroxide, etc.

9. There shall be information in each vehicle identifying the center's name, telephone number and address for emergency situations.

10. A fire extinguisher shall be stored in the vehicle.

D. Field Trips

1. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

E. Transportation by Contract

1. When the center contracts with an outside source for transportation, there shall be an agreement on file signed and dated by the Director and a representative of the transportation agency stating that all rules for transportation shall be followed as stated in the law and the regulations. The center shall select a transportation agency with a good reputation and reliable drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:1639 (August 2000).

§5365. Center Staff

A. All center staff includes the director, teachers, child care staff, and any other employees of the center such as the cook, housekeeper, and chauffeur.

B. All center staff must be at least 18 years of age or older. However, the center may employ a person 16 or 17 years old that works under the direct supervision of a qualified adult staff person.

C. Personnel Records

1. Employment Application. There shall be an employment application for each regularly employed and substitute member of the staff. This application shall include the actual date of hire, all pertinent personal information, past work experience, educational background.

2. References. Center staff shall be known in the community to be of good reputation as verified by at least three non-related reference checks. There shall be on file in the center three letters of reference or documentation that at least three reference were contacted by the director/provider prior to employment.

3. I-9 Form. A completed I-9 form (U.S. Immigration and Naturalization Service Employment Eligibility Form) required after November 1986.

4. Criminal Records Check. A criminal records check shall be requested by the director/provider prior to the employment of any staff person. Documentation of a criminal records check and fingerprinting application as required by R.S.15:587.1 after September 1, 1987.

a. Criminal Record clearance is not transferable from one employer to another.

b. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

5. Health Requirements

a. All center staff shall be required to obtain three months before or within 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is in good health and is physically able to care for the children, and is free from infectious and contagious diseases.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test

result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

d. Substitute workers, temporary employees, or volunteers shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

6. Job Descriptions. A personnel job description shall be kept on file detailing employee's responsibilities.

7. Personnel Records. Personnel records shall be kept on file for a minimum of one year after the employee leaves. Health records may be returned to the staff member upon request.

D. Personnel Training

1. The provider/director shall plan and implement procedures relating to new staff development. This shall include the following:

- a. provisions for a one-day orientation to center policies and practices;
- b. health and safety procedures; and
- c. four days of supervised working with children;
- d. documentation of orientation shall consist of a statement in the employee's record signed by the employee and director attesting to having received such orientation.

2. Providers/Directors shall conduct, at a minimum, one staff training session or meeting each quarter. The training session/meeting should include such matters as program planning, sharing new materials, and discussing center policy. Documentation of the training sessions/meetings including date and staff signatures shall be kept on file in the center.

3. Books, magazines, periodicals, pamphlets and journals relating to child care shall be available to staff. Documentation shall consist of observing that these materials are accessible in the facility to the staff.

4. CPR training for infant and child is required of one-half of the current staff on the premises. Documentation will be a copy of the certification card on file at the center.

a. This training may satisfy the requirement for a staff quarterly training session (§5365.D.2).

b. Certification will qualify for four "clock hour" training credit toward a new Director's requirements. (§5369.A.2.a-h)

5. If a center cares for children eight years and up, at least one staff shall be required to have Adult CPR when those children are present. Documentation will be a copy of the certification card on file at the center.

6. All staff shall have three continuing education hours annually through attendance at child care workshops or conferences i.e. LAECA, LAPACC, NAEYC, etc., or local physician, dentist, public library, PBS, universities and extension services, etc. This is in addition to the three hours required for Health and Safety. These hours will be recognized by the Bureau without prior approval. The hours shall be documented and kept on file. This documentation shall include number of hours, topic, trainer, staff name, date and signature of the Director and/or the trainer.

7. All personnel are to be trained in emergency and evacuation procedures appropriate for the area in which the

center is located. Documentation of training shall be kept on file at the child care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1640 (August 2000).

§5367. Childrens' Records

A. The center shall have on file and available at all times the following records for each child in care:

1. master card. General information regarding child to include medical history;
2. immunization record;
3. written parental/guardian authorization for release of child to a third party; and
4. written parental/guardian authorization for the center to administer and/or secure emergency medical treatment.

B. For licensing purposes, children's records shall be kept on file a minimum of one year from the date of discharge from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1640 (August 2000).

§5369. Personnel

A. Director Qualifications

1. must be at least 21 years of age;
2. must have documentation of at least one of the following:
 - a. bachelor's degree from a regionally accredited college or university with at least six credit hours of child development or early childhood education and one year of supervised child care experience in a licensed center or comparable setting;
 - b. a Child Development Associate Credential which includes practicum and one year experience in a licensed center;
 - c. an Associate of Arts degree in child development or a closely related area and one year of supervised child care experience in a licensed center or a comparable setting;
 - d. one year of experience as a director or staff in a licensed child care center plus 12 credit hours in child care child development or early childhood education. Fifteen "clock hours" may be substituted for each three credit hours;
 - e. diploma from a vocational child care training program approved by the Board of Regents or equivalent plus one year of supervised child care experience in a licensed child care center or comparable setting;
 - f. a National Administrator Credential as awarded by the National Child Care Association, and one year experience in a licensed child care center, or comparable setting;
 - g. certificate of completion from the International Correspondence School and one year experience in a licensed child care center or comparable setting;
 - h. certificate of completion from the Professional Career Development Institute and one year of experience in a licensed child care center or comparable setting.

3. A comparable setting must be approved by the Bureau.

4. Licenses issued after September 30, 2000 must meet one of the requirements (5369.A.2.a-h). All directors employed prior to September 20, 2000 will be exempt from meeting director qualifications. These directors, however, are encouraged to work toward one of these requirements.

B. Required Center Staff

1. If the number of children exceeds 42 the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center.

2. If the center does not exceed 42 children as their enrollment, there must be an individual designated as responsible for the operation of the center.

3. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

4. There shall be provisions for substitute help if the director or any regular employee is absent from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000).

§5371. Required Child/Staff Ratios

A. Required Ratios for Ten or Less Children:

1. Below are the required child/staff ratios for centers serving ten or fewer children (including the operator's and/or staff's own children):

Children Staff	
10 (if no more than two children are under age two)	1
10 (if three or more children are under age two)	2

B. Required Ratios for Eleven or More Children:

Children Staff	
6 (Non-walkers and toddlers under 12 months)	1
8 (Toddlers, 12 months to 23 months)	1
12 (Two-Year-Olds, 24 months to 36 months)	1
14 (Three-Year-Olds, 36 months to 48 months)	1
16 (Four-Year-Olds, 48 months to five years old)	1
20 (five to six year olds)	1
25 School Age (six-year-olds and up)	1

1. Mixed Ages

a. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

2. Staff Involved in Ratio

a. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

3. Other Required Staff

a. When the number of children in the center exceeds 10, there must be an individual immediately available in case of an emergency.

b. If day and night care is offered, there must be separate staff.

c. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000).

§5373. Physical Plant and Equipment

A. Indoor/Outdoor Space Required. The center shall be used exclusively by the children and center staff during operating hours. Area licensed for use as a child care center shall not be dually licensed.

1. Indoor Space

a. There shall be a minimum of indoor space of at least 35 square feet per child. The space shall not include toilet facilities, hallways, lofts, storage or food preparation areas, or offices. Any room counted as play space shall be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in the licensed capacity.

b. There shall be provisions for temporarily isolating a child having or suspected of having a communicable disease so he/she can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

c. An area, i.e. bathroom, partitioned area, etc., shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

2. Outdoor Play Space

a. There shall be outdoor play space with direct exit from the center into the outdoor play yard.

b. The outdoor space shall provide a minimum of 75 square feet for each child in the outdoor play space at any one time. The minimum outdoor play space shall be available for at least one-half of the licensed capacity.

c. The outdoor play space shall be enclosed with a fence or other barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

d. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

e. Areas where there are open cisterns, wells, ditches, fishponds and swimming pools or other bodies of water shall be made inaccessible to children by fencing.

3. A soft surface shall be provided under climbing apparatus with a potential fall of four feet or more to the ground. Soft surface examples are pea gravel, sand, wood chips, sawdust, or mats.

B. Furnishings and Equipment

1. There shall be a working telephone at the center.

2. Appropriate emergency numbers shall be posted, such as fire department, police department, and medical facility.

3. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children as follows:

a. equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and

b. equipment which encourages quiet play or activity (for example, sand clay, crayons, paints, story and picture books, dolls, puzzles, and music).

4. The equipment shall be maintained in good repair.

5. The center shall make provisions for storage space within easy reach of the children for the storage of play materials in appropriate play areas. Toy chests with attached lids are prohibited.

6. There shall be individual spaces for each child's clothing and personal belongings.

7. Chairs of a suitable size and table space shall be available for each child two years or older.

8. Individual and appropriate sleeping arrangements must be provided for each child.

a. State and local health requirements regarding sleeping arrangements must be met.

b. Each child shall provide or be provided with a mat, cot or bed age appropriate. Playpens shall not be substituted for a baby bed/crib.

c. While in use, each mat, cot or bed shall be placed 18 inches apart and shall be arranged in a head to toe configuration. Each one shall be labeled for individual use.

9. Smoking shall not be allowed on the child care premises.

C. Fire Safety

1. Fire drills shall be conducted at least once per month. These shall be conducted at various times of the day and shall be documented as follows:

- a. date and time of day;
- b. number of children;
- c. lapse time of drill;
- d. problems and solutions if any; and
- e. staff signatures.

D. Safety Regulations

1. Drugs, poisons, harmful chemicals, all products labeled "Keep out of the reach of children," equipment and tools shall be locked away from the children. Whether a cabinet or an entire room, the storage area must be locked.

2. Refrigerated medications shall be in a secure container to prevent access by children and avoid contamination of food.

3. Secure railings shall be provided for:

- a. flights of more than three steps;
- b. porches more than three feet from the ground.

4. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

5. Accordion gates are prohibited.

6. First Aid Supplies shall be available at the day care center. (Suggestions for first aid supplies may be obtained from the Red Cross.)

7. The center and yard must be clean and free from hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1642 (August 2000).

§5375. Admission of Children

A. Admission of children shall include an interview with the parent or guardian to:

1. secure necessary information about the child; and

2. provide a Parents' Handbook about the center's programs, policies, fees and a basic daily center schedule.

B. Parents or guardians must be provided with a written description of the center's discipline policy.

C. Discrimination by child daycare centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. A policy shall include this written statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1642 (August 2000).

§5377. Care of Children

A. Nutrition

1. If the Center prepares any meals, well-balanced and nourishing meals shall be made available to children in care.

a. Children in care for more than four hours shall be provided meals using the four basic food groups (bread, fruits and vegetables, dairy products, protein products) that provide approximately one-third to one-half of the current Recommended Dietary Allowances of the National Research Council. (See Appendix A)

b. Additional servings of nutritious food over and above the required daily minimum shall be made available to children as needed if not contradicted by special diets.

c. To ensure well-balanced and nourishing meals, the specified patterns for meals (See Appendix A) shall be referenced.

2. Milk shall be served to the children at least once a day.

3. Children in full-time care shall have two snacks and one meal daily.

4. Weekly menus for meals and snacks shall be posted if the center prepares the food. Substitutions shall be posted on or near the menu.

5. It is permissible for children to bring their own food to the center.

6. Bottled formula for infants must be labeled.

7. If the parent provides the daily meal, parents should be encouraged to prepare meals which are well balanced and nutritious but with the understanding that what the parent provides is acceptable.

8. Infants are to be fed and supervised individually.

a. Infants shall be held while feeding.

b. A bottle shall not be propped at any time.

c. Parents shall supply the center with a schedule of feeding times for their infant.

9. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

a. Drinking fountains are permissible.

b. Children shall be offered water at intervals at a minimum of 2 2 hours and after each outdoor activity.

10. Children's food shall be served on individual plates, napkins, paper towels or in cups as appropriate.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless authorized in writing by the parent. Authorization shall include the name of the child and medication, date(s) to be given, time to be given, dosage, and signature of parent.

2. Documentation shall be maintained verifying that medication was given according to parent's authorization, including the date, time and signature of the staff member who gave the medication.

3. All medication shall remain in the original container.

4. If symptoms of contagious or infectious diseases develop while the child is in care, he/she shall be in supervised isolation away from the other children until a parent or designated person has been contacted and the child has been picked up from the center.

5. Any child who has had a 100°F oral temperature or 101°F rectal temperature reading the last 12 hours is suspect.

6. Children with the following illnesses or symptoms shall be excluded from the center based on potential contagiousness (communicability) of the disease. Periods may be extended beyond this depending upon individual conditions.

Illness/Symptom	Exclude Until
Meningococcal disease (Neisseria meningitis)	Well with proof of noncarriage*
Hib disease (hemophilus)	Well with proof of noncarriage*
Diarrhea (two or more loose stools or over and above what is normal for that child).	Diarrhea resolved or is controlled (Contained in Diaper or toilet)
Fever of unknown origin (100°F oral or 101°F rectal or higher) some behavioral signs of illness.	Fever resolved or cleared by child's physician or Health department
Chicken pox	Skin lesions (blisters) Scabbed over completely
Hepatitis A	One week after illness started and fever gone
Aids (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons**, including the child's physician, chosen by the child's parent or guardian and the Director
Undiagnosed generalized rash	Well or cleared by child's Physician
Any child with a sudden onset of vomiting, irritability, or excessive sleepiness.	Evaluated and cleared by child's physician

* Proof of noncarriage. Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

** These persons include the child's physician and other qualified individuals such as the Director, a representative of the state's Office of Public health, and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether HIV-infected child poses a potential threat to others.

7. With most other illnesses, children have either already exposed others before becoming obviously ill (i.e. colds), or are not contagious one day after beginning treatment (i.e., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies).

8. The parent or designated person shall be notified and incident documented if:

- a. child develops symptoms of illness; or
- b. suffers a serious accident in child care;

9. all head injuries shall be reported to parents immediately.

10. An accident report including incidents shall be maintained detailing accident/incident of child and the action taken by the staff/director.

C. Daily Program

1. There shall be a schedule of the day's plan of activities posted in each classroom or center providing for flexibility and changes, as deemed necessary.

2. The program of activities shall be adhered to with reasonable closeness but shall accommodate and have due regard for individual differences among the children.

3. The program shall provide time and materials for both vigorous and quiet activity for the children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snack and putting away toys. Activity and quiet periods should be alternated so as to guard against over stimulation of the child.

4. Children shall have a rest period of at least one hour.

5. While awake, infants and toddlers shall not remain in a crib, a baby bed, or a playpen for more than 30 minutes continuously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1643 (August 2000).

§5379. Care for Children During Nighttime Hours

A. The Minimum Standards for child care centers also apply to centers which provide care after 9 p.m. with the inclusion of the following standards as set forth in this section.

1. Any child care center caring for children at night must follow the same requirements for personnel standards as previously stated.

2. A minimum of one adult shall be present at all times during nighttime care.

3. In addition, the following standards shall apply.

a. The adult in charge must remain awake all night and directly supervise the children at all times.

b. Meals must be served to children who are in the center at the ordinary meal times.

c. Each child shall have separate sleeping accommodations. These accommodations shall include age appropriate crib, cot with a mat or mattress or bed.

d. Evening quiet time such as story time, games, and reading shall be provided to each child arriving before bedtime.

e. No physical restraints shall be used to confine children to bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by

the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000).

§5381. Discipline

A. Each center shall establish a written policy in regard to methods of discipline stating what methods of discipline will and will not occur. This statement must be made available to parents/guardians and licensing personnel.

B. If corporal punishment is used, the following guidelines are applicable and shall be included in the written discipline policy.

1. Permission for corporal punishment must be in writing from the parents. Documentation of details of the incident/infraction and punishment administered is required. A copy of the documentation must be kept on file at the child care center and a copy given to the parents.

2. Parents must be notified by phone before corporal punishment is administered. Documentation of the phone contact must be kept on file.

3. Written permission for corporal punishment of a child shall not be a preadmission requirement for children to be enrolled in a child care program.

4. Corporal punishment will not be used on children 24 months and younger.

5. Any implement other than the open hand shall not be considered as corporal punishment but mistreatment of the child.

6. Corporal punishment shall only be administered by the director in the form of and not more than three spanks of the open hand on the clothed buttocks of a child older than 24 months of age. A second adult must be present during the administration of the spanking and the spanking must be documented and signed by both adults present.

C. Cruel, severe, unusual, or unnecessary punishment shall not be inflicted on children.

D. Derogatory remarks shall not be made in the presence of the children about family members of the children in care or about the children themselves.

E. No child or group of children shall be allowed to discipline another child.

F. When a child is removed from the group for disciplinary reasons, he shall never be out of sight of a staff member.

G. No child shall be deprived of meals or any part of meals for disciplinary reasons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000).

§5383. Abuse and Neglect

A. Any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with R.S. 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000).

§5385. Supervision

A. Children shall be supervised at all times. All children shall never be left alone in any room or outdoors at any time without a staff present.

B. While on duty with a group of children, child care staff members shall devote their entire time:

- 1. in supervision of the children; and
- 2. in participating with them in their activities.

C. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.

D. At naptime, children may be grouped together with one worker supervising the children sleeping while other workers rotate various duties and lunchtime. All children sleeping must be in the sight of the naptime worker. However, appropriate staffing must be present within the center to satisfy state required child/staff ratios.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000).

J. Renea Austin-Duffin
Secretary

RULE

**Department of Transportation and Development
Office of Highways/Engineering**

**Roadside Vegetation Management
(LAC 70:III.Chapter 7)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development hereby amends a rule entitled "Roadside Vegetation Management," in accordance with R.S. 47:820.6. This proposed amendment to an existing rule has no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 7. Roadside Vegetation Management

' 701. Introduction

A. The authority of this manual is given in Act No. 682 of the Regular Session of the State Legislature of 1989. Under normal budgetary conditions, the vegetation control guidelines as described herein should be followed as closely as possible. However, during times of severe budget restraints when state revenues are not available to fund this vegetation control policy, it may be necessary to adjust guidelines to operate within the reduced budget. Items addressed in this manual include: Guidelines and Categories of Roadside Vegetative Maintenance, Herbicides, Wildflowers and Landscaping. Deviation from policies in this manual must have written approval of the DOTD Chief

Landscape Architect and the DOTD Chief Engineer. Roadside vegetative maintenance guidelines are intended to accomplish the following objectives:

1. provide for safety of the traveling public;
2. blend the roadside with adjacent land uses;
3. improve aesthetic quality;
4. reduce erosion;
5. increase efficiency of maintenance operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:1645 (August 2000).

§703. Guidelines and Categories of Roadside Vegetative Maintenance

A. General Conditions for all Highway Systems

1. DOTD will encourage the growth, planting and preservation of wildflower areas.

2. The District Roadside Development Coordinator shall monitor and coordinate planting of all wildflower areas. He will record locations of the plantings on DOTD Wildflower Inventory form and return them to Headquarters for placement in the master file.

3. Wildflowers may be planted to within 30 feet of the roadway on multi-lane systems and 15 feet on two-lane facilities or the back of the required drainage channel, whichever is greater. Wildflowers that have naturalized and are 15 feet or more from the travel lane should be allowed to remain. Every effort should be made to mow around them and avoid spraying herbicides unless it is spot treatment to eliminate certain weed species. Wildflowers may be planted in medians providing that they do not interfere with sight distances. Naturalized species occurring in wet areas such as iris, lilies and cattails will be allowed to remain when they do not obstruct drainage. The district maintenance engineer will decide when plants are obstructing drainage or sight distances and will take the necessary action to correct the deficiency.

4. Remove litter prior to mowing designated areas. For roads in the Adopt-A-Road Program, it would be beneficial to contact the sponsor agency and advise them of the mowing schedule in order for them to assist in the removal of litter prior to the mowing operation.

5. Sight distance at horizontal curves, vertical curves, intersections, railroad crossings, signs, signal lights, delineators, hazard markers and warning devices should be clear of obstructions. Sight distance can be obtained on the inside of horizontal curves by mowing the area 30 feet from the edge of the surface or from the edge of the surface to the right-of-way line or from the edge of the surface to the fence line, whichever is the shortest distance. Transition should begin 150 feet prior to the beginning and end of the curve. All vegetation shall be maintained to permit clear visibility for all regulatory traffic signs. Trim or remove trees that interfere with proper sight distance or side and overhead clearance.

6. All vegetation shall be maintained to permit clear visibility for all regulatory traffic signs. Trim or remove trees that interfere with proper sight distance, or side and overhead clearance.

7. All dead trees or leaning trees with weakened root systems within DOTD rights-of-way which may endanger traffic by falling across the highway shall be removed and

disposed of in a timely manner. Stumps within a mowable area are to be removed to ground level with a stump removing machine. If the stumps are located in an area designated not to be mowed, they may remain but should be cut to within 5 inches of ground level.

8. In order to ensure proper drainage, mow to the top of backslopes. When ditch bottoms are inaccessible and impeding drainage, treat unwanted vegetation with an approved herbicide labeled for use over water.

9. Mowing heights should be 5-6 inches; shorter cutting heights may cause stress on the vegetation and damage to equipment. Do not mow during long rainy spells and when the right-of-way is too wet. Mowing during these times will cause rutting and possibly cause erosion in the future.

10. Observe and initiate appropriate erosion control procedures when necessary.

11. General herbicide treatment is to be confined to an area of approximately 30 foot widths from the edge of all roadways where right-of-way is available or to the back of the required drainage channel to ensure proper drainage. Spot treatment is allowable beyond this area.

12. Treat pavement edges, paved medians, riprap areas and areas around delineators, guardrails and signs with appropriate herbicide. Treat designated areas of roadsides with appropriate herbicide two weeks prior to mowing cycle to eliminate noxious grasses and weeds. Some areas may need hand trimming because of herbicide restrictions. Prior to treating rights-of-way on federally owned lands, obtain the proper authorization from the federal agency having jurisdiction and make herbicide applications in accordance with their guidelines. Do not spray herbicides in designated or native stands of wildflowers unless absolutely necessary to control weed infestation. When treating unwanted vegetation in wildflower areas, every effort should be made to spot treat the unwanted vegetation.

13. When practical, every attempt should be made to blend the highway right-of-way with the adjacent land uses. For example, forest lands should extend into the right-of-way, subject to clear zone requirements, and rights-of-way adjacent to crop and pasture lands should remain relatively open.

B. Urban (Highway Systems) Urban shall mean within the recognized limits of small towns, villages and municipalities as well as incorporated areas of cities.

1. Maintain all rights-of-way by using a minimum cutting height of five inches. A maximum height of 8 inches will be allowed prior to mowing.

2. Remove all dead ornamental plants and replace during the proper planting season with appropriate type of plant.

3. Wildflowers may be planted in large interchange areas and shall not be mowed until the mature seed has set. Utilize the 5-inch minimum mowing height up to the limits of the wildflower planting area. Wildflowers which will attain a height of 24 inches or more will not be permitted in narrow medians, or in sight triangles where they will interfere with adequate sight distances. General Conditions, §703.A.3 outlines other facts concerning wildflower plantings.

4. Transition mowing standards between urban and rural categories with a long, smooth, flowing line. This

transition should occur over a distance of approximately 2,000 feet.

C. Rural

1. Interstate

a. Begin mowing operations, except wildflower areas once vegetation has reached approximately 12 inches in height. Maintain right-of-way using a 5-inch cutting height.

b. Mow all mowable areas, except wildflower areas a minimum of three times each year. Medians are to be mowed in their entirety each mowing cycle except where wildflowers, shrubs or trees are present. Weather permitting, these mowings should occur in May, August and in late October or November.

c. Wildflowers will be permitted as in '703.A.3 under urban systems. Maintain the to 18 inch maximum vegetation height up to the limits of the wildflower planting area. Wildflower areas are allowed to naturally reseed within 15 feet of travel lane.

d. Mow wildflower areas after they have gone to seed. For spring blooming varieties this should normally occur in May and fall blooming plants should be mowed in late October or November. The Roadside Development District Coordinator should be consulted to determine appropriate timing for mowing wildflower areas

e. Remove all dead ornamental plants as in '703.B, Urban Systems and replace during the proper planting season with appropriate type of plant.

f. Herbicide applications are to be made in accordance with General Conditions, '703.A.11 and 12.

g. Maintain frontage roads in the same manner as primary system.

h. Weight Enforcement Scale areas are to be mowed in their entirety each mowing cycle using a 5 inch mowing height. Rest areas are to be mowed in accordance with EDSM No. IV.3.1.2.

2. Primary Multi-Lane And Two Lane

a. Begin mowing operations once vegetation has reached approximately 12 inches in height, unless herbicides have established desirable vegetation and rendered mowing unnecessary. Mowing heights are to be 5 inches.

b. Mow a 30 foot strip from the edge of the roadway surface to the top of the backslope to facilitate drainage, or to the right-of-way on multi-lane and two-lane roadways. Medians less than 80 feet in width are to be mowed in their entirety each mowing cycle. In medians

which have been allowed to revegetate naturally, mow a 30-foot strip from the edge of the roadway surface or to the back edge of the ditch. Mowing should be accomplished a minimum of three times per year.

c. Wildflowers will be permitted as in '703.A.3, Urban Systems.

d. Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seed has set. In areas which have been allowed to revegetate naturally, annually mow a 40 foot strip to eliminate woody growth.

e. Mow interchange areas to same standards as roadways.

f. Herbicide applications are to be made in accordance with General Conditions, '703.A.11 and 12.

g. Maintain frontage roads in the same manner as

3. Secondary and Farm-to-Market System

a. Begin mowing operations once vegetation has reached a 12-inch height. Mowing heights are to be 4 - 6 inches.

b. Mow a 15-foot strip from the edges of the roadway surface or to the back side of the ditch to facilitate drainage.

c. Herbicide applications are to be made in accordance with General Conditions, '703.A and 11 and 12 or as determined by District personnel based on existing conditions.

d. Annually mow entire mowable area in the fall, normally in late October or November after wildflowers have bloomed and the seed has set to prevent excessive woody growth.

D. Intersections (All Systems)

1. Right-of-way permitting, mow to the sight distance transition limits specified herein.

2. Mow all flare areas at junctions for sight distance.

E. Mowing Exceptions

1. Areas where individuals or businesses mow right-of-way along their property.

2. Areas where appropriate herbicide treatment can keep vegetation within the standards.

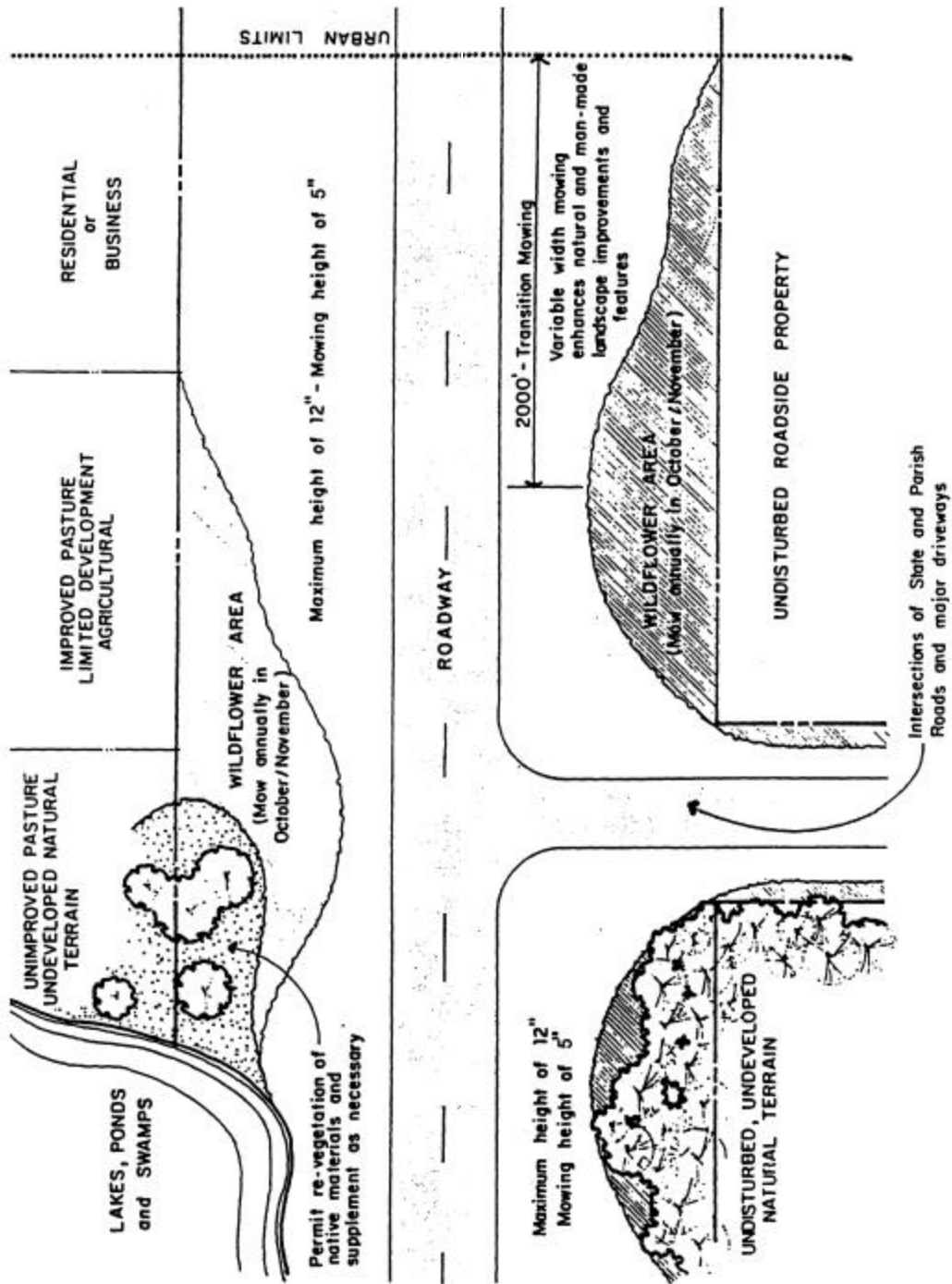
3. Areas that are not applicable, i.e., wildflower areas.

4. Areas where seedlings are planted and/or permitted to grow.

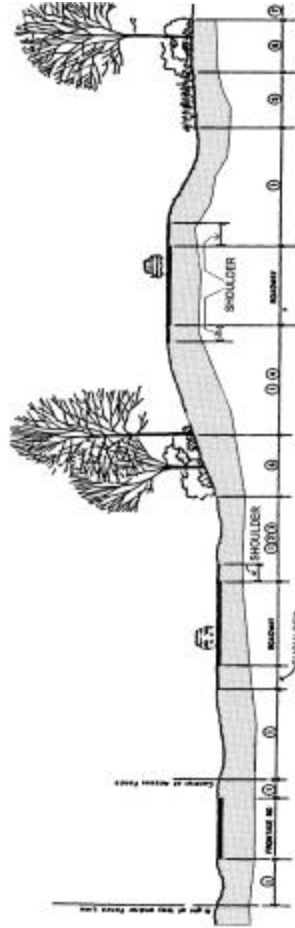
5. Rest areas and tourist information centers, on the interstate system, are to be maintained by the caretakers in a lawn-type condition.

6. Unmowable areas within defined mowing limits.

F. General Vegetation Management Plan

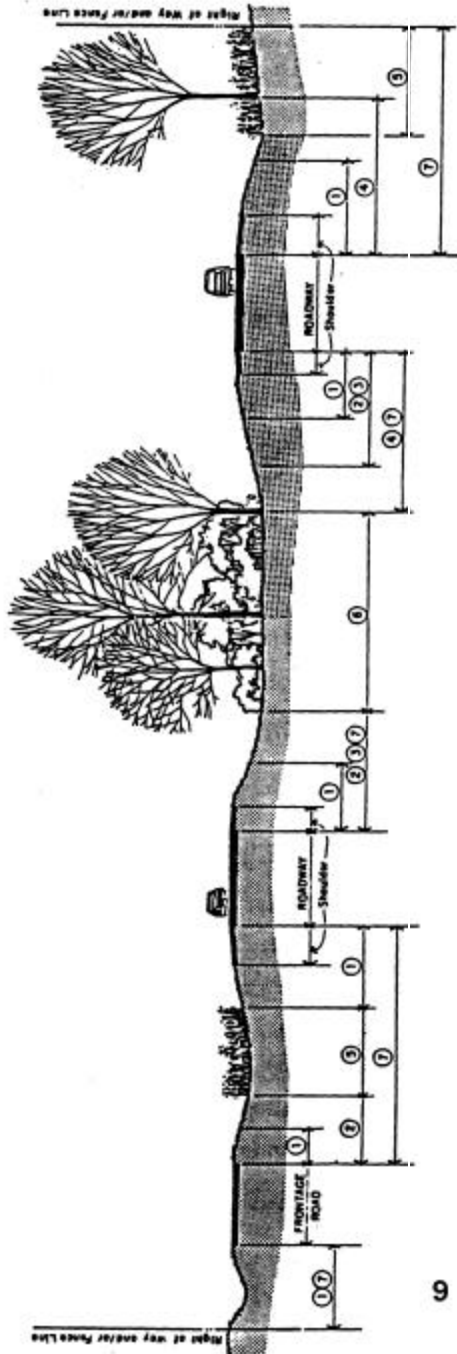


GENERAL VEGETATION MANAGEMENT PLAN



1. Where vegetation reaches a height of 12" mow all movable areas of the right-of-way (tree line to fence line). Mowing height should be 5". Movable areas to be mowed in their entirety each mowing cycle except when wildflowers or native shrub, and/or trees are present.
2. General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel. To ensure proper drainage spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
3. Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
4. Native trees which will attain a trunk diameter of 8" or greater, may be allowed to revegetate to a distance of 50' from the edge of the roadway.
5. Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
6. Area of natural revegetation - Do not mow in this area.
7. Mow a 7-foot wide strip along the right-of-way line or fence line where feasible.

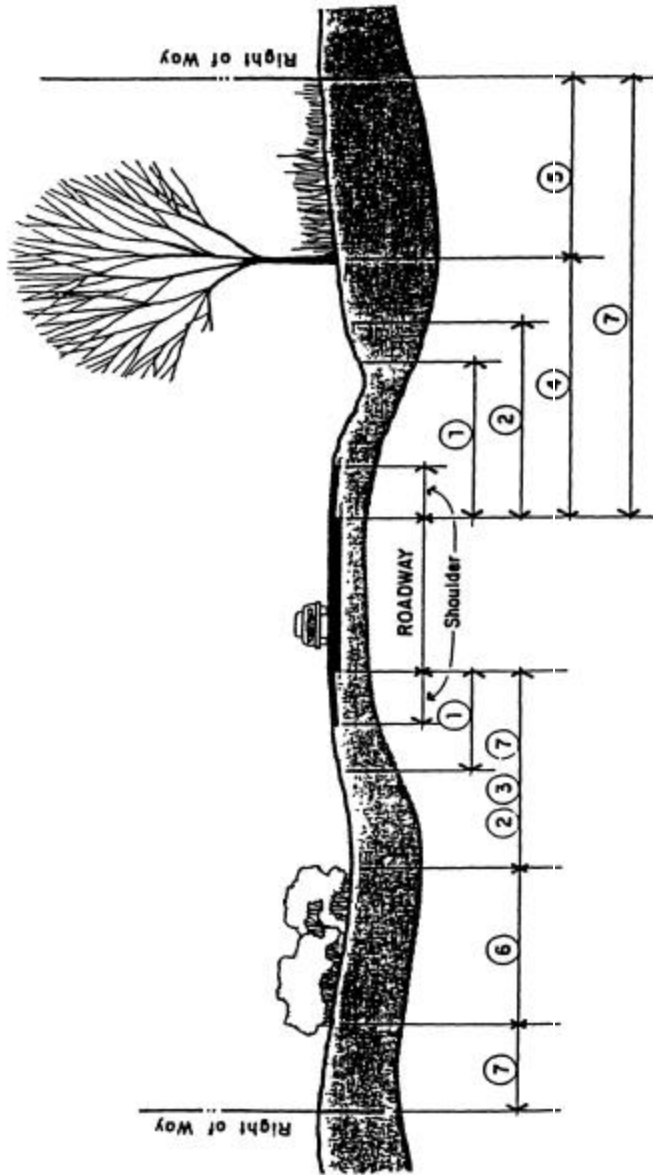
**TYPICAL VEGETATION MANAGEMENT SECTION
 RURAL, INTERSTATE**



- 1 When vegetation reaches a height of 12", mow a 30' strip from the edge of the roadway surface or to the top of the backslope to facilitate drainage. Mowing height should be 5". Medians less than 80' wide are to be mowed in their entirety each mowing cycle unless wildflowers are present. If wildflowers are present, mow around them. Delay mowing the wildflower area until after they have gone to seed. Along frontage roads, mow a 7' wide strip from the edges of the roadway surface or to the back side of the ditch to facilitate drainage.
- 2 General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
- 3 Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- 4 Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
- 5 Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- 6 Area of natural revegetation - Do not mow in this area.
- 7 Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set. In areas which have been allowed to revegetate naturally, mow a 40' wide strip, or to the limits of shrubs and trees.

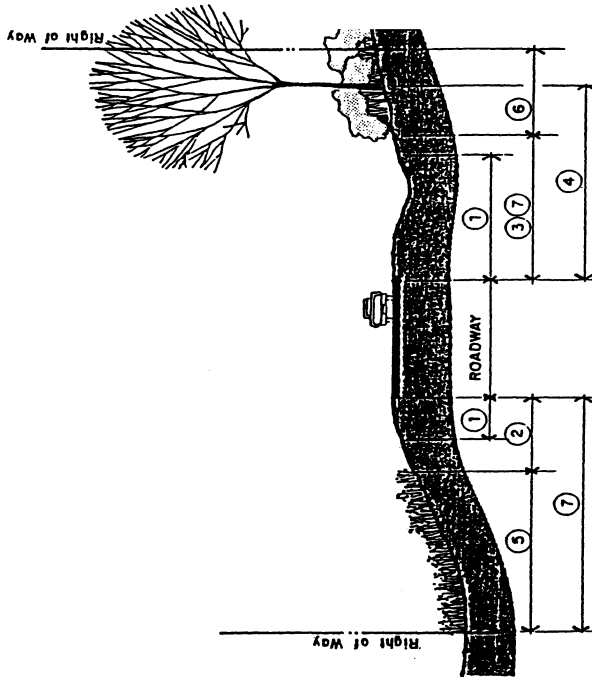
**TYPICAL VEGETATION MANAGEMENT SECTION
 RURAL, PRIMARY MULTI-LANE**

I. Typical Vegetation Management
 Section CRural, Primary Two Lane



- ① When vegetation reaches a height of 12" or a 30' wide strip from the edge of the roadway surface or to the top of the backstop to facilitate drainage. Mowing height should be 5". If wildflowers are present, mow around them. Delay mowing the wildflower areas until after they have gone to seed.
- ② General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
- ③ Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- ④ Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
- ⑤ Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- ⑥ Area of natural revegetation - Do not mow in this area.
- ⑦ Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set. In areas which have been allowed to revegetate naturally, mow a 40' wide strip or to the limits of shrubs and trees.

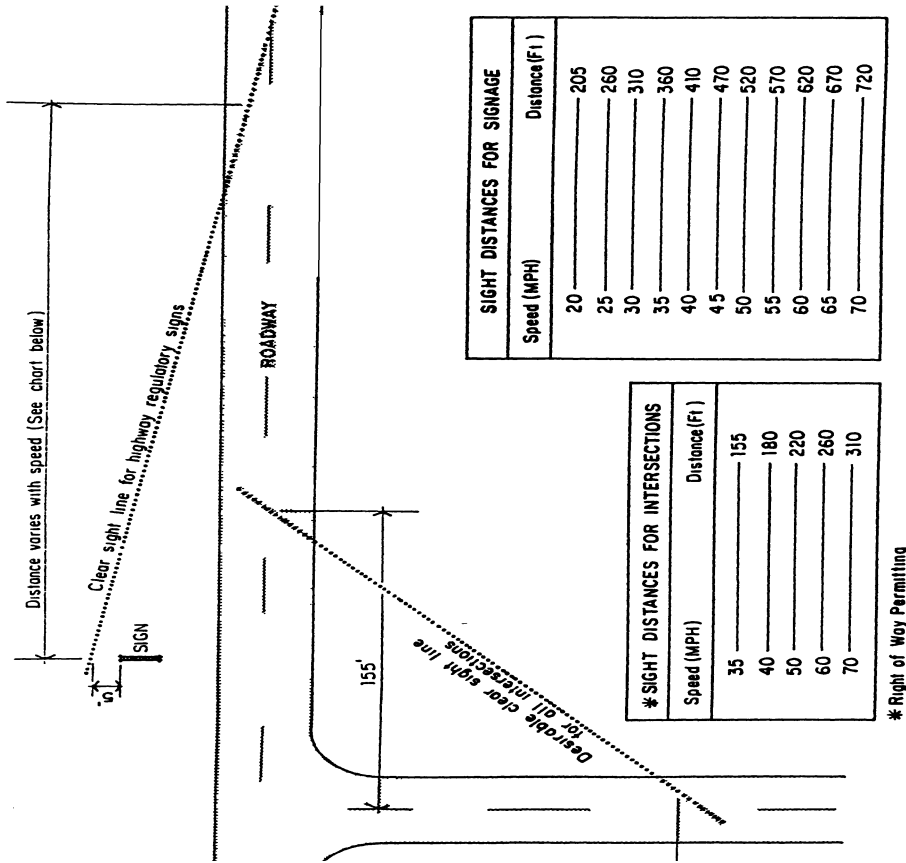
**TYPICAL VEGETATION MANAGEMENT SECTION
 RURAL, PRIMARY TWO LANE**



- ① When vegetation reaches a height of 12", mow a 25' strip from the edge of the roadway surface or to the back edge of the ditch to facilitate drainage. Mowing height should be 5'.
- ② General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
- ③ Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
- ④ Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
- ⑤ Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
- ⑥ Area of natural revegetation - Do not mow in this area.
- ⑦ Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set.

TYPICAL VEGETATION MANAGEMENT SECTION RURAL, SECONDARY and FARM to MARKET

K. Sight Distances for Signs and Intersections



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:1652 (August 2000).

§705. Herbicides

A. Laws and Regulations. The Federal Insecticide and Rodenticide Act as amended in 1972 (FIFRA) requires individuals who apply restricted use pesticides to be certified applicators. National standards for the certification of applicators are found in Title 40, Part 171 of the Code of Federal Regulations. State standards for certification of applicators are found in the Louisiana Pesticide Law, Chapter 21 of Title 3 of the Louisiana Revised Statutes, Rules and Regulations promulgated under the authority of the Louisiana Pesticide Law have been published in the Louisiana Register further delineating the requirements for certification and recertification. The Louisiana Department of Agriculture has been designated by the U.S. Environmental Protection Agency as the agency responsible

for the enforcement of FIFRA within the State of Louisiana. The Department is also responsible for the enforcement of the Louisiana Pesticide Law. The Louisiana Cooperative Extension Service, by cooperative agreement, is responsible for the training necessary to become a certified applicator.

B. General

1. Herbicides have played an important part in the management of the roadside right-of-way the past several years, particularly the selective spraying program. This program is used predominately to control Johnson grass and other weeds while favoring the growth of Bermuda grass which requires little mowing.

2. Herbicides have also been used successfully on hard surfaced shoulders, cracks in paved traffic islands and revetments under guardrails, at bridge ends, ditches and other areas which are impossible to mow. Since chemicals that are used as herbicides require that safety precautions are observed, the Roadside Development Coordinator in the District should be in complete charge of their use. The operators on the spray trucks are required to be licensed by

the Department of Agriculture. The Roadside Development coordinator is familiar with brand names, different types of chemicals, calibration of the rig, pumps, etc., has been licensed and should be consulted in detail for chemical herbicide work.

3. In order to realize the maximum output from both mowing and spraying operations, it is important that the Parish Maintenance Superintendent and Roadside Development Coordinator manage these operations together. Correct timing will result in good results and a savings of funds. Two mowings per season and two sprayings per season are generally enough for most roadsides if they are coordinated.

4. Department of Transportation and Development has been using herbicides for approximately 20 years. The main reason for using herbicides is because it is a safe economical means of controlling vegetation resulting in cost savings for the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:1653 (August 2000).

' 709. Factors of Herbicide Application

A. Herbicide Types

1. Soil-active (residual) herbicides are active in the soil and stop plant growth of germinated seeds and roots in the following manner. Soil-active herbicides are moved into the root zone by water. The herbicide is absorbed by the root system and translocated throughout the plant affecting plant growth processes. Visual effects should begin to appear in several days. The swiftness of the herbicide action is dependent on soil type, rainfall, plant species and rate of herbicide application. Soil-active herbicides can be applied to the soil in the winter prior to or shortly after the emergence of vegetation in spring. Vegetation must be present; never apply herbicide to already bare ground.

2. Contact herbicides halt visible plant growth at least for a short time in the following manner. Contact herbicides are absorbed by the foliage and transported throughout the plant, affecting plant growth processes. Several days are usually required for the effects to appear. Some of these herbicides may also have a short period of activity in the soil. Vegetative diversity may require a combination of chemicals to be used if broad-spectrum control is desired.

B. Desired Vegetation Control

1. Bare Ground or Complete Vegetation Control. Soil-active herbicide at the proper rate and time will normally provide complete vegetation control. Bare ground vegetation management may be desirable in areas where it can be economically maintained or where plant growth creates fire or other safety hazard or decreases maintenance efficiency. To maintain a bare ground condition after the first year application, spot-treatment may be necessary. Application of an excessive quantity of chemical is not economical and may result in damage to desirable vegetation. This type of treatment should only be used in storage yards.

2. Selective Weeding. Selective weeding is the use of a herbicide or a combination of herbicides for the control of selected species and does not permanently harm desired vegetation. Herbicides used for this type of control may be applied either as a pre-emergence (before plants emerge

from seed) or a post-emergence (after plants emerge from seeds) application.

3. Chemical Mowing. This is the practice of using herbicide to control undesirable vegetation in close proximity to valuable plants. This procedure can be used to control vegetation under fences and guardrails, along drainage ditches and in landscaped areas when near desirable vegetation.

C. Type and Species of Plants to be Controlled

1. Proper selection of herbicides and their application rates are dependent on the type and species of vegetation to be controlled as well as the condition of the plant. Some plant species are resistant to certain herbicides. The condition of a plant may be either active growth or dormancy. It may be a seedling or a mature plant or it may be budding, leafing, flowering or fruiting. All of these conditions should be considered when deciding where and when to use or not to use herbicides. For example, the best condition to apply a contact herbicide to many plants is when they are about to produce a seed head or fruit (e.g., the Aboot@ stage of Johnson grass). In general, seedling plants are easier to control than older more established plants. Plants are categorized as either annual, biennial or perennial.

2. Annual and Biennial Plants. These plants originate from seed. Annuals complete their life cycle in one year (seed to seed); biennials require two years to complete their life cycle. A contact treatment is generally sufficient in controlling seedlings. Annual weeds around signs and other appurtenances can be controlled with contact treatment or in combination with a pre-emergence herbicide.

3. Perennial Plants. These plants have an extensive root system and live from year to year. Perennials also produce seeds to ensure survival of their species. Specific herbicides, whether contact or soil active, are usually required for their control.

D. Soil Type. Depending on soil type, the proper application rate yields good vegetation control. Soil-active herbicides are more active in soils that are low in clay or organic matter because of the reduced absorbency of these soils. Therefore, the application rate may be reduced. In soils that are high in clay or organic matter, herbicide adheres to the soil particles and is not available to the roots of the plant. Consequently, the rate of herbicide application may need to be increased. The acidic/alkaline nature of the soil can also affect the performance of a herbicide. For example, in relatively acidic soils, OUST decomposes at a faster rate than it does in more alkaline soils. In loose or sandy soils a soil-active herbicide may move off target easily carried, by either water or wind.

E. Wind Velocity

1. Wind will disturb the spray pattern and blow the chemical away from the target area; high winds can blow it several feet away. The wider the pattern the greater the effects of wind distortion. It is best to spray before wind velocity rises. The proper drift control agent will help reduce drift. If wind velocity rises too high, and the pattern cannot be kept on target, then spraying should be discontinued.

2. For purposes of deciding whether to spray and for record-keeping, carry a wind gauge in the spray unit to determine wind speed. Highest winds permissible will be 10 miles per hour.

F. Humidity. Relative humidity is the percentage of moisture in the atmosphere relative to the maximum amount which the atmosphere could hold. Generally, the higher the humidity at the time of application, the more rapid the uptake of contact applied herbicides. However, when humidity is at or approaching 100 percent, rainfall will most likely occur and the herbicide will be washed from the leaf surface. Consequently, herbicides should not be applied when rainfall is imminent. Conversely, if the humidity is approximately 60 percent or lower, the longer it may take the herbicide to become active.

G Rainfall

1. Rainfall affects chemical control of vegetation. It is a vehicle for movement of soil-active herbicides into the root zone of plants. Soil-active chemicals must be in solution before they can enter the root system of plants. Excessive water may reach the soil-active herbicide below the root zone of the plant resulting in poor control. Moisture from rainfall, thawing cycles and snow on the ground may prevent the herbicide from entering the soil in sufficient quantities to achieve the desired degree of control. Moreover, excessive rainfall may lead to serious herbicide damage to areas outside of the target area.

2. Do not spray contact herbicides during rainfall or if rainfall is likely to occur within six hours after application. Rain will wash the herbicides off the leaves before it can be absorbed by the plant. After a rain, dust on the leaves will have been washed off and contact herbicides are more easily absorbed by the plant. Allow the foliage time to dry after a

K. Herbicide Rate Chart

Product Name	Rate	500 Gal.			Comments
		1,000	Nov.	Jan	
	Per	March	May	Gal.	&
Acre	& Mix	Tank	& Dec.	Feb.	April
		Oct.			
Oust	1 oz.	16 oz.	32 oz.		
	2 oz.				2
					oz. Oust to be used where Oust is
					24 oz. 48 oz. X
					required to be used in Nov. & Dec.,
					32 oz. 64 oz. X
					2 oz. to be used in Jan. & Feb. in areas where there is a heavy concentration of Johnson grass, 1 2 oz. per acre should be used. On moderate stands of Johnson grass, 1 oz. should be used after Johnson grass has almost been eliminated. Oust should not be used where Bahia is predominant.
2-4-D	2 qt.	8 gal.	16 gal.		
					X X
					Combination of 2-4-D and Roundup
Roundup Pro	1 pt.	2 gal.	4 gal.		
					X
					should be used only in southern

rain before spraying since wet foliage may yield poor results.

H. Temperature. Temperature affects the results of vegetation control with herbicides. Do not use herbicides when the soil is frozen, when rain or snow is falling, or when there is snow on the ground. High temperatures during the summer months may cause many plants to become semi-dormant. When this occurs the plants will not absorb the herbicide adequately.

I. Water Quality. Use good clean water to mix herbicides, as impurities in the water may deactivate the herbicide. Another reason for using clean water is that sand or clay particles may damage the pump, solenoids and nozzles of the spray rig.

J. Mixing, Timing and Application

1. Mixing and application are to be in conformance with the manufacturers' recommendations. All precautions issued by the manufacturer are to be taken into account and followed.

2. Timing for spraying of herbicides will be coordinated and determined by the roadside development district coordinator and the parish maintenance superintendent.

3. A spraying report is to be filled out by the herbicide applicator when applying herbicides to the roadsides.

4. Following is a chart of herbicides, application rates, times to spray and pertinent comments concerning their uses.

part of state where 2-4-D is not restricted and when temperature reaches 75 degree or above. Can be used around signs and guardrails at rate of 2 qt. 2-4-D and 1 qt. Roundup per acre. DO NOT SPRAY THIS RATE ON SLOPES.

Garlon 3A 1 qt. 4 gal. 8 gal.
X X Only to be used in northern part of state where 2-4-D is restricted and when temperature reaches 75 degree or above. Can be used around guardrails and signs at the rate of 1 qt. Garlon and 1 qt. Roundup.

Roundup Pro 1 pt. 2 gal 4 gal.

M.S.M.A. 2 qt. 8 gal. 16 gal.
X X Only to be used in southern part of state where 2-4-D is not restricted and on very rare occasions where Roundup will not do as good a job and where there is a very thin stand on Bermuda grass.

2-4-D 2 qt. 8 gal. 16 gal.
2 qt. 8 gal. 16 gal.

Garlon 3A 2 qt. 8 gal. 16 gal.
X X Only to be used in southern part of state where 2-4-D is not restricted and on very rare occasions where Roundup will not do as good a job and where there is a very thin stand on Bermuda grass.

Campaign 48 oz. 6 gal. 12 gal.
X X Can be used in southern section of state in lieu of 2-4-D and Roundup mixture. When heavy concentration of vines and woody plants add 1 pint of 2-4-D.

Product Rate 500 Gal.
1,000 Nov. Jan
March May Comments

Name Per Tank Gal. &
& Tank Dec. Feb. April
Oct.

Acre Mix

Escort 2 oz. 8 oz. 16 oz.
X X
Can be used where 2-4-D is restricted.

Rodeo		1 pt. 2 gal. 4 gal. X X
	1 qt.	To be used on slopes and in 4 gal. 8 gal. water where Bermuda grass should not be destroyed. To be used under bridges and in water for complete control of vegetation.
Roundup		2 qt. 8 gal. 16 gal. X X
Pro		To be used on shoulders, around guardrails and signs when temperature reaches 70 degree above. Can be used close to trees.
Hyvar XL		10 gal. 120 gal 320 gal. X X
		Only to be used in storage yards and in places where complete soil sterilization is required. Can be sprayed close to trees where there is danger of runoff.
Surfactant		8 oz. 1 gal. 2 gal. To be used in all tank mixes except OUST alone Hyvar XL or Roundup Pro.
Poly Vinyl		2 oz. 1 qt. 2 qt. To be used in all tank mixes where fixed booms are used.

Recommended Speed and Pressure on Cibolo Sprayers, Guide to Calibration	Pressure 28 lbs. 10 mph	Rate Tank Mix Gal. Per Acre 31.25	Acres 500 Gal. Tank Mix 16 Acres	Acres 1000 Gal. Tank Mix 32 Acres
--	-------------------------------	---	-------------------------------------	--------------------------------------

L. Daily Herbicide Spraying Report

**DAILY HERBICIDE SPRAYING REPORT
DISTRICT 05**

DATE _____

Parish _____ Route No. _____ Control Section _____ % Complete _____
Location _____

Certified Applicator: _____ Type of Spraying: (check) _____ Weather: _____

License No. _____ Contact _____ Sunny _____
Others Worked: _____ Absorbed _____ Partly Cloudy _____
_____ Selective _____ Overcast _____
_____ Root Absorbed Plus Contact _____ Rain _____
_____ Temperature _____

Hours Worked: _____ Wind: _____ Soil Moisture: _____

Truck No. _____ Wind Speed _____ Wind Direction _____
Spray Equipment # _____ Shot 1 _____ Wet _____
Pressure _____ Shot 2 _____ Med. _____
GPA _____ Shot 3 _____ Dry _____
_____ Shot 4 _____

MATERIALS	EPA REGISTRATION NO.	RATE/ACRE	TOTAL USED AT END OF DAY
ARSENAL	242-346		
CAMPAIGN	534-351		
ESCORT	352-439		
FUSILADE DX	10182-367		
GARLON 3A	62719-37		
GARLON 4	62719-40		
HYVAR XL	352-346		
KRENITE S	352-395		
MSMA	19713-42		
OUST	352-401		
RODEO	524-445		
ROUNDUP PRO	524-475		
2,4-D AMINE (RUP)	9779-263		
DRIFT CONTROL			
SURFACTANT			
WATER			
ACRES SPRAYED			

Unusual Observations Along Route: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), amended LR 26:1658 (August 2000).

' 711. Wildflowers

A. General

1. Louisiana and the Department of Transportation and Development are embarking on a statewide plan for the planting and preservation of wildflowers along its rights-of-way. The Department of Transportation and Development and Louisiana Project Wildflower are working very closely evaluating equipment, planting methods and herbicide operations to produce maximum stands of wildflowers.

2. It shall be the policy of the department to encourage the growth, planting and preservation of wildflowers in order to provide a natural setting for the traveling public. Mowing and spraying operations shall be coordinated and timed to enhance the wildflower population and provide a naturally appealing roadside appearance.

B. Establishment of Wildflower Areas

1. One of the best methods of establishing wildflower areas is by observing and documenting native stands in order that they may be preserved for future generations. To this end, a form has been developed in order for the traveling public to report and document any sightings of wildflowers along the state's rights-of-way. These forms will be available in all District offices of the Department of Transportation and Development and Louisiana Project Wildflower will distribute these forms at all of their meetings.

2. Another method would be to stockpile topsoil which has wildflower seed present and transport this soil to desired locations. This method allows some seed to remain in place and allows the establishment of new stands in other locations.

3. Other means of collecting wildflower seed is by cutting the wildflowers with a sickle mower and gathering the cut flowers laden with seed. These cuttings can then be transported to another location and spread, thus establishing a new stand of wildflowers.

4. The method which is being practiced more frequently is by direct planting. Wildflower seeds are being commercially grown and although expensive, they are producing desired results with less effort than other means.

5. Commercial seed suppliers are able to supply individuals with a mix of several species of seeds or in lots of individual species of seed. Once a selection of types of seed has been determined, it is necessary to establish a planting rate based on the amount of Pure Live Seed (PLS). PLS is the amount of purity multiplied by the percent of germination. The PLS in a lot of seed can be obtained from the supplier. In

wildflower planting a rate of 36 to 45 seeds per square yard is normally adequate. Areas that are to be experienced by pedestrians should be planted at a rate possibly 1.5 greater than this. These rates are broad guidelines and should be adjusted to obtain the desired effect. A partial listing of commercial wildflower seed sources is contained herein for informational purposes.

6. Planting times will vary according to the conditions the seeds are being planted. Generally wildflower seeds are planted between late fall and spring, although some can be planted during the summer providing supplemental irrigations is available.

7. There is a certain amount of risk associated with planting the seed in late fall. Rain and warm temperatures could cause the seed to germinate prematurely and be killed by a freeze.

8. Site selection is one of the most important factors in establishing new stands of wildflowers. Be sure to establish the site conditions required to grow certain species. Some may require full sun, others partial shade, still others may require constantly moist soil and others well drained soil. Sites that are relatively weed free with existing stands of shorter grass works best. On sloping sites consideration should be given to seeding grass along with the wildflowers. In some cases, it may be necessary to use a fiber mat to hold the soil and seed in place until germination.

9. Wildflowers have a wide tolerance of soils and PH (Acid/Alkaline) conditions. Wildflowers do best in soils of low fertility. High nitrogen soils only encourage the growth of weeds thus causing competition for growth and slowing of the wildflowers. If a site is void of nutrients, it may be wise to consider the use of a low nitrogen fertilizer such as 5-10-10.

10. Soil preparation is not absolutely necessary since most wildflower seeds can be broadcast over undisturbed ground. If this method is followed, you can expect some delay in germination and some of the seed can be displaced by the elements or eaten by birds and rodents. The key element in planting wildflower seeds is to have good soil to seed contact.

11. One method of insuring soil, seed contact is by mowing the area to be planted as close as possible and remove grass clippings and weeds by raking the entire area. Then lightly till the site with a flail motor, roto tiller, harrow, discs or a weighted section of chain link fence pulled behind a tractor. It is important not to till the ground too deep since this will encourage the growth of any weed seed which may be present in the topsoil. A maximum depth of one-half inch is sufficient. In areas which have a strong weed population, it is necessary to treat the unwanted vegetation with a herbicide and removing the dead plants prior to disturbing the ground surface.

12. The size of the area to be seeded will determine the type of equipment best suited. On small areas hand sowing or a small mechanical device should be sufficient. In large areas mechanical seeders properly calibrated should produce desired results more efficiently and effectively. When planting fine seed, it may be necessary to mix an inert carrier with the seed to obtain better distribution. Recommended inert carriers are sand or vermiculite. The recommended ratio for these carriers is 2:1 sand to seed.

13. Once the seed has been planted, it must be covered to maximum depth of 1/8 to 1/4 of an inch. This can be accomplished by lightly raking the seed in with a hand rake for small areas, or by using a drag mat behind a tractor for larger areas. If a drill seeder is used, firm the soil after drilling with a cultipacker to insure proper seed/soil contact.

14. Wildflower seeds need moisture for germination and growth. Supplemental watering may be necessary if there is not adequate rainfall. As the planting becomes established, watering may be reduced. While it is important for the wildflowers to

receive water it is equally important to provide adequate drainage for certain species. Germination will vary from species to species and from seed to seed within the same species. Time periods for germination will also vary from as little as several days to as slow as several years.

15. Once the wildflowers have finished blooming and set seed, the entire area should be mowed. Mowing the area will help to scatter the seed for the following years= growth. Wildflower areas should be mowed to a height of 4-6 inches and should be accomplished in October and November. Waiting longer than this to mow generally results in very wet conditions which could cause more harm than good when attempting to mow.

16. If a strong weed or invasive grass population has established itself in the wildflower areas, it may be necessary to treat with a contact herbicide or translocated herbicide to kill the root system in order to give an advantage to the following years stand of wildflowers.

C. Louisiana DOTD Wildflower Inventory

LOUISIANA DOTD WILDFLOWER INVENTORY

DOTD DISTRICT:		* CONTROL SECTION:	
PARISH:		HWY. ROUTE NO.:	
MILEPOST FROM:	TO:	ACRES:	
PLANTED:		DATE PLANTED:	
NATURAL:		DATE REPORTED:	
FLOWER TYPES (COMMON AND SCIENTIFIC)			
LOCATION DESCRIPTION (USE ANY LANDMARKS AND INCLUDE WHICH SIDE OF THE HIGHWAY HAS THE WILDFLOWERS)			
SKETCH AVAILABLE (YES/NO):			
SPONSOR		REPORTED BY	
NAME:		NAME:	
ADDRESS:		ADDRESS:	
CITY, ZIP:		CITY, ZIP:	
PHONE:		PHONE:	

* INFORMATION MAY BE OBTAINED FROM RESPECTIVE DISTRICT OFFICES

PLEASE RETURN COMPLETE FORMS TO: DOTD MAINT. ENGINEERING ADMINISTRATOR
 LA. DEPT. OF TRANSPORTATION & DEVELOPMENT
 P.O. BOX 94245
 BATON ROUGE, LA. 70804-9245

M15-I

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), LR 26:1661 (August 2000).

§713. Landscaping

A. General

1. Highway landscape design should begin with an analysis and the inventory of the landscape features in order to identify, evaluate and locate the features to be conserved, further developed and/or incorporated in the highway corridor.

2. Careful and proper landscaping of the right-of-way should result in the conservation, enhancement and effective display of the urban and rural countryside through which the highway passes. A properly landscaped highway will conserve the historical features and natural landscape assets while improving the aesthetic and functional quality of the highway.

3. There are two general classes of vegetation along highways: turf, such as grasses and legumes, and taller growing types consisting primarily of woody plants which are shrubs and trees. This section is devoted to the planning and design of the taller growing plants as seen against the foundation of turf. Woody plants create a three-dimensional effect in the landscape and require special design considerations. Natural growth that exists may provide part or all of the desired planting effects in rural areas. Where possible, the retention of desirable natural existing growth is extremely important and requires consideration early in design. Planting is important along highways on new location and many times it may be more important along reconstructed highways on existing location because of restricted right-of-way and adjacent development.

4. The motorist should be able to view complete vistas and changing scenes in scale with the travel speed. Widely spaced plantings of individual trees or shrubs create a spotty and disturbing effect. Massed plantings are the form and texture of the landscape viewed at highway speeds. Tree plantings should be set back from the traveled lanes, not only for safety but also to insure spatial continuity and the strong visual effect of a wide turf area between pavement and plantings. Generous sight distance must be maintained at all times. The plants used must be capable of growing relatively well with minimum maintenance to serve their purpose under the highway conditions they may encounter.

5. Design and choice of plant materials vary considerably from region to region. Rural locations may only require supplementing existing growth with small sized new plants and planting for special functions while the urban and suburban highway may require extensive plantings with larger sized plants.

6. Planting designs should be created in accordance with the requirements of the highway and serve a justifiable purpose. They should be planned objectively on a broad scale before consideration is given to the actual selection of plants to be used. Their composition should be pleasing and coordinated with the total highway environment with safety being the most important consideration.

7. Planting plans should be clear, concise, easily understood and presented on drawings separate from the highway construction plans. The plans should indicate type of adjacent land use, topographic features, such as slope

limits and utility installations in addition to the location of plants and their area of occupancy at maturity. A plant list should also be included in the plans. This will provide information concerning the species, size, condition, fertilizing requirements and other pertinent general notes which may apply. The latest and best planting techniques should be used along with top quality plants. Specifications for nursery stock, planting and other types of landscape construction should be clear, concise and describe the quality of work desired.

B. Functions of Highway Planting Design

1. In design form follows function. Some functions of highway planting design are as follows.

a. Planting for Highway Safety

i. Screening Headlight Glare. Plantings can be very effective in screening headlight glare from oncoming vehicles. Blinding vision due to headlight glare can be a cause of accidents. In addition to curved median areas, headlight glare can also be a problem between interchange loops and from frontage roads, service roads and parking areas. Shrub plantings may help prevent head-on collisions in these conditions.

ii. Delineation. Plants may be used to delineate changes in highway alignment. Headlight glare reduction plantings may serve a dual purpose in this regard. Shrubs or trees on the outside of curves may aid in directing a motorist, particularly in fog or rain storms and during night driving. Plants may also be used to aid a motorist in seeing directional signs by framing or forming a background.

iii. Psychological Design Considerations. Existing and new plantings may help to alleviate driver fatigue brought about by long stretches of riding surface that call for no change of eye focus which may even lull the driver to sleep. Emphasis may be given to directional changes by delineation plantings which aid in a driver's decision by making it easier to discern the outline of a curved roadway. These plantings may be in the median or on the outside of curves. This may be of particular importance at night when the plants are illuminated by headlights. Plantings placed beyond the junction of a **AT** intersection may aid in informing a motorist of a change in direction. High headed trees may be placed within an interchange to make it conspicuous in the landscape for approaching roadways. The steepness of a cut slope may be accentuated by using vertical plant forms, or minimized by using horizontal plant forms and patterns.

iv. No vegetation shall be planted that will hide or obscure visibility of any official highway sign.

b. Planting for Environmental Mitigation

i. Traffic Noise. Traffic noise is a serious environmental problem to people living adjacent to major highways carrying large volumes of traffic. Plants absorb and scatter sound waves to a small degree. The effectiveness of plants as noise barriers is very limited because of the considerable width, height and density required. The principle noise reduction effect of plantings is psychological. When it is possible or feasible to use barriers or other actual means of attenuation, plantings may reduce human annoyance and awareness of the problem by screening the noise source from view. Evergreens are best suited for this purpose; however, they may be used in combination with dense deciduous plants. Planting should be an integral part

of noise barrier design due to their length and height. Plants can visually soften their effect and reduce the perceived massiveness of the barriers. In addition to trees and shrubs, vines are very effective for this purpose.

ii. **Wildlife Habitat.** Roadside plantings can provide food in the form of berries, browse and forage. Nesting cover is also provided for birds and other mammals. Preservation of existing trees and shrubs is important and the regeneration of native growth can be hastened by the establishment of mowing limits.

iii. **Revegetation.** Where climatic and soil conditions permit, all exposed soil surfaces should be revegetated. This may be in the form of turf, herbaceous or woody vegetation. Through the establishment of mowing limits, regeneration of native growth from adjacent seed sources will be encouraged and a natural blending with surrounding areas will occur. This form of naturalization may be hastened and supplemented by the planting of young trees and shrubs and proper maintenance activities. When reconstruction of a highway occurs, tree and shrub restoration should be included in the landscape plans to serve plant functions wherever this is feasible. This is important where existing roadside buffers must be destroyed for roadway construction.

c. **Planting for Aesthetics**

i. **Visual Quality.** Planting is one of the several methods used to improve visual quality in transportation facilities. Through the application of landscape design principles, the functional and aesthetic can blend to produce safe and pleasant highways. The highway should reflect the character of attractive communities. Trees and shrubs can provide a green buffer between the traveled way and adjacent development. Plants of larger size may be necessary in urban areas to give an immediate effect. The selection of suitable species is important in urban areas and should be based on experience in similar areas. Street tree plantings can significantly improve the visual quality of communities. Flowering trees and shrubs and wildflowers enhance the highway environment and offer pleasant and changing scenes for the motorist and adjacent property owners.

ii. **Screening Undesirable Views and Objects.** Screening undesirable views seen from and toward the highway can be performed with plants, earth berms, fences and combinations thereof. Space permitting, plantings offer a variety of forms and combinations which can be arranged to obtain the desired results. Although effective screening with plants may take several years to achieve, this should not deter or discourage the use of this method. Sight lines from and toward the highway, of the object to be screened, should be studied and a determination of the type of screening to be used should be made. Where a year-round effect is desired, evergreen plants should dominate and deciduous should be added for seasonal and textural interest. Whenever possible, consideration should be given to the removal of the objectionable object.

d. **Setback Distances for Trees**

i. These guidelines may be applied to new plantings of trees whose trunk diameter at maturity will be four inches or greater. Setback distances or vehicle recovery areas are related to type of slope, slope ratio, traffic volumes and design speed of the highway. The setback is from the traveled way, which is the portion of the roadway for the

movement of vehicles, exclusive of shoulders and auxiliary lanes. Minimum horizontal and vertical clearance setbacks for all roads will be governed by the Louisiana Department of Transportation Design Standards.

ii. Given distances will not always be practical. Variations in site-specific conditions need to be considered and may warrant special treatment. Existing historic, aesthetic or environmentally important trees may be retained within the recovery area if they are protected or are not in a target position, such as the outside of horizontal curves. Shrubs and ground cover may be planted within the recovery area for safety and aesthetic purposes.

iii. The above guidelines should be used unless one of the following reasons will allow for a lesser distance or require a greater distance: For central business districts and local streets with barrier curbs, a minimum distance of 1.5 feet should be provided beyond the face of the curb to the anticipated outside diameter of the tree trunk when mature. On urban arterials and collectors with similar curbs and usually higher speeds, the offset distances should be increased.

iv. Where limited right-of-way or the necessity for planting would result in less clearance, all factors in the area should be weighted to decide if a special exception is warranted. Special exceptions or conditions may include:

(a). Where exceptional or unique trees because of size, species or historic value exist.

(b). On designated scenic roads or low-speed roads, as well as low-speed urban roads.

(c). Where the absence or removal of trees would adversely affect rare/endangered/threatened species (plant or animal), wetlands, water quality or result in serious erosion/sedimentation effects.

(d). Locations where the cumulative loss of trees would result in a significant adverse change in character of the roadside landscape.

(e). Landscape, park, recreation, horticultural, residential or similar areas where trees and other forms of vegetation provide significant functional and/or aesthetic value.

v. Trees should not be placed or remain where they are particularly vulnerable to vehicle contact or where significant incidences of run-off road accidents occur.

C. **Criteria for Landscaping Interstate and Major Primary Routes**

1. The clear distance from the edge of the traveled way to the face of the tree line shall be a minimum of 50 feet on the mainline and 30 feet for ramps. The setback is measured from the traveled way, which is the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes. These distances apply to trees with trunk diameter of four inches or greater at maturity.

2. Trees may be planted or remain within the 50 foot clear distance or the 30 foot clear ramp area when they are protected by guardrail on nontraversable backslopes or other protected areas. Setback distances behind guardrails are as follows:.

a. The minimum distance behind guardrail depends on the deflection of the guardrail as described in the AASHTO reference cited. Examples of this setback distance are 11 feet for cable guardrail, 3 feet for W-Beam guardrail and no distance for concrete barriers.

b. Although there is no minimum distance behind rigid barriers, consideration should be given to tree branching and maintenance in determining setbacks.

3. The clear distance from the edge of the travel lane to the shrubbery line shall be determined by Sheet 1 of 4 of the Design Standards.

4. Exit gore areas shall be free for a distance of 350 feet of trees and shrubbery which will attain a height greater than 2.5 feet. Shrubby which will not attain a height of 2.5 feet will be permitted in the gore area. In rural areas, exit gores shall be free of trees for a distance of 600 feet along the mainline and 500 feet along the ramp.

5. Entrance ramps shall require a minimum of 350 feet along the ramp (sight triangle to the main roadway) free of trees and shrubbery. In the case of loop ramps, a point 350 feet from the gore area, intersecting the main travel lane and extended to the nose of the off ramp preceding the loop or 600 feet (whichever is longer) shall be clear of trees and shrubbery, with the exception of shrubs which will not attain a height greater than 2.5 feet. In the case of large rural diamond interchanges, there will be no planting over 2.5 feet in height along a line of sight from a point 500 feet from the gore area intersecting the mainline and a point 600 feet along the mainline from the gore area.

6. The clear distance from the edge of ramps to the shrubbery line shall be a minimum distance of 15 feet.

7. The clear distance from the edge of entrance and exit ramps to the tree line shall be a minimum of 50 feet. No trees will be permitted within 50 feet of the inside and outside edge of a loop ramp. Shrubby may be planted in front of any group of trees planted outside the 50 foot line. Shrubby planted within the 30 foot line on the inside of loop ramps shall not attain a height greater than 2.5 feet in order to provide adequate stopping sight distance around the loop.

8. Ramp terminals at the cross roads shall have an unobstructed view of the crossroad for a minimum of 150 feet in all directions. The view back beyond the structure from the exit ramp intersection with the cross road shall be kept unobstructed within the limits set by the columns or embankment.

9. No trees shall be planted within utility rights-of-way or in areas which may interfere with power lines once the trees mature.

10. Refer to the figures below for graphic illustrations of these criteria.

11. Design Guidelines may be loosened so as to permit maintenance - intensive designs which might not otherwise be permitted on the state highway system. Examples might include fountains, statuary and/or planting schemes which require a high level of consistent maintenance in order to assure success.

D. Criteria for Landscaping Arterial Roads, Collector Roads, Local Roads and Streets

1. The normal set-back distance for trees (See Design Standards for Urban UA-1, UA-2) whose trunk diameter at maturity will exceed four inches shall not be closer than 40 feet from the travel edge of the roadway except under special conditions.

a. On the high or cut side of the roadway not in the likely path of an uncontrolled vehicle.

b. On the low or fill side if protected by a guardrail or not likely to be hazardous to an out-of-control vehicle.

c. If important historically or aesthetically and, protected by a guardrail.

d. On routes in cities and towns with speed limits 35 MPH or less, a minimum of 10 feet behind a barrier curb to the face of the tree. Trees of this size will only be allowed in medians which are 30 feet or greater in width and protected by a barrier curb.

2. Small trees, with trunks normally less than four inches, such as crape myrtle, wax myrtle, etc., will be allowed in medians, on routes with speed limits up to 45 MPH, under the following conditions:

a. Minimum setback determined by design standards behind a barrier curb. Not more than 4 feet of the tree spread will be allowed to overhang the roadway.

b. A minimum setback of 30 feet beyond the edge of the travel way, for uncurbed roadways and medians, providing they do not interfere with the drainage pattern.

3. The clear distance from the right edge of the travel way to the shrubbery line shall be a minimum of 25 feet. When protected by a barrier curb, the minimum will be determined by Design Standards.

4. On curves, adequate sight distance for the design speed of the highway must be maintained, in accordance with Design Standards.

5. For safety reasons, control of landscaping at intersections is critical. Sight triangles at intersections are determined by the design speeds of the intersecting roadways. Any object within the sight triangle high enough above the elevation of the adjacent roadways to constitute a sight obstruction will not be allowed. No trees shall be planted in sight triangles. Shrubby and ground cover will be allowed in the sight triangle providing their height does not exceed 2.5 feet above the roadway surface. Minimum sight distance requirements for intersections are illustrated in ASight Distance Requirements at Typical Intersection.@

6. Refer to the figures below for illustrations of these criteria.

7. Design Guidelines may be loosened so as to permit maintenance-intensive designs which might not otherwise be permitted on system. Examples might include fountains, statuary, art and/or planting schemes which would require a high level of consistent maintenance in order to assure success.

8. A plant list outlining various species that have been used for highway planting is included in this manual (See '713.E). This should not be the only plant material considered for highway landscaping.

9. The Landscape Unit of DOTD will provide technical assistance, standard plans and suggestions for construction methods along highway rights-of-way to local governing bodies. The local governing body should address the request to the Secretary of the Department of Transportation and Development in order to obtain assistance. Upon completion of the planning and design phase of a project, the governing body which requested the project will obtain a permit from the Departments Permit Unit. This permit will stipulate that the governing body will construct and maintain the project at no cost to the Department of Transportation and Development.

E. Planting List

1. The following is a listing of plants which have been used on landscaping projects with success. This list is only intended as a guide and is not considered to be all inclusive.

a. Shrubs and Ground Covers (30" maximum height)

- i. Liriope (Liriope Muscari or Liriope Spicata)
- ii. Monkey Grass (Ophiopogon Japonicum)
- iii. Asian Jasmine (Trachelosperum Asiaticum)
- iv. Daylily (Hemerocalis Spp.)
- v. Indian Hawthorne (Raphiolepis Indica)
- vi. Blue Rug Juniper (Juniperus Horizontalis)

Wiltonii)

- vii. Blue Pacific Juniper (Juniperus Conferta)

Blue Pacific)

- viii. Parson's Juniper (Juniperus Parsoni)

b. Small Shrubs (4' maximum height)

- i. Dwarf Yaupon (Ilex Vomitoria Nana)
- ii. Dwarf Chinese Holly (Ilex Cornuta Rotunda)
- iii. Indian Hawthorne (Peggy and Clara)

(Raphiolepis Indica)

iv. Compacta Juniper (Juniperus Chinensis Pfitzeriana Compacta)

v. Dwarf Oleander (Petite Pink or Petite Salmon)

(Nerium Oleander)*

- vi. Fountain Grass (Pennisetum Setaceum)

- vii. Maiden Grass (Miscanthus Sinensis)

*These plants should be used in only the southern most areas of the state due to their susceptibility to freezing.

c. Large Shrubs

- i. Pampas Grass (Cortaderia Argentea)
- ii. Eleagnus (Eleagnus Angustifolia)
- iii. *Pittosporum (Pittosporum Tobira)
- iv. *Oleander (Nerium Oleander)
- v. Spiraea (Spiraea Reevesiana)
- vi. *Primrose Jasmine (Jasminum Primulinum)
- vii. Ligustrum (Ligustrum Japonica)
- viii. *VIBURNUM (Viburnum Odoratissimum)
- ix. Photinia (Photinia Fraseri)
- x. Pineapple Guava (Feijoa Sellowiana)
- xi. *Sago Palm (Cycas Revoluta)

*These plants should be used only in the southern half of the state due to their susceptibility to freezing.

a. Small Trees (25' maximum height.)

i. Crape Myrtle (Lagerstroemia Indica or Lagerstroemia Indica x Fauriel)

ii. Wax Myrtle (Myrica Cerifera)

iii. Leggy Yaupon (Ilex Vomitoria)

iv. Tree Hollies (MANY VARIETIES) (Ilex)

v. Leggy Ligustrum (Ligustrum Japonica)

vi. Leggy Photinia (Photinia Fraseri)

vii. Leggy Pineapple Guava (Feijoa Sellowiana)

viii. *Leggy Viburnum (Viburnum Odoratissimum)

ix. **Crab Apple (Malus Spp.)

x. *Vitex (Vitex Agnus Castus)

xi. Japanese Magnolia (Magnolia Soulangeana)

xii. Purple Plum (Prunus Cerasifera)

xiii. *Windmill Palm (Trachycarpus Fortunei)

xiv. *Palms (Many Varieties)

*These plants should be used only in the southern portions of the state due to their susceptibility to freezing.

**These plants should be used only in the northern portions of the state.

e. Medium Trees

i. Drake's Elm (Ulmus Parvifolia Sempervirens Drake)

ii. Pistachio (Pistachia Chinensis)

iii. Bradford Pear (Pyrus Calleryana Bradford)

iv. *Golden Rain Tree (Koelreuteria Bipinnata)

v. *Cabbage Palm (Sabal Palmetto)

vi. *Palms (Many Varieties)

* These plants should be used only in the southern portions of the state due to their susceptibility to freezing.

f. Large Trees

i. Live Oak (Quercus Virginiana)

ii. Sawtooth Oak (Quercus Acutissima)

iii. Water Oak (Quercus Nigra)

iv. Shumard Oak (Quercus Shumardii)

v. Red Maple (Acer Rubrum Drummondii)

vi. Silver Maple (Acer Saccharinum)

vii. Tulip Poplar (Liriodendron Tulipifera)

viii. American Elm (Ulmus American)

ix. Cedar Elm (Ulmus Crassifolia)

x. Winged Elm (Ulmus Alata)

xi. Sweet Gum (Liquidambar Styraciflua)

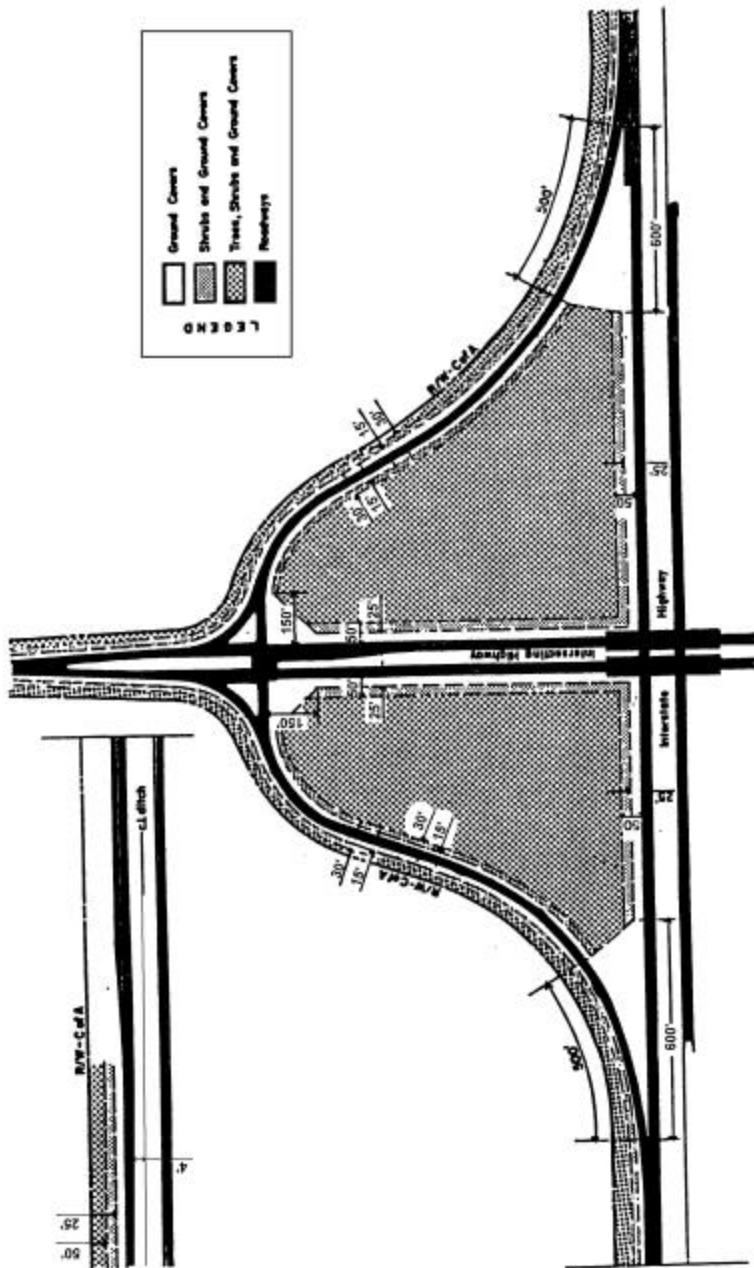
xii. Cypress (Taxodium Distichum)

xiii. Southern Magnolia (Magnolia Grandiflora)

xiv. Weeping Willow (Salix Babylonica)

xv. Pines (MOST VARIETIES) (Pinus)

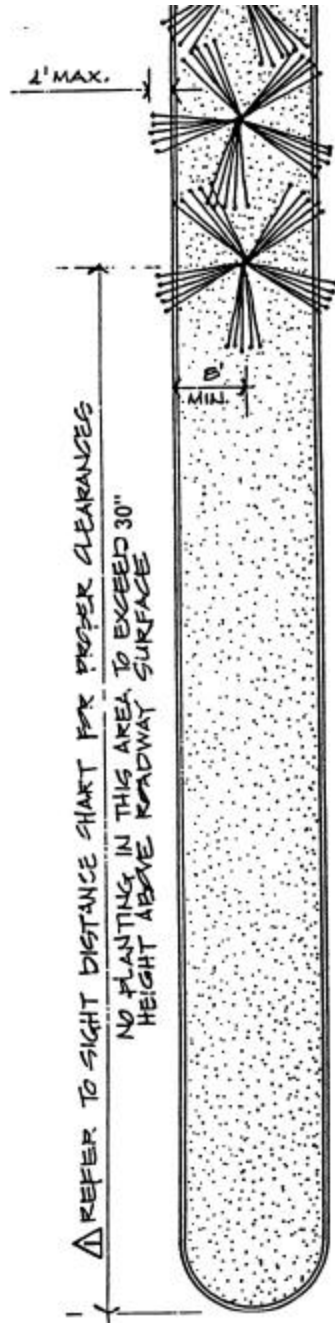
F. Typical Urban Cloverleaf



TYPICAL RURAL INTERCHANGE

- I. Median Planting for Barrier Curbed Roadways
- J. Minimum Setbacks for Highway Plantings without

Barrier Curbs



NOTE:

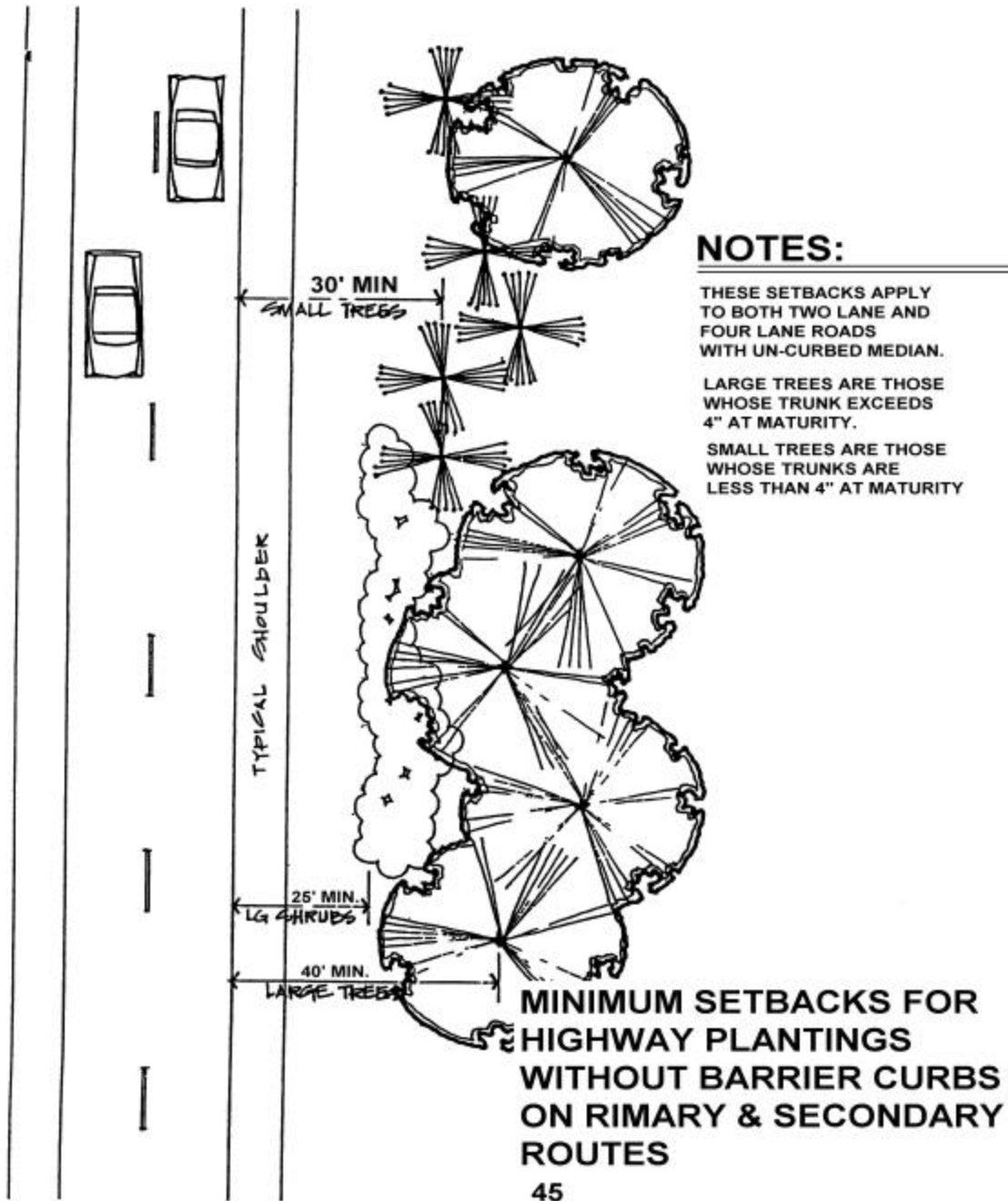
MATURE SPREAD OF TREE CANOPY SHOULD NOT OVERHANG ROADWAY BY MORE THAN 4 FEET AND NOT INTERFERE WITH TRAFFIC.

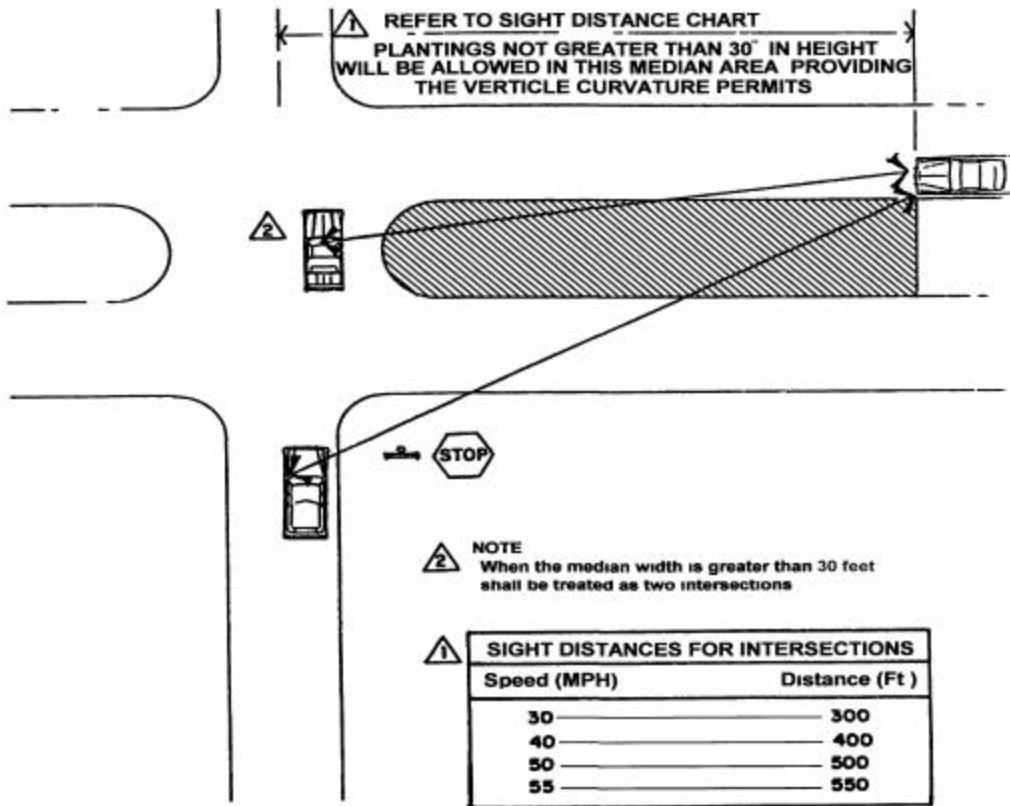
LARGE TREES SHOULD NOT BE PLANTED IN MEDIANS LESS THAN 40' WIDE WITHOUT CURBS. IN MEDIANS OF LESS THAN 40' WIDTH, EXAMPLES OF ACCEPTABLE TREES ARE GRAPE MYRTLE, WAX MYRTLE, CRAB APPLE, LEGGY LIGNSTRUM, ETC. ALONG WITH ALL SHRUBS.

MEDIAN PLANTING FOR BARRIER CURBED ROADWAYS - PRIMARY & SECONDARY ROUTES

△ Revised: 3/22/91

△ Revised: 10/30/98





Source - Transportation Engineers Handbook, 1982
 Edition (Table 19-8)

**SIGHT DISTANCE REQUIREMENTS
 AT TYPICAL INTERSECTION
 DIVIDED HIGHWAY**

3 REVISED 10/30/98

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development LR 17:204 (February 1991), amended LR 26:1670 (August 2000).

§715. Guidelines for Vegetation Visibility Permits

A. General. The Department of Transportation and Development recognizes that the presence of vegetation on highway rights-of-way has a positive value for Louisiana. Trees benefit the state by mitigating the impact of the highway system, increasing soil stabilization, providing wildlife habitat, and moderating microclimate extremes. The Department of Transportation and Development endorses the preservation of existing vegetation along transportation corridors. It may become necessary to remove vegetation when maintenance and safety concerns warrant such action. The Department of Transportation and Development may consider trimming and removal of vegetation that visually impacts legally permitted outdoor advertising displays and adjacent businesses. However, not every permit request will be granted. Factors such as adjacent land use, visual screening of & from the roadway, tree species types & conditions, and public opinion will be considered before a final determination is made. All permits granted for vegetation removal will require mitigation in the form of replacement plantings. Maintenance of these planting areas will become the responsibility of the permittee. Permits will only be issued between October 15 and April 15 to promote optimum survival of replacement vegetation.

B. Procedure. Requests for off-premise or on-premise advertising displays will be made using application for Project Permit Form Nos. DOTD 03-41-3035 or DOTD 03-41-0593, copies of which will be maintained in each district office. The application for a permit shall include the following:

1. State or Federal Highway Number;
2. Location or distance from nearest state highway intersection to the proposed sign location.
3. Number, name of species, approximate diameter and height of existing trees which are projected for removal.
4. Where trees are in groups, the diameters and heights may be shown for each group as a whole; i.e., 10 oaks and pines 8" to 12" diameter, 30' to 50' high.
5. Approximate number and names of shrubs and vines or, if the number cannot be estimated, the distance and location along the highway from point-to-point must be shown.
6. Kind of work to be done (trimming, removal and replacement (replacement will be required in all instances where removal of vegetation is requested). No topping of trees will be allowed.
7. 8" x 10" color photographs taken from required locations (see Diagrams 1 and 2) clearly marked to show limits of work.
 - a. As part of his review, the traffic operations engineer will verify the location of the display and will forward the request to the Headquarters Permits Unit with information about the display's legal status. Legal status will include available and pertinent information that should be considered, including but not limited to the following:
 - i. Is this display under active citation?
 - ii. Is this display subject to imminent removal?

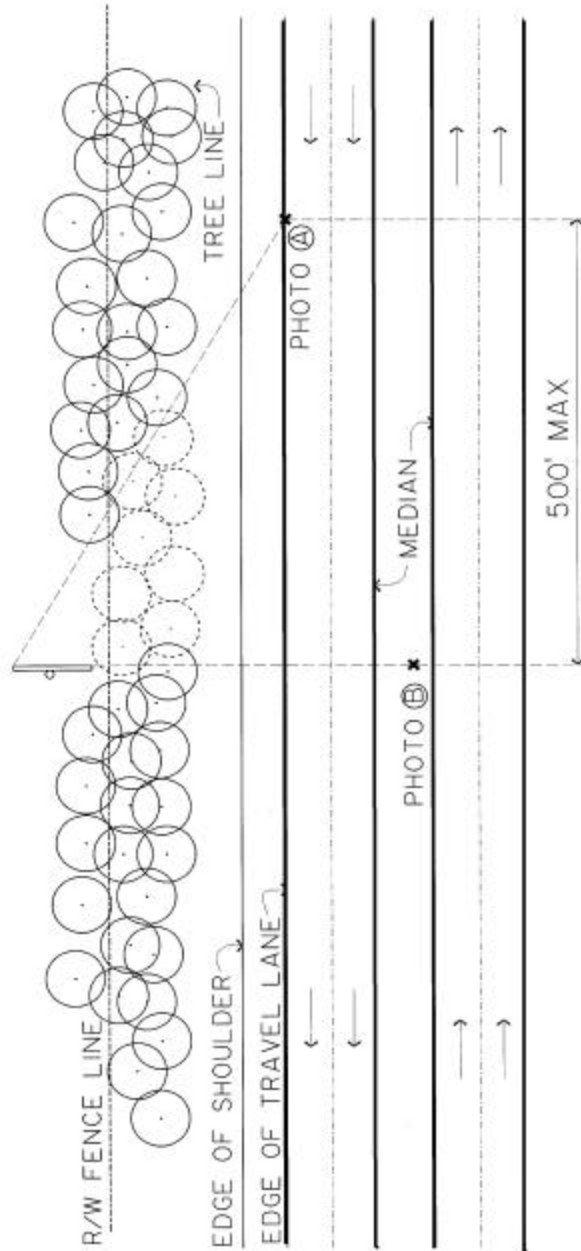
- iii. Is this display illegally placed?
- iv. Is this display nonconforming to state beautification criteria?
 - b. Where replacement of trees is required, a plan (designed by a licensed Landscape Architect, at no cost to the Department) will be submitted to the Department for review, comments and/or approval.
 - c. Trimming and removal of trees must be performed by a bonafide bonded tree care service at no cost to the Department. A licensed landscape contractor shall perform replacement to trees at no cost to the Department. The permit shall contain a warranty clause wherein the permittee agrees to replace any trimmed or replacement tree or vegetation not living or seriously damaged one year after work is completed.
 - d. Visibility improvement will not be undertaken in any of the following instances.
 - i. The display has been in place less than five calendar years.
 - ii. The display is illegally placed.
 - iii. The display is currently under contract with the state to be removed or it will be removed within one year.
 - iv. The display is on state property.
 - v. A right-of-way taking is imminent (within one year.)
 - vi. The trees or other vegetation to be trimmed, selectively removed, or removed and replaced are a distance greater than 500 feet, measured along the highway from the display.
 - e. Access to the work area shall be from private property or frontage road side and not from the main roadway or ramps. Where this is not practical the permittee shall conduct his operation in accordance with DOTD Maintenance Standards, including appropriate traffic control devices. The area shall be restored to original condition upon completion of the work.
 - f. Drainage shall not be impeded.
 - g. Work will be performed only during regular daylight hours, during which the Department of Transportation is open, Monday through Friday excluding legal holidays.
 - h. Vegetation which has been cut will not be left overnight within 30 feet of the travel lane or within highway right-of-way, whichever is less. No more vegetation will be cut down than can be cleaned up and removed by the end of work the following day. No debris will be left over a weekend or holiday. No burning will be permitted on the highway right-of-way. Stumps shall be cut or ground flush with the ground and treated with an EPA-approved herbicide immediately after the stump is cut.
 - i. Work shall not interfere with traffic on the roadway or shoulder at anytime. Parking of vehicles on roadway or shoulder shall not be permitted. All loading, hauling or other work associated with the permit will be conducted across adjacent property. Appropriate warning signs shall be placed by the permittee in advance of the work area in accordance with the current edition of Part VI of the Manual on Uniform Traffic Control Devices (MUTCD) Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility and Incidental Maintenance Operations.

j. The vegetation control area will not extend more than 500 feet along the highway from the viewable face(s) of the advertising device and cleared to and along the line of sight.

k. Where operations are conducted in an unsatisfactory manner or for any other cause, the Department may revoke the permit and any future permitting will be withheld until the unsatisfactory condition has been corrected.

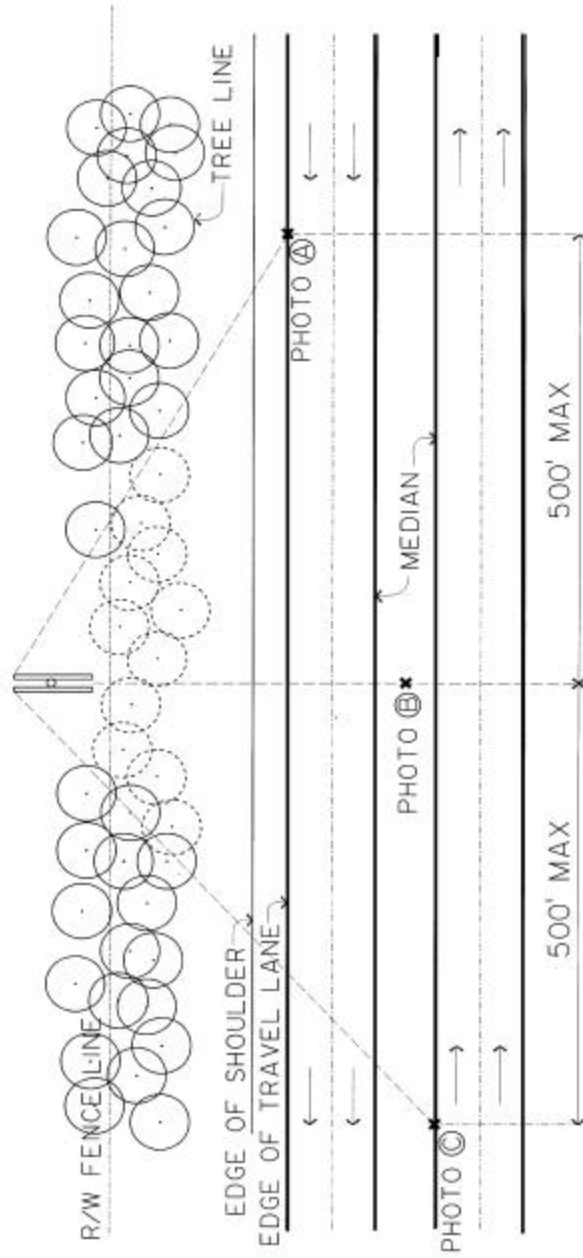
C. Single Face Sign

DIAGRAM I
SINGLE FACE SIGN



D. Double Face Sign

DIAGRAM 2
DOUBLE FACE SIGN



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204 (February 1991), LR 26:1674 (August 2000).

§717. General Policy Governing the Treatment of Existing Significant Trees within the Highway Right-of-Way, Zone of Construction or Operational Influence

A. Philosophy. The department's mission is to design and build highways and transportation facilities for the movement of people and goods, and also incorporate and accommodate cultural and community values. While emphasizing the importance of safe and efficient transportation systems, the value of transportation to a society is relative to all other things valued by a society. The same public that demands better and safer roads with increased capacity may also seek to prevent implementation of a demanded highway improvement, when such implementation necessitates the removal of a cherished tree or trees. The Department must find design solutions and operational options that give full consideration to these values, which are often in conflict with traditional transportation design objectives.

B. Legislation. Legal basis and mandate for the above philosophy exist at both the federal and the state level. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and the National Highway System Designation (NHS) Act of 1995 both make strong commitments to preserving and protecting the environmental and cultural values affected by transportation facilities. In Louisiana, R.S. 48:267, R.S. 48:268, and R.S. 48:269 address the preservation and encouragement of trees, shrubbery, and vegetation, the tampering with trees and shrubs, and general authority for aesthetics in roadside development.

C. Definition. For the purposes of this policy, a tree is significant if it is 18 inches or greater in diameter, or is judged to be viable and aesthetically important by the Department's Landscape Architect, or if it is considered significant by one or more members of the local community. (R.S. 3:4271 requires that any tree "ten inches in diameter breast height or greater" cut down on public land or rights-of-way be replaced by at least two trees, provided adequate space is available. This policy is intended to accord a higher degree of awareness to the disposition of trees with specific significance to the community).

D. Design Considerations. Trees are an important aspect of community identity. If communities consider existing trees a valuable resource, alternatives to complete eradication should be pursued. These alternatives may include installation of traffic barriers, lowering of the design speed, or even complete redesign of the facility to incorporate the trees. In most cases, a design solution can be found; but, the design team must recognize that individual situations will require individual solutions and individual approaches to design. The proximity of trees to the likely paths of errant drivers is a serious consideration to be made by designers knowledgeable in safety issues. However, a decision to create a clear zone that requires the removal of existing trees is an issue that should be presented to the public and addressed by the multidisciplinary team very early in the design process. The Department's Landscape Architect and Environmental Engineer should be consulted

when designs or operations pose potential conflict with significant trees. The fundamental principles to guide the designer, in order of preference, are:

1. All reasonable measures should be considered to avoid conflicts with trees of local value and significance. Such measures are not limited to choices in alignment or cross-section features. Selective routing of a storm sewer trunkline may avoid damaging or removing a significant tree, even if it requires additional right-of-way or servitude. Placement of a pipe or a utility may be accomplished by boring, as opposed to trenching, to avoid damage to root systems.

2. When complete avoidance is not possible, all reasonable measures should be taken to limit the magnitude and extent of the disturbance to the affected trees. The Department's Landscape Architect should be consulted in developing appropriate limitation measures.

3. Plans should include measures to mitigate any necessary impacts to existing significant trees. These may include compensation to the landowner, replacement of the tree, or enhancement at another valued location. Decisions regarding appropriate mitigation must be made in cooperation with the affected local community or landowner. The mitigation plan must meet the requirements of R.S. 3:4271, which requires the planting of at least two replacement trees for each tree greater than ten inches in diameter removed (provided that appropriate space is available). (References to guide in preliminary design concepts and in specific design solutions include: Flexibility in Highway Design, U.S. Department of Transportation, Federal Highway Administration Publication No. FHWA-PD-97-062, and A Guide for Transportation Landscape and Environmental Design, American Association of State Highway and Transportation Officials, Publication No. ISBN 1-56051-009-0.)

E. The decision to remove a significant tree should be reached only after all reasonable efforts to preserve it have been exhausted. The decision requires the concurrence of the Chief Engineer to confirm that there are no acceptable design or operational alternatives. In most cases, it is expected that a decision to remove will have been made in a climate of public involvement and dialog with members of the affected community. In no case will a decision to remove a significant tree be implemented without notifying the affected community of the Department's intentions and its reasons.

F. Trees determined by the design team to be significant and the appropriate disposition (preservation, specified limited impact, or any special treatment) will be identified in the plans. The Project Engineer will assure that the contractor's operations are sensitive to the treatment required by the plans. Construction considerations may include temporary fencing to protect from construction equipment, avoidance of root zones, care of overhanging branches, etc.

G. The same clear zone for which the project was designed and constructed should be maintained free of new growth. The decision to maintain or remove trees within the right-of-way of an existing system will be governed by the design standards applicable to the original design and construction. Installation of protective measures, such as barrier rail, may be considered. Trees should be trimmed to provide appropriate vertical clearance. The Department's

Landscape Architect should be consulted prior to cutting or pruning of any significant trees. All maintenance operations should be conducted with the same care as exercised in construction to avoid damage to existing significant trees.

H. Where existing trees or vegetation obscure displays which were lawfully in place prior to the existence of the trees or vegetation, or where displays are erected by permit after existence of trees and/or other vegetation, removal and replacement will be considered as warranted by local conditions and in accordance with this rule.

I. It is the policy of the Department of Transportation and Development to retrofit new design standards to existing systems only as part of a general upgrade or reconstruction. Otherwise, the standards under which the system was originally built will continue to govern its operation and maintenance. Removal of significant trees from an existing system should not be undertaken simply to accommodate evolving standards, but will require the same degree of consideration and local involvement discussed herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:204(February, 1991), LR 26:1675 (August 2000).

Kam K. Movassaghi, P.E., Ph.D.
Secretary

0008#095

RULE

**Department of Treasury
State Bond Commission**

Electronic Bidding

Bids for general obligation bonds of the state may be received by the state bond commission through sealed bids, electronic bids or facsimile bids as provided herein. Bids received electronically must be submitted via a qualified electronic bid provider, as determined by the State Treasurer, and as set forth in the Notice of Sale for the bonds. Bidders submitting a bid electronically must provide a signed official bid form to the state bond commission not later than 4 p.m. (Baton Rouge time) on the day prior to the opening of bids. In the event that there is a malfunction in the electronic bidding system, bids may be submitted by facsimile as set forth in the Notice of Sale for the bonds, provided that the

facsimile bids are received within the time limits set forth in the Notice of Sale. Delivery of a bid is at the risk of the bidder.

John Neely Kennedy
State Treasurer

0008#015

RULE

**Department of Treasury
State Bond Commission**

Surety Bond Deposit

Bidders for general obligation bonds of the state must furnish a good faith deposit in the amount of two percent of the par value of the bonds (the deposit) offered for sale in the form of a certified check or cashier's check or by surety bond. If a check is used, it must accompany each sealed bid. For an electronic bid or a facsimile bid as authorized by the Electronic Bidding Rule, the check must be provided in advance of the submission of the bid. Such check must be drawn on a bank or trust company authorized to transact business in the state of Louisiana or in the state of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the state of Louisiana. Any surety bond must be from an insurance company licensed to issue such a bond in the state of Louisiana and such bond must be submitted to the state bond commission prior to the opening of the bids. The surety bond must identify each bidder whose deposit is guaranteed by such surety bond. If the bonds are awarded to a bidder utilizing a surety bond, then the successful bidder is required to submit its deposit to the state bond commission in the form of a certified check or cashier's check drawn on a bank or trust company authorized to transact business in the state of Louisiana or in the state of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the state of Louisiana (or wire transfer such amount as instructed by the state bond commission) not later than 2 p.m. (Baton Rouge time) on the next business day following the award. If such good faith deposit is not received by that time, the surety bond will be drawn on by the state to satisfy the deposit requirement. No interest on the deposit will accrue to the successful bidder. The deposit will be applied to the purchase price of the bonds. In the event the successful bidder fails to honor its accepted bid, the deposit will be retained by the state. Delivery of the deposit is at the risk of the bidder.

John Neely Kennedy
State Treasurer

0008#014

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Billfishes (LAC 76:VII.355)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.355, increasing the minimum size limit for blue marlin from 96 inches to 99 inches lower jaw fork length. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§355. Harvest Regulations C Billfishes

A. - B. ...

Species	Minimum Size Limit
1. Blue Marlin	99 inches Lower Jaw Fork Length (LJFL)

B.2. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:542 (March 1999), LR 26:1676 (August 2000).

James H. Jenkins, Jr.
Secretary

0008#033

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Prohibited Fish Species (LAC 76:VII.359)

The Wildlife and Fisheries Commission does hereby promulgate a Rule, LAC 76:VII.359, authorizing the possession of prohibited fish species. Authority for adoption of this Rule is included in R.S. 56:319.1.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§359. Prohibited Fish Species, Permit for Scientific or Educational Purposes

A. The secretary of the department may issue permits to any person to possess, sell, or transport any fish into Louisiana for scientific or educational purposes, including species whose possession, sale, or transport is otherwise prohibited by commission rule. A copy of Federal Exempted Fish Permit must be submitted with the Prohibited Fish Species (PFS) application. The Department PFS Permit must be on display with the permitted fish at all times. This permit is non-transferable. The permit does not exempt holder from any Federal regulations and may be revoked at any time if abused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:1676 (August 2000).

James H. Jenkins, Jr.
Secretary

0008#032

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
 Policy for Louisiana's Public Education Accountability System
 (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The Louisiana Public Education Accountability System is designed to encourage and support school improvement by the following: establishing the state's goals for schools and students; communicating a school's performance to the public; recognizing school effectiveness in achievement; and focusing attention, energy, and resources to schools needing improvement.

The proposed changes more clearly explain and refine the existing policy as follows:

1. Requirement of written communication from districts with schools in Corrective Action II and III of their transfer policy.
2. Indicators and Phase-in Schedule for High School Accountability.
3. Appeals process for exceeding the established caps for out-of-level alternate assessment of students with disabilities.
4. Growth Targets for schools having a School Performance Score (SPS) of 150 and above.
5. Students who fail the 8th grade LEAP 21 (Option I and II students).

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 26:.

Bulletin 741C Louisiana Handbook for School Administrators

Indicators for School Performance Scores

2.006.01. A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), student attendance for grades K-12, dropout rates for grades 7-12, and graduation rates for grade 12.

Louisiana's 10- and 20-Year Education Goals [K-8 and 9-12]

2.006.02. Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

K-8 Indicators and Weighting			
Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT (60% K-8)	Grades 4, 8	Average student score at BASIC	Average student score at PROFICIENT
NRT (30% K-8)	Grades 3, 5, 6, 7	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10% K-6; 5% 7-8)		95% (grades K-8)	98% (grades K-8)
Dropout Rate (5% 7-8)		4% (grades 7-8)	2% (grades 7-8)

9-12 Indicators and Weighting						
Indicator	Weight			Grades Administered	10-Year Goal	20-Year Goal
	Cycle		Cycle 3 & Future			
	1	2				
CRT—English/language arts and mathematics	60%	30%	25%	10	Average student score at BASIC	Average student score at PROFICIENT
CRT—science and social studies	--	30%	25%	11	Average student score at BASIC	Average student score at PROFICIENT
NRT		30%	20%	9	Average composite	Average composite standard score

					standard score corresponding to the 55 th percentile rank in the tested grade level	corresponding to the 75 th percentile rank in the tested grade level
Attendance Rate		5%	5%		93%	96%
Dropout Rate		5%	5%		7%	3%
Graduation Rate		—	20%		25% of regular education students earning Diploma Enhancement	50% of regular education students earning Diploma Enhancement
Graduation rates shall be introduced as an indicator during the first baseline year (2003-04) of the third accountability cycle.						

School Performance Scores

2.006.03. School Performance Scores for K-8

A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- *An average of the most recent two year's test data and
- *Attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two years data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:
 A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
 A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.
 For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS [K-8]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
SPS = 67.1			

Criterion-Referenced Tests (CRT) Index Calculations [K-8]

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating a CRT Index for a School [K-8]

1. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
2. Divide by the total number of students eligible to be tested times the number of content area tests.
3. Zero shall be the lowest CRT Index score reported for accountability calculations.

Option I students: those students failing the 8th grade LEAP 21 that have been

- *retained on the 8th grade campus
- *must retake all parts of the 8th Grade LEAP 21

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the retaining school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school. (No bonus points for passing parts of tests in the summer school of the year they first failed in spring testing.)

Initial Transition Years [K-8]

To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:

1999 Baseline CRT Score	1999 Math & English Language Arts (Grades 4 & 8)
2001 Comparison CRT Score	2000 & 2001 Math & English Language Arts (both years averaged for each subject and each grade)
2001 New Baseline CRT Score	2000 & 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2003 Comparison CRT Scores	2002 & 2003 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001.	

Norm-Referenced Tests (NRT) Index Calculations [K-8]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to Louisiana's 10- and 20- Year goals, by Grade Level*

Grade

Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2)/4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1)/2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5)/2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3)/2.174$

Formula for Calculating a School's NRT Index [K-8]

1. Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
2. Zero shall be the lowest NRT Index score reported for accountability calculations.
3. Compute the total number of index points in all grades in the school.
4. Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations [K-8]

An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years indexes shall be calculated using the prior two year's average attendance rates as compared to the state goals.

Attendance Goals

	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formulas
Grades K-8
Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$
Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education

Lowest Attendance Index Score

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations [7-8]

A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two year's average dropout rates as compared to the state goals.

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas

Non-Dropout Rate (NDO) = $100 - \text{Dropout Rate (DO)}$ (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = $\text{Indicator (DO Gr 7-8)} = (25 * NDO) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$

Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0 – 100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used, and the graduation index score.

Transition Years [9-12]

To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests and the graduation requirement, the following indicators shall be used for each year:

Timelines/School Years			Indicators Included					
Cycle	Baseline SPS Data	Growth SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout	Graduation

1	2000-01	2002-03	✓	✓		✓*	✓*	
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*	
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*	✓*
*Indicates use of prior year data for these indexes.								

Formula for Calculating an SPS – Accountability Cycle 1 [9-12]
 During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.60 * \text{Grade 10 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

 All intermediate results and the final result shall be rounded to the nearest tenth.
 The following is an example of how this shall be done:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$$

Indicator	Index Value	Weight	Indicator Score
CRT— Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS – Accountability Cycle 2 [9-12]
 During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.30 * \text{Grade 10 CRT Index}) + (.30 * \text{Grade 11 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

 In this example,

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$$

Indicator	Index Value	Weight	Indicator Score
CRT— Grade 10	66.0	30%	19.8
CRT— Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Formula for Calculating an SPS – Accountability Cycle 3 and Beyond [9-12]
 During the third and succeeding accountability cycles, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.25 * \text{Grade 10 CRT Index}) + (.25 * \text{Grade 11 CRT Index}) + (.20 * \text{NRT Index}) + (.20 * \text{Graduation Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

 In the example,

$$[(.25 * 66.0) + (.25 * 60.0) + (.20 * 75.0) + (.20 * 110.0) + (.05 * 50.0) + (.05 * 87.5)] = 76.4$$

Indicator	Index Value	Weight	Indicator Score
CRT— Grade 10	66.0	25%	16.5
CRT— Grade 11	60.0	25%	16.0
NRT	75.0	20%	15.0
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
Graduation Index	110.0	20%	22.0
SPS			76.4

Norm-Referenced Tests (NRT) Index Calculations [9-12]		
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.		
NRT Goals and Equivalent Standard Scores for Grade 9		
Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	264
20-Year Goal	75 th	288

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]
 Where the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index } 9^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 449.9$$

$$\text{SS} = (\text{Index } 9^{\text{th}} \text{ grade} + 449.9) / 2.083$$

Option II students: those students failing the 8th grade LEAP 21 that have been

- retained and placed on the high school campus
- must take the 9th grade NRT
- must retake only the parts of the 8th grade LEAP 21 they originally failed (English language arts and/or mathematics)

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the high school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school.

Criterion-Referenced Tests (CRT) Index Calculations [9-12]	
A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

1. Sum the number of points earned by all students. For the NRT, there shall be one score for each student—the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
2. Divide by the total number of students eligible to be tested times the number of content area tests. This provides the raw achievement index for the grade.
3. Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and all the previous grades. This means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This shall yield the Adjusted Achievement Index.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is:
 $(5/50) = .100$
- The number of points earned on the NRT is 5000.
- The raw achievement index is:
 $5000/45 = 111.1$
- The adjusted achievement index is:
 $111.1 \times (1 - .100) = 100.0$

Example 2 – Grade 10:

- Another 5 students drop before October of grade 10. The grade 10 dropout rate is:
 $5/45 = .111$
- The 40 students remaining in the class earn 10000 points on the two CRT tests. The raw achievement index is:
 $10000/(40 * 2) = 125.0$
- The adjusted achievement index is:
 $125.0 \times (1 - .100) \times (1 - .111) = 100.0$

Attendance Index Calculations for Grades 9-12

An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two year' average attendance rates as compared to the state goals.

Attendance Goals

	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12

Where the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and where ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

Indicator (ATT 9-12) = $(16.667 * ATT) - 1450.0$

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be
 $(16.667 * 94.3) - 1450.0 = 121.7$

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations for Grades 9-12

A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the state goals.

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12

Dropout Index = $187.5 - (12.5 \times \text{dropout rate})$

Example:

- If the dropout rate is 4.5%, the Dropout Index would be

$187.5 - (12.5 * 4.5) = 131.3$

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Graduation Index Calculations for Grades 9-12

Beginning with the first baseline year (2003-04) of accountability cycle 3, a Graduation Index score for each high school shall be calculated. The Graduation Index shall be based on the prior year's data, including students who graduated in December, May, and during the summer.

Graduation Goals

	10-Year Goal	20-Year Goal
Grades 9-12	25% (on average) of regular education students earning diploma enhancement	50% (on average) of regular education students earning diploma enhancement

The Graduation Index score equals the sum of the student totals based on points awarded for graduation-related results, divided by the number of students eligible to participate. The number of students eligible is calculated by adding the grade 12 enrollment reported on October 1 plus the number of students who dropped during the summer prior to their senior year. The number of points awarded for graduation-related results are:

Diploma	Points
Under discussion	TBD
Recovered Dropouts (those through age 21 who had dropped out of school prior to age 18 and for more than one year and who now receive some type of diploma)	Points noted above for type of diploma Plus 100 points

Formula for Calculating the Graduation Index for a High School

1. Calculate the total number of points by multiplying the number of students at each graduation-related result times the number of points for those respective results.
2. Divide by the total number of students eligible (the October 1 grade 12 enrollment plus students who dropped out during the summer prior to their senior year).
3. Zero shall be the lowest Graduation Index score reported for accountability calculations.

Performance Labels

2.006.07. A Performance Label shall be given to a school that qualifies, in addition to Growth Labels.

A school with an SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with an SPS of 30.1 - state average shall be labeled Academically Below the State Average.

A school with an SPS of state average - 99.9 shall be labeled Academically Above the State Average.

* The state average is recalculated every growth cycle.

**A school with an SPS of 100.0 - 124.9 shall be labeled a School of

Academic Achievement.

**A school with an SPS of 125.0 - 149.9 shall be labeled a School of Academic Distinction.

**A school with an SPS of 150.0 or above shall be labeled a School of Academic Excellence.

**A school with these labels shall no longer be subject to Corrective Actions and shall not receive 'negative?' growth labels, i.e., School in Decline and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain 'positive?' growth labels, recognition, and possible rewards.

Transfer Policy

2.006.11. Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Corrective Actions Level II or any other school begins Corrective Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

Districts shall develop a plan for student transfer that provides the following:

- a description of the general transfer policy;
- transfer for as many eligible students as possible in the academically unacceptable schools in Corrective Actions II or III to other academically acceptable schools;
- equal educational opportunities for all students eligible to transfer, including students with disabilities and limited English proficiency and in compliance with all civil rights laws pertaining to all eligible students; and
- time and resources for parent outreach.

When an LEA lacks capacity to offer student transfer to all eligible students a district must develop a plan that provides the following:

- evidence that the LEA lacks the capacity to provide transfer for all eligible students;
- a description of the process for equitable choosing students for the option of transfer from among the entire population of students eligible for choice; or
- evidence that the LEA cannot provide school choice or transfer to any students because of a court-ordered desegregation plan.

Inclusion of Students with Disabilities

2.006.18. All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5% per grade level per school district, shall participate in an alternate assessment, as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow out-of-level testing. The LEA shall determine the percentage of students who can test out-of-level, not to exceed a total of 4% of students at any grade level per school district. This 4% includes those students participating in alternate assessment. The parent must agree with out-of-level assessment through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district 4% cap has been exceeded.

For students with disabilities who test out-of-level, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

1. Less than 5 standard score points of progress C0 points (Unsatisfactory)
2. 5-9 standard score points of progress C50 points (Approaching Basic)
3. 10-14 standard score points of progress C100 points (Basic)
4. 15-19 standard score points of progress C150 points (Proficient)
5. 20 + standard score points of progress C200 points (Advanced)

The scores of Special Education students participating in out-of-level testing shall be excluded from the School Performance Score for the school year 1999-2000.

Appeals Process for Exceeding the Established Caps for Out-of-Level Alternate Assessment of Students with Disabilities

- I. School districts that either
 - A) exceed a total of 4% but less than 5% of the total district population at any grade level participating in out-of-level testing and alternate assessment,
 - AND/OR
 - B) exceed a total of 1.5% but less than 2% of the total district population at any grade level participating in alternate assessment

must submit the following to the Department of Education (DOE) for review and approval.

- 1) A justification documenting the reasons for exceeding the cap(s), and
- 2) A corrective action plan to
 - Increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable,
 - Decrease participation in alternate assessment to a maximum of 1.5% of the total district population at the grade level(s) where the cap was exceeded.

- II. School districts that either
 - C) exceed a total of 5% or more of the total district population at any grade level participating in out-of-level testing and alternate assessment,
 - AND/OR
 - D) exceed a total of 2% of the total district population at any grade level participating in alternate assessment

must submit the following to the Department of Education for review and approval.

- 3) A justification documenting the reasons for exceeding the cap(s), and
- 4) A corrective action plan to
 - Increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable,

- Decrease participation in alternate assessment to a maximum of 1.5% of the total district population at the grade level(s) where the cap was exceeded.

The school district will receive an onsite investigation by a Department of Education team, and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.

III. The DOE will report to BESE on each appeal.

Interested persons may submit written comments until 4:30 p.m., October 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741C Louisiana Handbook for
School Administrators Policy for Louisiana's Public
Education Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed changes more clearly explain and refine the existing policy as follows.

1. Requirement of written communication from districts with school in Corrective Action II and III of their transfer policy.
2. Indicators and Phase-in Schedule for High School Accountability.
3. Appeals process for exceeding the established caps for out-of-level alternate assessment of students with disabilities.
4. Growth Targets for schools having a School Performance Score (SPS) of 150 and above.
5. Students who fail the 8th grade LEAP 21 (Option I and II students).

Pursuant to the original rule, local school systems may incur additional costs for transportation for students who choose to attend another school within the district as part of their transfer policy (Ref. 2.006.11).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated effects on revenue collections by state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Economic benefits may be realized as K-12 students acquire knowledge and skills to become more productive citizens in the workforce. Pursuant to the original rule, parents who choose to send their children to a school in another district as a part of the transfer policy may incur additional transportation costs for such students since the policy specifies that such transportation costs are the responsibility of parents (Ref. 2.006.11).

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no anticipated effects on competition and employment. Potential impacts will be better determined as the

Graduation Index and Diploma Options for student are phased-in. (Ref. 2.006.03).

Marlyn Langley
Deputy Superintendent
0008#087

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706C Regulations for Implementation
of the Children with Exceptionalities Act
(LAC 28:XLIII. Chapters 11-20)

Subpart B. Regulations for Gifted/Talented Students

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1706, the Regulations for Implementation of the Children with Exceptionalities Act (R.S. 1941 et seq.).

The proposed revisions to Bulletin 1706, The Regulations for Implementation of the Children with Exceptionalities Act, R.S. 17:1941 et seq. officially changes the state regulations to be in compliance with the recent revisions to the federal regulations of IDEA-Part B and in the state statute at R.S. 17:1941 et seq. The gifted/talented regulations are not federally mandated and the IDEA regulations are not applicable to Gifted/Talented students. Since service to students who are gifted/talented are required under state statute, a companion document had to be created to address this population. When 1706 G/T Subpart B was on public review the stakeholders for gifted/talented programs asked for substantive changes in the document

The full text of these proposed rules may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested persons may submit written comments until 4:30 p.m., October 9, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1706C Regulations for
Implementation of the Children
with Exceptionalities Act**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units resulting from these proposed rule changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this rule would not increase cost or diminish benefits to Gifted/Talented students in their educational programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment resulting from these proposed rule changes.

Weegie Peabody
Executive Director
0008#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Correct Organization Citations Resulting From
Reengineering of DEQ
(LAC 33:I, III, V, VI, VII, IX, XI and XV)

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 Environmental Quality regulations, LAC 33:I, III, V, VI, VII, IX, XI, XV (Log #OS036).

The recent reengineering of the department resulted in the elimination of media-based offices and divisions to create a process-oriented organization. This proposed rule revises existing references to non-existent offices and divisions in the regulations to reflect the new organization structure of the department. Additional minor revisions are being made to clean up grammatical errors and eliminate outdated forms. This action is required by Act 303 of the 1999 Regular Session of the Legislature effective June 15, 1999. The basis and rationale for this proposed rule are to correct the division and office names cited in the regulations to correspond to the new divisions and offices created when the department was reorganized.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 5. Confidential Information Regulations

§501. Scope

A. Department of Environmental Quality records and information obtained under the Louisiana Environmental Quality Act, (hereinafter called "the Act"), or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any

investigation authorized thereby, shall be available to the public, unless confidentiality is requested by writing to the Office of the Secretary, Legal Affairs Division, and such information is determined by the administrative authority to require confidentiality. Such information may be classified as confidential by the administrative authority, unless otherwise provided by law or regulation, if the secretary makes a written determination that confidentiality is necessary to:

* * *

[See Prior Text in A.1 - 2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§502. Definitions

Administrative Authority Cthe secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 9. Petition for Rulemaking

§905. Definitions

Administrative Authority Cthe secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§907. Content of a Rulemaking Petition

Any interested person may petition the administrative authority in writing to issue, amend, or rescind any regulation.

A. The petition shall be addressed to the Office of Environmental Assessment, Environmental Planning Division.

* * *

[See Prior Text In B - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§909. Processing a Rulemaking Petition

* * *

[See Prior Text in A]

B. Within 90 days of receipt of the petition for rulemaking, the administrative authority shall deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking by providing the petitioner with a completed Regulatory Agenda Form as provided in the department's Policy Number 0003-88, "Rule Development Procedure."

If the administrative authority decides to proceed with rulemaking, the department procedures for processing a proposed regulation shall be followed. In addition, a notice of the initiation of rulemaking shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking or in the official journal of the state, if the impact of the proposed rule is statewide.

If the administrative authority decides not to proceed with rulemaking, the decision to deny the petition, stating reasons for the denial, shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking or in the official journal of the state, if the impact of the petition denial is statewide, and in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 11. Declaratory Rulings

§1103. Definitions

The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular section:

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

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1109. Declaratory Rulings Officer

[See Prior Text in A - B]

C. The declaratory rulings officer shall have the authority to regulate all matters concerning a request for declaratory ruling and to issue the declaratory ruling after concurrence as to legal sufficiency by the Office of the Secretary, Legal Affairs Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1111. Duty to Maintain List

The secretary shall maintain, in a place accessible to the public in the Office of the Secretary, Legal Affairs Division, a list of all petitions for declaratory rulings and declaratory rulings and an index to the list. The list shall identify the petitioner, the matter to be decided, and when applicable, the location of the activity or facility that is the subject of the petition. The list shall also include the date on which the petition is received, the date the secretary decides whether a declaratory ruling will be issued, the date the secretary sets for issuance of the ruling, the date the ruling issues, and the date of any request for modification or appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1113. Declaratory Rulings Clerk

A. The administrative authority shall designate a person in the Office of the Secretary, Legal Affairs Division to serve as the declaratory rulings clerk, who shall be the official custodian of declaratory rulings records. The clerk shall maintain these records separately from other records of the department.

[See Prior Text in B - B.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1117. Petition Contents and Form

[See Prior Text in A - A.9]

B. A petition for declaratory ruling shall be filed with the Office of the Secretary, Legal Affairs Division by either of the following methods:

1. personal delivery to the General Counsel or the declaratory rulings clerk at department headquarters; or
2. United States Mail as certified mail, return receipt requested to Declaratory Rulings Clerk, Office of the Secretary, Legal Affairs Division.

[See Prior Text in C - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 13. Risk Evaluation/Corrective Action Program

§1302. Definitions

Department the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1307. Adoption by Reference

The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)" dated June 20, 2000, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday from the department's Office of Environmental Assessment, Environmental Planning Division. For RECAP document availability at other locations, contact the department's Environmental Planning Division. The RECAP document may also be reviewed on the Internet at www.deq.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998) amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:

Chapter 14. Groundwater Fees

§1405. Applicability

A. These rules and regulations apply to facilities which are required under Solid Waste Regulations or Hazardous Waste Regulations to produce annual reports concerning the groundwater condition at their sites, to facilities which have installed groundwater monitoring systems, and to facilities conducting assessment and/or remediation of groundwater contamination (regardless of whether said contamination originated from a regulated waste management unit or from a non-regulated facility) for which the department is providing oversight. These rules and regulations do not apply:

- 1. to sites over which other departments, such as the Department of Natural Resources, are legitimately exercising oversight and to which the department provides no assistance or technical guidance;
- 2. to sites regulated under the Underground Storage Tank Regulations; or
- 3. to facilities billed under the authority of another part or chapter of Title 33 for the same activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Division in R 18:729 (July 1992), repromulgated LR 21:796 (August 1995), repromulgated by the Office of the Secretary, LR 24:2204 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 15. Permit Review

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

[See Prior Text in A - A.3.b]

4. Within 30 days after receipt of a letter of completeness, the applicant shall publish a notice, provided by the department, of the completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Permits Division.

[See Prior Text in A.5 - F]

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Permits Division in writing with the appropriate signatory authority, and:

[See Prior Text in F.1.a. - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 17. Permit Qualifications and Requirements

§1701. Requirements for Obtaining a Permit

[See Prior Text in A - B.2]

C. The applicant shall provide to the Office of Environmental Services, Permits Division a list of the state(s) where he or she has federal or state environmental permits identical to, or of a similar nature to, the permit for which application is being made. This information shall be provided for all individuals, partnerships, corporations, or other entities who own a controlling interest (50 percent or more) in the company or who participate in the environmental management of the facility for an entity applying for a permit or an ownership interest.

D. In addition to providing the information required in Subsection C of this Section, the applicant shall submit a written statement to the Office of Environmental Services, Permits Division, as part of the permit application, to certify that:

[See Prior Text in D.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 20. Records of Decision for Judicial Review

§2005. Responsibility for Assembly of Record of Decision

A. When the department is served with notice of an appeal or other request for judicial review, such notice shall be immediately forwarded to the department's Office of the Secretary, Legal Affairs Division, which shall be responsible for assembling a complete and legible copy of the record of decision and transmitting it to the court.

B. Upon receipt of such notice, the Legal Affairs Division shall promptly notify the decision maker and other appropriate agency personnel, each of whom shall be responsible for promptly transmitting to the Legal Affairs Division complete and legible copies of any portions of the record of decision that may be in his/her possession or control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, R.S. 30:2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:858 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 23. Procedures for Public Record Requests

§2305. Standard Operating Procedures

A. All requests for copies of public records, including subpoenas duces tecum for production of original public records, shall be made using DEQ Form FSD-0005-01. A certification on DEQ Form FSD-0005-02 shall be submitted with the request if free or reduced rate copies are requested. Completed forms may be submitted in person, by mail, or by facsimile. No other request (e.g., e-mail, telephone, telegram) will be honored. Completion of the DEQ Form FSD-0005-01 is waived only if the records requested are prepared by the department specifically for sale to the public (e.g., *Environmental Regulatory Code*). Copies of the forms may be obtained through the DEQ website at www.deq.state.la.us or from the Office of Management and Finance, Custodian of Records.

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2307. Exceptions to Standard Operating Procedures

The following procedures shall apply to persons requesting copies of public records under an exception to standard operating procedures.

[See Prior Text in A]

B. Requests for exceptions to standard operating procedures must be approved in advance by the Custodian of Records in the Office of Management and Finance.

[See Prior Text in C - C.2]

D. When payment of an invoice for copies of public records provided by facsimile, as an exception to standard operating procedure, is not received in the Office of Management and Finance, Financial Services Division within 10 working days, the requester's name will appear on an Accounts Receivable Past Due report maintained by the Financial Services Division. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid. Custodian of Records approval is required, and credit approval may be required, prior to providing copies by facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 37. Regulatory Innovations Programs

§3703. Definitions

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

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), repromulgated LR 25:2399 (December 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3705. Application for a Demonstration Project

A. An application for a demonstration project (DP) shall be submitted to the Office of the Secretary, Deputy Secretary. The application shall, at a minimum, include:

[See Prior Text In A.1 - B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:
Subpart 2. Notification Regulations

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

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

Air Contaminant—particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by other than natural processes.

[See Prior Text]

Division—the appropriate division within the Department of Environmental Quality.

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H),30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Requirements for Emergency Notification

§3915. Notification Requirements for Unauthorized Discharges Which Cause Emergency Conditions

A. Notification to the DPS 24-hour Louisiana Emergency Hazardous Materials Hotline

1. In the event of an unauthorized discharge that does cause an emergency condition, the discharger shall notify the hotline by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) immediately (a reasonable period of time after taking prompt measures to determine the nature, quantity, and potential off-site impact of a release, considering the exigency of the circumstances), but in no case later than one hour after learning of the discharge. (An emergency condition is any condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property.) Notification required by this Subsection will be made regardless of the amount of the discharge.

[See Prior Text in A.2 - B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A), 30:2194(C) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Requirements for Prompt Notification

§3917. Notification Requirements for Unauthorized Discharges Which Do Not Cause an Emergency Condition

A. In the event of an unauthorized discharge which exceeds a reportable quantity specified in Subchapter E of this Chapter but which does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance by telephone within 24 hours after learning of the discharge. Notification should be made to the:

B. Dischargers are not relieved from any requisite written notification procedures in LAC 33:I.3925 or of any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C) and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3919. Notification Requirements for Unauthorized Discharges With Groundwater Contamination Impact

In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall notify the department in writing in accordance with LAC 33:I.3925 within seven calendar days after obtaining knowledge of groundwater contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2076(D), 30:2183(I), and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Notification Procedures

§3925. Written Notification Procedures for the Department of Environmental Quality

A. Written reports for any unauthorized discharge that requires verbal notification under LAC 33:I.3915.A or 3917, or that requires written notification under LAC 33:I.3919, will be submitted by the discharger to the department in accordance with this Section within seven calendar days after the telephone notification required by LAC 33:I.3915.A or 3917, or within seven calendar days after obtaining knowledge of groundwater contamination as required by LAC 33:I.3919, unless otherwise provided for in a valid permit or other department regulation.

* * *

[See Prior Text in A.1 - B.13]

C. Written notification reports should be submitted to the Office of Environmental Compliance by mail or fax. The transmittal envelope and report or fax cover page and report should be clearly marked "Unauthorized Discharge Notification Report."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C) and 30:2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4705. Categories of Accreditation

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the Office of Management and Finance, Laboratory Services Division and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

* * *

[See Prior Text In B - B.10]

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the Office of Management and Finance, Laboratory Services Division. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), LR 26:

Chapter 57. Maintenance of Accreditation

§5707. Changes in Laboratory Operation

Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the Office of Management and Finance, Laboratory Services Division within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subpart 4. Emergency Response Regulations

Chapter 69. Emergency Response Regulations

§6905. Definitions

The following terms as used in this Chapter shall have the meaning listed below:

* * *

[See Prior Text]

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

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:977 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§6921. Reporting Requirements

No later than 30 days after material from the cleanup and/or abatement of an off-site emergency condition is removed from an emergency response storage facility, the owner or operator of the facility shall submit a written report detailing the ultimate disposition of the material, by mail or fax to the Office of Environmental Compliance. The report shall be clearly marked "Waste Disposition Report." The report shall reference the department-issued incident number. Other information in the report may include location and date of the emergency incident, name and address of the company transporting the pollutant that resulted from the emergency incident, name and location of the facility where the pollutant is/was stored, and name and location of the facility accepting the pollutant for disposal, recycling, or reuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1),(14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR:

Part III. Air

Chapter 1. General Provisions

§101. Authority

A. By virtue of R.S. 30:2011 the Air Quality program within the Department of Environmental Quality was established with the intent and purpose of maintaining the purity of the air resources of the state of Louisiana consistent with the protection of the health and physical property of the people, maximum employment and the full industrial development of the state. R.S. 30:2011 sets forth the powers of this administrative authority and by R.S. 30:2019 authorizes the promulgation by this administrative authority of rules and regulations consistent with said intent and purpose in the manner and in accordance with the provisions of R.S. 30:2001 et seq. which was enacted by the legislature as the law of this state by Act 449 of 1979.

[See Prior Text in B - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§111. Definitions

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

[See Prior Text]

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

[See Prior Text]

DEQ—the Department of Environmental Quality.

Department—the Department of Environmental Quality.

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

[See Prior Text in A - B.9]

10. When a permanent shutdown occurs and a company properly notifies the Office of Environmental Services, Permits Division, by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

[See Prior Text in B.11 - 15.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1373 (October 1993), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:

Chapter 5. Permit Procedures

§501. Scope and Applicability

[See Prior Text in A - B.5.Note 1]

6. Grandfathered Status. Those facilities which were under actual construction or operation as of June 19, 1969, and granted grandfathered status by DEQ may maintain such grandfathered status, provided a current and accurate Emissions Inventory Questionnaire is maintained on file with the permitting authority and provided the owner or operator of such facility is not required or requested to submit a permit application in accordance with this

Paragraph. Grandfathered status shall be maintained until final action is taken by the permitting authority on the permit application, provided such application is submitted in a timely manner. A permit application shall be submitted in accordance with LAC 33:III.517.A if any of the following criteria are met or will be met by a planned change at the facility:

* * *

[See Prior Text in B.6.a - C]

1. For each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services, Permits Division as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

* * *

[See Prior Text in C.2 - 10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§502. Definitions

Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR part 72 shall apply.

* * *

[See Prior Text]

*DEQC*the Department of Environmental Quality.

* * *

[See Prior Text]

*Permitting Authority*the secretary, or designee, of the Department of Environmental Quality.

*Potential to Emit*the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if:

* * *

[See Prior Text in a]

b. the limitation is enforceable by the department when the potential to emit is being considered with regard to state applicable requirements.

* * *

[See Prior Text]

*State-Only Change*any change that is not addressed or prohibited under the federally enforceable terms and conditions of the permit, and for which a permit revision is

not required under 40 CFR part 70, but for which a permit revision is required by the department under this Chapter.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§504. Nonattainment New Source Review Procedures

* * *

[See Prior Text in A - B.5]

C. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to the Office of Environmental Services, Permits Division in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

* * *

[See Prior Text in C.1 - F.6]

7. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Permits Division the following information:

* * *

[See Prior Text in F.7.a - G.Table 1.Note 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§505. Acid Rain Program Permitting Requirements

* * *

[See Prior Text in A - B.1]

2. Exemption. The designated representative, authorized in accordance with 40 CFR part 72, subpart B, of a source that includes a unit under Subsection B.1 of this Section may petition the Office of Environmental Services, Permits Division for a written exemption or to renew a written exemption for the unit from certain requirements of the Acid Rain Program. The petition shall contain the following elements:

* * *

[See Prior Text in B.2.a - 4.c]

i. Notwithstanding Subsection D.2 and 3, the designated representative of the source that includes the unit shall submit a complete acid rain permit application to the Office of Environmental Services, Permits Division on the latter of January 1, 1998, or the date the unit is no longer exempted under this Section; and

* * *

[See Prior Text on B.4.c.ii - C.2.a]

b. A petition under this Subsection shall be submitted to the Office of Environmental Services, Permits Division on or before:

* * *

[See Prior Text in C.2.b.i - C.4.b]

c. A unit exempted under this Subsection shall not resume operation unless the designated representative of the source that includes the unit submits an acid rain permit application for the unit to the department not less than 24 months prior to the latter of January 1, 2000, or the date the unit is to resume operation. On the earlier of the date the written exemption expires or the date an acid rain permit application is submitted or is required to be submitted under this Paragraph, the unit shall no longer be exempted under this Subsection and shall be subject to all requirements of this Section and 40 CFR part 72.

D. Requirement to Apply

1. Duty to Apply. The designated representative of any source with an affected unit shall submit a complete acid rain permit application to the Office of Environmental Services, Permits Division by the applicable deadline in Subsection D.2 and 3 of this Section and the owners and operators shall not operate the source without a permit that states its Acid Rain Program requirements.

2. Deadlines

a. Phase II. For any source with an existing unit under Subsection A.1.a or b of this Section, the designated representative shall submit a complete acid rain permit application governing such unit during phase II to the department on or before January 1, 1996.

b. For any source with a new unit under Subsection A.1.c.i of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the latter of January 1, 2000, or the date on which the unit commences operation.

c. For any source with a unit under Subsection A.1.c.ii of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the latter of January 1, 2000, or the date on which the unit begins to serve a generator with a nameplate capacity greater than 25 MWe.

d. For any source with a unit described in Subsection A.1.c.iii of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the latter of January 1, 2000, or the date on which the auxiliary firing commences operation.

e. For any source with a unit described under Subsection A.1.c.iv of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the three calendar year period in which the unit sold to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs actual electric output (on a gross basis).

f. For any source with a unit described in Subsection A.1.c.v of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the calendar year in which the facility fails to meet the definition of qualifying facility.

g. For any source with a unit described in Subsection A.1.c.vi of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the calendar year in which the facility fails to meet the definition of an independent power production facility.

h. For any source with a unit described in Subsection A.1.c.vii of this Section, the designated representative shall submit a complete acid rain permit application governing such unit to the department before the latter of January 1, 1998, or March 1 of the year following the three calendar year period in which the incinerator consumed 20 percent or more fossil fuel (on a Btu basis).

3. Duty to Reapply. The designated representative shall submit a complete acid rain permit application to the Office of Environmental Services, Permits Division for each source with an affected unit at least six months prior to the expiration of an existing acid rain permit governing the unit during phase II, or such longer time as may be approved under 40 CFR part 70 that ensures that the term of the existing permit will not expire before the effective date of the permit for which the application is submitted.

4. Four copies of all permit applications shall be submitted to the Office of Environmental Services, Permits Division .

* * *

[See Prior Text in D.5 - G.3]

a. To activate a conditionally-approved acid rain compliance option, the designated representative shall notify the Office of Environmental Services, Permits Division in writing that the conditionally-approved compliance option will actually be pursued beginning January 1 of a specified year. If the conditionally-approved compliance option includes a plan described in Subsection G.2.a of this Section, the designated representative of each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on activation under Subsections G and H of this Section and regulations implementing section 407 of the Clean Air Act.

* * *

[See Prior Text in G.3.b - 4]

a. The designated representative for a unit may terminate an acid rain compliance option by notifying the Office of Environmental Services, Permits Division in writing that an approved compliance option will be terminated beginning January 1 of a specified year. If the compliance option includes a plan described in Subsection G.2.a of this Section, the designated representative for each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on termination under Subsection H of this Section and regulations implementing section 407 of the Clean Air Act.

* * *

[See Prior Text in G.4.b - S.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§507. Part 70 Operating Permits Program

[See Prior Text in A - C.2]

3. Newly Regulated Sources. The owner or operator of any source which becomes subject to the requirements of this Section after the effective date of the Louisiana Part 70 program due to regulations promulgated by the administrator or by the Department of Environmental Quality shall submit an application to the Office of Environmental Services, Permits Division in accordance with the requirements established by the applicable regulation. In no case shall the required application be submitted later than one year from the date on which the source first becomes subject to this Section.

[See Prior Text in D - H.3]

4. a requirement for progress reports to be submitted to the Office of Environmental Compliance, Surveillance Division at least semiannually, or at a more frequent period if specified in the applicable requirement. Such progress reports shall contain the following:

[See Prior Text in H.4.a - 5.c.v]

d. a requirement that all compliance certifications be submitted to the administrator as well as to the Office of Environmental Compliance, Surveillance Division; and

[See Prior Text in H.5.e - J.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§509. Prevention of Significant Deterioration

[See Prior Text in A - A.2]

B. Definitions. For the purpose of this Part the terms below shall have the meaning specified herein as follows:

[See Prior Text]

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

[See Prior Text in B.Adverse Impact on Visibility - O.2]

3. Where the air quality impact analysis required under this Section indicates that the issuance of a permit for any major stationary source or major modification would result in the consumption of more than 50 percent of any available annual increment or 80 percent of any available short term increment, the applicant may be required by the administrative authority to submit to the Office of Environmental Services, Permits Division a report covering the following factors:

[See Prior Text in O.3.a - Q.6]

7. The administrative authority shall make all comments available for public inspection at the Headquarters of the Department of Environmental Quality. In accordance with 40 CFR 51.166 (g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit or permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

[See Prior Text in Q.8 - 8.a]

b. notify the applicant in writing of the final determination and make such notification available for public inspection at the Headquarters of the Department of Environmental Quality. In accordance with 40 CFR 51.166 (g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit or permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

[See Prior Text in R - S.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§513. General Permits, Temporary Sources, and Relocation of Portable Facilities

[See Prior Text in A - C]

1. The permitting authority may issue, on behalf of the department, a certificate of approval to relocate an asphalt plant or other transportable facility that is presently operating under a certificate of approval from the department provided the facility does not constitute a Part 70 source and would not constitute a Part 70 source upon relocation. Prior to issuance of any such certificate, the permitting authority shall receive adequate assurance from the petitioner that the following conditions are met:

[See Prior Text in C.1.a - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§517. Permit Applications and Submittal of Information

[See Prior Text in A - C]

D. Contents of Application. Applications for permits shall be submitted in accordance with forms and guidance provided by the permitting authority. In addition, forms can

be obtained through the department's website at www.deq.state.la.us. At a minimum, each permit application submitted under this Chapter shall contain the following:

[See Prior Text in D.1 - F]

G Change of Ownership. Notification of any change in ownership must be given to the permitting authority within 90 days after the change. Such notification need not require a complete permit application submittal, but shall be provided in accordance with forms or guidance from the permitting authority and in accordance with requirements of LAC 33:I.1701. In addition, forms can be obtained through the department's website at www.deq.state.la.us. The administrative authority is authorized to amend the permit to reflect such changes in accordance with LAC 33:III.521. Failure to disclose such changes of ownership within 90 days after the event will be grounds for invalidation of the permit. Based on review of the compliance history of the new owner, the administrative authority has the right to deny the transfer of the permit in accordance with provisions of LAC 33:I.1701. Changes in ownership of a source holding grandfathered status will require that a permit application be submitted in accordance with LAC 33:III.501.B.6 and Subsection A.3 of this Section.

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

§605. Definitions

The terms used in this Chapter are defined in LAC 33:III.111 of these regulations except as defined within the separate subchapters or as follows:

Actual Emissions Cthe actual rate of emissions of an air contaminant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the selected time period. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Acceptable methods for estimating the actual

emissions may include, but are not limited to, any one or a combination of the following:

[See Prior Text in a]

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests (only if suitable emission factors are not available), waste disposal records, emission reports previously submitted to the department such as emission inventory reports, SARA Title III, or MACT compliance certifications, and other methods specifically approved by the administrative authority.

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:

§611. Mobile Sources Emission Reductions

[See Prior Text in A - C.2]

D. Vehicle Visual Inspection. In order to be eligible for MERCs, each vehicle to be scrapped shall be subjected to a visual inspection prior to scrapping. Inspections shall be conducted by a licensed automobile crusher and information recorded on a form designed by and submitted to the Office of Environmental Services, Permits Division. The physical presence of the following elements shall be included in the inspection and shall be required for approval:

[See Prior Text in D.1-E.12]

F. Recordkeeping Requirements. The following information shall be recorded on a form prepared by the participating automobile crusher and submitted to the Office of Environmental Services, Permits Division in duplicate:

[See Prior Text in F.1-I]

1. Point-source Facilities Obtaining MERCs. Any stationary point-source facility in ozone nonattainment areas designated marginal and above may request the purchase of MERCs. The department will develop and maintain a directory of automobile year models/types available and the owners wishing to scrap their vehicles. The facility wishing to purchase MERCs will contact the department and indicate the amount of VOC and/or NO_x emission reduction credits they are seeking. The department will release to that facility the names and telephone numbers of owners sufficient to meet all or part of the desired number of emission reduction credits. It will be the responsibility of the facility to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the Office of Environmental Services, Permits Division signed by both the facility agent and the owner(s) of the vehicle(s) to be scrapped. A check from the facility to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the facility's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to

accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the facility's check to the vehicle owner. The purchased MERCs will be transferred to the facility's ERC bank balance. In the event that vehicle scrappage does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the facility the facility's check upon demand.

2. Private Entities. (Any private entity wishing to participate in the mobile source emission reduction program without benefit of a list of owners wishing to scrap their vehicles.) It will be the responsibility of the private entity to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the private entity agent and the owner(s) of the vehicle(s) to be scrapped. A check from the private entity to the vehicle owner will be submitted with the written statement of negotiation to the Office of Environmental Services, Permits Division. Upon receipt of the written statement of negotiation and the private entity's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the private entity's check to the vehicle owner. In the event that vehicle scrappage does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the private entity the private entity's check upon demand.

[See Prior Text in J - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:881 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§613. ERC Bank Balance Sheet

[See Prior Text in A - C]

D. Schedule. All applications for banking ERCs in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge where the emission reductions occurred before August 20, 1994, must have been submitted prior to February 20, 1995. First-time applications for banking ERCs for attainment parishes may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, applications for banking ERCs for those parishes must be submitted within six months after the effective date of the EPA designation. All applications for banking ERCs where the emission reductions occurred after the date this banking rule was adopted for an area shall be submitted by March 1 following the year in which the reduction occurred. The balances (i.e., the balance available for netting and the balance available for offsets) from the ERC bank balance sheets of Subsection A of this Section shall be submitted to the department by March 1 of each year together with the certification specified in Subsection E of this Section. All submittals required by this Subsection must be submitted to the Office of Environmental Services, Permits Division. All emission reductions must meet the

timing restrictions set forth in LAC 33:III.607.D in order to be eligible for banking as ERCs.

[See Prior Text in E - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:

§619. Registration of Emission Reduction Credit Certificates

[See Prior Text in A - B.2]

3. be signed by the administrative authority;

[See Prior Text in B.4 - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§623. Withdrawal, Use, and Transfer of Emission Reduction Credits

A. Withdrawal of ERCs. An ERC certificate may be withdrawn in whole or in part. The ERC owner must submit a written request to withdraw and use the ERCs. The administrative authority shall have 30 calendar days to review the request. Upon such request to withdraw ERCs from the bank, the department shall be responsible for recalculating the quantity of available ERCs for that entity and for providing that entity with an adjusted bank balance sheet. In the case of a partial withdrawal, the assistant secretary shall issue a new certificate reflecting the available credits remaining.

[See Prior Text in B - B.4]

C. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The administrative authority shall be notified within 30 days of any transfer of the credit to another party. The old certificate shall be submitted to the assistant secretary who shall then issue a new certificate within 30 days indicating the new owner. In the case of a partial transfer, the assistant secretary shall issue a new certificate to the new owner as well as a revised certificate within 30 days to the current owner reflecting the available credits to each owner. The original ERC certificate shall be canceled. The banking register/database shall indicate the transfer to the new owner (and reduction of credits when a partial transfer takes place) and the invalidation of the original ERC certificate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:880 (August 1994),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§918. Recordkeeping and Annual Reporting

Data for emission reports should be captured annually. These reports are to be submitted to the Office of Environmental Assessment, Environmental Evaluation Division by March 31st of each year (for the period January 1 to December 31 of the previous year) unless otherwise directed by the department. The report should include all data applicable to the emission source or sources which may be required under LAC 33:III.919.A.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§919. Emission Inventory

Emission inventory data shall be submitted to the Department of Environmental Quality on magnetic media in the format specified by the Office of Environmental Assessment, Environmental Evaluation Division. Facilities with less than five point sources, may elect to submit Emission Inventory Coding (EIC) forms in lieu of the magnetic media. Facilities are defined as all emission points, fugitive, area, mobile, under common control on contiguous property. Point source is defined as the point of emission which should have a Source Classification Code. Stationary source is defined as a group of point sources. Detailed instructions are provided on an annual basis for completing and submitting emissions inventories which define requirements applicable to facilities, point sources, area sources and mobile sources.

A. Applicability. The owner or operator of the following facilities in the State of Louisiana shall submit emissions inventories to the Office of Environmental Assessment, Environmental Evaluation Division.

* * *

[See Prior Text in A.1 - B.3]

4. Special Inventories. Upon request by the administrative authority, any facility subject to any rule of the Air Quality regulations, LAC 33: Part III shall file additional emissions data with the department. The request shall specify a reasonable time for response, which shall not be less than 60 days from receipt of the request.

* * *

[See Prior Text in B.5-C]

D. After data processing and inventory update, the department will submit the revised inventory to the facility for final verification and signature. The certified inventory shall then be submitted to the Office of Environmental Assessment, Environmental Evaluation Division, within 60 days from the date of receipt of the data from the department.

* * *

[See Prior Text in E - F]

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

HISTORICAL §NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall Not Exceed 20 Percent Opacity

The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, the Office of Environmental Compliance shall be notified by the emitter as soon as possible by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1107. Exemptions

Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. A report in writing, explaining the conditions and duration of the start-up or shutdown and listing the steps necessary to remedy, prevent and limit the excess emission, shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence. In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 14. Conformity

Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§1404. Definitions

Terms used, but not defined in this part, shall have the meaning given them by the CAA and LAC 33:III, in that order of priority.

* * *

[See Prior Text]

Department of the Department of Environmental Quality.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1269 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1410. Criteria for Determining Conformity of General Federal Actions

* * *

[See Prior Text in A - A.5.a]

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the federal agency must provide to the Office of Environmental Assessment, Environmental Planning Division information on all known projects or other actions which may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of manhours required to perform and document the determination; or

* * *

[See Prior Text in A.5.a.ii - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1274 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act

§1434. Consultation

* * *

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

b. DEQ Assistant secretary of the Office of Environmental Assessment, or his designee,

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 15. Emission Standards for Sulfur Dioxide

§1507. Exceptions

* * *

[See Prior Text in A]

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, that have been shut down. A report in writing explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

* * *

[See Prior Text in A.2 - B]

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

* * *

[See Prior Text in B.2 - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

* * *

[See Prior Text in A - D.4]

a. Controls for nonslotted guide poles and stilling wells shall include pole wiper and gasketing between the well and sliding cover. Controls for slotted guide poles shall include a float with wiper, pole wiper, and gasketing between the well and sliding cover. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517 Evaporative Loss from External Floating Roof Tanks, (dated May 1994) shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for approval prior to installation.

* * *

[See Prior Text in D.4.b - I.5]

6. records of the type(s) of VOC stored and the length of time stored for any storage tank exempted under Subsection G.5 of this Section. Verbal notification to the following office is required in advance, if possible, but no later than 24 hours after the tank starts filling:

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:27 (January 1990), LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2108. Marine Vapor Recovery

[See Prior Text in A - F]

1. The results of any testing done in accordance with LAC 33:III.2108.E shall be reported to the Office of Environmental Assessment, Environmental Technology Division within 45 days of the test.

[See Prior Text in F.2 - H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2113. Housekeeping

[See Prior Text in A - A.3]

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Office of Environmental Services, Permits Division upon request. A copy shall be kept at the facility, if practical, or at an alternate site approved by the department.

[See Prior Text in A.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:361 (April 1991), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2116. Glycol Dehydrators

[See Prior Text in A - G]

1. The owner or operator of a facility shall submit to the Office of Environmental Services, Permits Division a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the Office of Environmental Services, Permits Division a new or updated emission inventory questionnaire after installation of controls.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), repromulgated, LR 20:1279 (November 1994), amended LR 21:941 (September 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2121. Fugitive Emission Control

[See Prior Text in A - E.3]

F. Reporting Requirements. The operator of the affected facility shall submit to the Office of Environmental Assessment, Environmental Technology Division a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

[See Prior Text in F.1 - G.Liquid Service]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:433 (July 2000), LR 26:

§2122. Fugitive Emission Control for Ozone Nonattainment Areas

[See Prior Text in A - F.3]

G. Reporting Requirements. The operator of the affected facility shall submit a report semiannually to the Office of Environmental Assessment, Environmental Technology Division containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

[See Prior Text in G.1 - G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Organic Solvents

§2123. Organic Solvents

[See Prior Text in A - D]

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with LAC 33:III.2123.D.8), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall. All surface coating facilities shall submit to the Office of Environmental Services, Permits Division, for approval, design data for each capture system and emission control device which is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in LAC 33:III.2123.E.6.

* * *

[See Prior Text in D.2 - G.Repair and Maintenance Thermoplastic Coating]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

* * *

[See Prior Text in A - B.5]

6. The regulated facility shall submit the following application information to the Office of Environmental Compliance, Surveillance Division prior to installation of the Stage II Vapor Recovery System:

* * *

[See Prior Text in B.6.a - 7]

8. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Compliance, Surveillance Division within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

* * *

[See Prior Text in C - D]

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Compliance, Surveillance Division at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

* * *

[See Prior Text in D.1.a - 2]

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Compliance, Surveillance Division the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

* * *

[See Prior Text in E - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter M. Limiting Volatile Organic Compound Emissions from Industrial Wastewater

§2153. Limiting Volatile Organic Compound Emissions from Industrial Wastewater

* * *

[See Prior Text in A - G.4.a]

b. in order to maintain exemption status under this Subsection, the owner or operator shall submit an annual report no later than March 31 of each year, starting in 1997, to the Office of Environmental Assessment, Environmental Technology Division, which demonstrates that the overall control of VOC emissions at the affected source category from which wastewater is generated during the preceding calendar year is at least 90 percent less than the 1990 baseline emissions inventory. At a minimum, the report shall include the EPN; the PIN; the throughput of wastewater from affected source categories; a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility; and the VOC emission rates for the preceding calendar year. The emission rates for the preceding calendar year shall be calculated in a manner consistent with the 1990 baseline emissions inventory; and

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions, unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment, Environmental Technology Division within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions from wastewater at the affected source categories continues to be at least 90 percent less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory.

* * *

[See Prior Text in G.5]

a. each request for an exemption determination shall be submitted to the Office of Environmental Assessment, Environmental Technology Division. Each

request shall demonstrate that the overall control of VOC emissions from wastewater at the affected source categories will be at least 80 percent less than the 1990 baseline emissions inventory. The request shall include the applicable EPN; the PIN; the calendar year throughput of wastewater from affected source categories; the VOC emission rates; and a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory;

* * *

[See Prior Text in G.5.b]

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment, Technology Division within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions at the plant from wastewater affected source categories continues to be at least 80 percent less than the 1990 baseline emissions inventory.

* * *

[See Prior Text in G.6 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter N. Method 43C Capture Efficiency Test Procedures

§2159. Recordkeeping and Reporting

A. All affected facilities must maintain a copy of the capture efficiency protocol on file. All results of appropriate test methods and CE protocols must be reported to the Office of Environmental Assessment, Environmental Technology Division within 60 days of the test date. A copy of the results must be kept on file with the source.

B. If any changes are made to capture or control equipment, the source is required to notify the Office of Environmental Assessment, Environmental Technology Division of these changes and a new test may be required.

C. The source must notify the Office of Environmental Assessment, Environmental Technology Division 30 days prior to performing any capture efficiency and/or control efficiency tests.

* * *

[See Prior Text in D - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 23. Control of Emissions for Specific Industries¹

Subchapter A. Chemical Woodpulping Industry

§2301. Control of Emissions from the Chemical Woodpulping Industry

* * *

[See Prior Text in A - D.4]

a. Compliance. Owner or operators shall conduct source tests of recovery furnaces pursuant to the provisions in Table 4, Chapter 15 to confirm particulate emissions are less than that specified in LAC 33:III.2301.D.1. The results shall be submitted to the Office of Environmental Assessment, Environmental Technology Division as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

* * *

[See Prior Text in D.4.a.i - ii]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Aluminum Plants

§2303. Standards for Horizontal Stud Soderberg

Primary Aluminum Plants and Prebake Primary Aluminum Plants

* * *

[See Prior Text in A - D.4]

E. Monitoring. Each horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall submit a detailed monitoring program subject to revision and approval by the Office of Environmental Assessment, Environmental Technology Division. The program shall include regularly scheduled monitoring for emissions of total particulates as well as ambient air sampling for suspended particulates.

[Note: Measurement of Concentrations. The methods listed in Table 2 (Chapter 7) and Table 4 (Chapter 15), or such equivalent methods as may be approved by the department, shall be utilized to determine these particulate concentrations.]

* * *

[See Prior Text in F - F.1.d]

2. Every horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall furnish, upon request to the department, such other data as the administrative authority may require to evaluate the plant's emission control program. Such plants shall immediately report abnormal plant operations which result in increased emissions of air contaminants to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

* * *

[See Prior Text in G - G.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

* * *

[See Prior Text in A - C.1]

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

* * *

[See Prior Text in C.1.b - 2]

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR part 60, subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence.

* * *

[See Prior Text in C.2.b.H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

¹ Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

* * *

[See Prior Text in A - C]

1. Within 90 days after adoption of these regulations, all facilities operating incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit a supplemental incinerator data form (SID-1) to the Office of Environmental Assessment, Environmental Technology Division.

* * *

[See Prior Text in C.2 - E.6.e]

7. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for review and approval within 45 days of completion of testing.

* * *

[See Prior Text in F - K]

L. Recordkeeping/Reporting. The owner or operator of any BWI shall keep a daily record of the hours the unit was in operation and the amount of waste incinerated. A separate record shall be kept of all chemotherapeutic waste incinerated that is not listed under the Resource Conservation and Recovery Act, 40 CFR 261.33(f). This record shall show the name of the material, date and time incinerated, and amount burned. Records shall be submitted to the Office of Environmental Compliance, Surveillance Division by March 31 for the previous calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Refuse Incinerators

§2521. Refuse Incinerators

* * *

[See Prior Text in A - F.9.e]

10. A copy of all monitoring and tests results shall be submitted to the Department of Environmental Quality, Office of Environmental Assessment, Environmental Technology Division, for review and approval within 45 days of completion of testing.

* * *

[See Prior Text in G - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

* * *

[See Prior Text in A - I.1.f]

2. A copy of all test results shall be submitted to the Department of Environmental Quality, Office of Environmental Assessment, Environmental Technology Division for review and approval within 45 days of completion of testing.

* * *

[See Prior Text in J-J.1.d]

2. The owner/operator shall provide the Office of Environmental Assessment, Environmental Technology Division at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 27. Asbestos-containing Materials in Schools and State Buildings Regulation

§2701. Asbestos-Containing Materials in Schools and State Buildings

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

i. a copy of the inspection report must be submitted to the Office of Environmental Services, Permits Division, within 90 days of the inspection; and

[See Prior Text in B.3.b.ii - C]

1. This regulation requires local education agencies and the state government to identify friable and nonfriable asbestos-containing material (ACM) in schools and state buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The regulation requires local education agencies and the state government to submit management plans to the Office of Environmental Services, Permits Division on or before 90 days after promulgation of this regulation, to begin to implement the plans 180 days after promulgation of this regulation, and to complete implementation of the plans in a timely fashion. If an exemption is requested for a state building that contains no asbestos, an inspection report supporting that exemption should be submitted in accordance with Subsection B.3.b.i of this Section. Management plans submitted to and approved by the Department of Environmental Quality prior to the promulgation of this regulation shall meet the inspection and assessment requirements of this Chapter. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The regulation also includes recordkeeping requirements. Local education agencies and the state government may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies and the state government are encouraged to consult with the Office of Environmental Compliance, Surveillance Division of the Department of Environmental Quality for assistance in complying with this rule.

[See Prior Text in C.2]

D. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:1056 (December 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:698 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2719. Operations and Maintenance

[See Prior Text in A - F.2.b]

c. notify the Office of Environmental Compliance of the major fiber release episode by phone as specified in LAC 33:I.3923 at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us and in writing as specified in LAC 33:I.3925;

[See Prior Text in F.2.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2723. Management Plans

[See Prior Text in A]

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Office of Environmental Services, Permits Division. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Office of Environmental Services, Permits Division or through the department's website located at www.deq.state.la.us). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

2. If a building to be used as part of a school or state building is leased or otherwise acquired more than 90 days after promulgation of this regulation, the local education agency or the state government shall include the new building in the management plan for the school or state building prior to its use as a school or state building. The revised portions of the management plan shall be submitted to the Office of Environmental Services, Permits Division.

3. If a local education agency or the state government begins to use a building as a school or state building more than 90 days after promulgation of this regulation, the local education agency or the state government shall submit a management plan for the school or state building to the Office of Environmental Services, Permits Division prior to its use as a school or state building. Each plan developed or modified after June 20, 1994 must include Form AAC-8, Required Elements for Management Plans.

[See Prior Text in B - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2735. Exclusions

* * *

[See Prior Text in A – A.3.a]

b. within 30 days after the inspector's determination, the local education agency or the state government shall submit a copy of the inspector's statement to the Office of Environmental Services, Permits Division and shall include the statement in the management plan for that school or state building.

* * *

[See Prior Text in A.4 - 5]

6. Based on inspection records and contractor and clearance records, an accredited inspector has determined that no ACBM is present in the homogeneous or sampling area where asbestos removal operations have been conducted before December 14, 1987, and shall sign and date a statement to that effect and include his or her accreditation number. The local education agency or the state government shall submit a copy of the statement to the Office of Environmental Services, Permits Division and shall include the statement in the management plan for that school or state building.

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency or the state government shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Office of Environmental Services, Permits Division and shall include the statement in the management plan for that school or state building.

* * *

[See Prior Text in B - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2739. Agent Accreditation

* * *

[See Prior Text in A – B.2]

3. Workers who are engaged in maintenance that disturbs more than three square or linear feet of ACBM which does involve its actual removal, enclosure, repair, or encapsulation shall receive their initial and refresher training from a training organization recognized by the Department of Environmental Quality. This training should be in accordance with the asbestos abatement worker course as described in Appendix A Subsection A.5 Initial Training. Workers who participate in the type of project described in this Paragraph must be accredited in accordance with Appendix A of this Chapter and must work under the close direction of an accredited supervisor during any work they perform.

4. Supervisors who are directing workers who may disturb ACM shall receive their initial and refresher training in accordance with LAC 33:III.Chapter 27, Appendix A, Subsection A.4, from a training organization recognized by the Department of Environmental Quality. Supervisors who participate in the type of project referenced in this Paragraph are responsible for ensuring that:

* * *

[See Prior Text in B.4.a – 5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix A

Agent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors, and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

* * *

[See Prior Text in A - E.2.e]

3. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in E.4 - 8.a]

b. for failure to notify the Office of Environmental Services, Permits Division of changes in status;

* * *

[See Prior Text in E.8.c]

d. for failure to allow a department representative to inspect and review sites and documentation;

[See Prior Text in E.8.e - F]

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Office of Environmental Services, Permits Division or through the department's website located at www.deq.state.la.us) requesting approval to train asbestos agents.

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

3. The completed application with applicable fees for organization and trainer recognition (LAC 33:III.223) are to be sent to the Office of Environmental Services, Permits Division.

[See Prior Text in F.4 - 5.a]

b. The recognized training organization must keep the Office of Environmental Services, Permits Division informed of any change in status of the training organization, such as pending fines, notices of violation, changes in instructor status, etc.

c. A notification of which courses will be taught, including where, when, and who will conduct the class, must be submitted to the Office of Environmental Services, Permits Division.

i. The notification must be received in writing by the Office of Environmental Services, Permits Division at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Office of Environmental Services, Permits Division before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their social security numbers, and examination grades, with a 1" x 1 3/4" photograph of the face of each trainee, must be submitted to the Office of Environmental Services, Permits Division on a form approved by the department.

e. The Office of Environmental Services, Permits Division must be notified by phone or in writing of changes in class schedules prior to the date when the course was to have commenced.

[See Prior Text in F.5.f - k.v]

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us). A resume indicating proof of experience as described in Subsection F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Permits Division.

[See Prior Text in F.7 - 9.e.ii]

iii. If a training provider ceases to conduct training, the training provider shall notify the Office of

Environmental Services, Permits Division and give it the opportunity to take possession of that providers asbestos training records.

NOTE: Copies of Forms AAC-1, 3 and 4 previously located here are hereby being deleted. All forms may be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 28. Lead-Based Paint Activities C Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2805. Recognition and Standards for Training Providers

[See Prior Text in A - A.1]

2. a training provider seeking recognition shall submit to the Office of Environmental Services, Permits Division the appropriate fees, as required in LAC 33:III.223, and a written application containing the following information:

[See Prior Text in A.2.a - B.8.g]

9. the training provider shall submit rosters, including photographs of participants, to the Office of Environmental Services, Permits Division within 10 working days of course completion. For each course, the training provider shall provide three photographs of each student:

[See Prior Text in B.9.a - D]

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223 and an application to the Office of Environmental Services, Permits Division, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

[See Prior Text in D.2 - D.3]

E. Notification Requirements. A training provider scheduling lead-based paint activities courses shall notify the Office of Environmental Services, Permits Division in writing as follows:

[See Prior Text in E.1 - G.3]

4. The training provider shall notify the Office of Environmental Services, Permits Division 30 days prior to relocating its business or transferring its records.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2807. Accreditation of Individuals

[See Prior Text in A-C.1]

a. submit a completed and signed application form to the Office of Environmental Services, Permits Division;

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

1. To maintain accreditation individuals must be annually recertified by the Office of Environmental Services, Permits Division.

[See Prior Text in D.2 - 2.a]

b. submit a copy of the refresher course completion certificate to the Office of Environmental Services, Permits Division;

[See Prior Text in D.2.c - E.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2809. Licensure of Lead Contractors

[See Prior Text in A]

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. As of November 1, 1998, prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental Services, Permits Division and certify to the department that the following criteria have been met:

[See Prior Text in A.1.a - B.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities

[See Prior Text in A - A.4.f]

5. If using X-ray Fluorescence Spectroscopy (XRF) to test for the presence of lead-based paint, XRF shall be used according to the manufacturer's procedures. The XRF must be licensed in accordance with the department's Radiation Protection Regulations (LAC 33:III).

[See Prior Text in B - E.3]

4. The lead contractor shall notify the Office of Environmental Services, Permits Division in writing of abatement activities.

[See Prior Text in E.4.a]

b. The project shall not start before the start date noted on the LPN. The Office of Environmental Services, Permits Division shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice should be submitted to the department with written follow-up and fax notification to the appropriate regional office.

[See Prior Text in E.4.c - 13]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 29. Odor Regulations

§2901. Odorous Substances

[See Prior Text in A - C.Perceived Odor Intensity]

D. Standard. Limit on Odorous Substances at or Beyond Property Lines. A person shall not discharge an odorous substance which causes a perceived odor intensity of six or greater on the specified eight point butanol scale when determined by the department's test method. (Method 41)

[See Prior Text in E - G.6.d.Figure 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

[See Prior Text in A-C]

1. whenever the referenced regulations (i.e., 40 CFR part 60) provide authority to the Administrator, such authority in accordance with these regulations shall be exercised by the administrative authority or his designee, not withstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR part 60) to be provided to the Administrator shall be provided to the Office of Environmental Assessment, Environmental Technology Division where the state is designated authority by EPA as the Administrator or shall be provided to the Office of Environmental Assessment, Environmental Technology Division and EPA where EPA retains authority as the Administrator,

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T), to read as follows: State of Louisiana: Office of Environmental

Assessment, Environmental Technology Division,
Department of Environmental Quality;

* * *

[See Prior Text in C.3 - D]

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

HISTORICAL NOTE: Promulgated by the Department of
Environmental Quality, Office of Air Quality and Radiation
Protection, Air Quality Division, LR 22:1212 (December 1996),
amended LR 23:1681 (December 1997), LR 24:1287 (July 1998),
LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR
25:1797 (October 1999), amended by the Office of Environmental
Assessment, Environmental Planning Division, LR 26:

**Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program**

**Subchapter A. Applicability, Definitions, and General
Provisions**

**§5107. Reporting Requirements, Availability of
Information, and Public Notice Provisions**

A. Annual Emissions Reporting. The owner or operator
of any stationary source that emits any toxic air pollutant
listed in Table 51.1 or Table 51.3 shall submit a completed
annual emissions report to the Office of Environmental
Services, Permits Division in a format specified by the
department. The owner or operator shall identify on the
emissions report the quantity of emissions in the previous
calendar year for any such toxic air pollutant emitted.

* * *

[See Prior Text in A.1]

2. Subsequent Annual Emissions Reports. After the
initial annual emissions report, the owner or operator of any
stationary source subject to the requirements in Subsection
A of this Section shall submit a completed annual emissions
report to the Office of Environmental Services, Permits
Division on or before July 1 of each year. Each subsequent
report shall identify the quantity of emissions of all toxic air
pollutants listed in Table 51.1 or Table 51.3.

* * *

[See Prior Text in B - B.1]

2. Emission Control Bypasses. Except as provided in
Subsection B.6 of this Section, for any unauthorized
discharge into the atmosphere of a toxic air pollutant as a
result of bypassing an emission control device, where the
emission control bypass was not the result of an upset, the
owner or operator of the source shall notify the Office of
Environmental Compliance of the bypass by telephone at
(225) 763-3908 during office hours; (225) 342-1234 after
hours, weekends, and holidays; or by e-mail at
surveillance@deq.state.la.us no later than 24 hours after the
beginning of the bypass. Where the emission control bypass
was the result of an upset, the owner or operator shall
comply with Subsection B.3 of this Section.

3. Nonemergency Conditions. Except as provided in
Subsection B.6 of this Section, for any unauthorized
discharge of a toxic air pollutant into the atmosphere which
does not cause an emergency condition, the rate or quantity
of which is in excess of that allowed by permit, compliance
schedule, or variance, or for upset events that exceed the
reportable quantity in LAC 33:I.3931, the owner or operator
of the source shall immediately, but in no case later than 24
hours, notify the following office at:

4. Written Reports. For every such discharge or
equipment bypass as referred to in Subsection B.1, 2, and 3

of this Section, the owner or operator shall submit to the
Office of Environmental Compliance a written report by
certified mail within seven calendar days of learning of the
discharge.

* * *

[See Prior Text in B.4.a - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S.
30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of
Environmental Quality, Office of Air Quality and Radiation
Protection, Air Quality Division, LR 17:1204 (December 1991),
amended LR 18:1363 (December 1992), LR 19:890 (July 1993),
amended by the Office of the Secretary, LR 19:1022 (August
1993), repromulgated LR 19:1142 (September 1993), amended by
the Office of Air Quality and Radiation Protection, Air Quality
Division, LR 23:58 (January 1997), LR 24:1276 (July 1998),
amended by the Office of Environmental Assessment,
Environmental Planning Division, LR 26:

§5111. Permit Requirements, Application, and Review

* * *

[See Prior Text in A - A.2.a]

b. if the modification will not result in an increase
in emissions of any toxic air pollutant and will not create a
new point source, submit a letter requesting a permit
modification to the Office of Environmental Services,
Permits Division. The letter shall include those elements
specified in Subsection B.2.a, b, and c of this Section. The
administrative authority shall notify the owner or operator of
the determination to authorize or deny such modification
within 30 days of receiving the request.

* * *

[See Prior Text in A.3]

a. submit a letter to the Office of Environmental
Services, Permits Division indicating that the necessary
permit modification (or new permit if no existing permit is
in place) will be applied for by a date specified in the
compliance schedule and requesting written authorization to
construct; or

b. submit a permit application to the Office of
Environmental Services, Permits Division in accordance
with Subsection B of this Section.

* * *

[See Prior Text in A.4 - B]

1. An owner or operator may submit to the Office of
Environmental Services, Permits Division, by certified mail,
a written request for a determination of whether actions
intended to be taken by the owner or operator constitute
construction or modification, or the commencement thereof,
of a stationary source. The administrative authority will
notify the owner or operator of the determination within 30
days after receiving sufficient information to evaluate the
request.

* * *

[See Prior Text in B.2 - C.5.b]

AUTHORITY NOTE: Promulgated in accordance with R.S.
30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of
Environmental Quality, Office of Air Quality and Radiation
Protection, Air Quality Division, LR 17:1204 (December 1991),
amended LR 18:1363 (December 1992), LR 19:891 (July 1993),
repromulgated LR 19:1314 (October 1993), amended LR 23:59
(January 1997), amended by the Office of the Secretary, LR 25:661
(April 1999), amended by the Office of Environmental Assessment,
Environmental Planning Division, LR 26:

§5113. Notification of Start-up, Testing, and Monitoring

A. Notification of Start-up. Any owner or operator that has an initial start-up of a stationary source subject to MACT or Ambient Air Standard Requirements under this Subchapter shall furnish the Office of Environmental Compliance, Surveillance Division written notification as follows:

1. a notification to the Office of Environmental Compliance, Surveillance Division of the anticipated date of the initial start-up of the source not more than 60 days nor less than 30 days before that date; and

2. a notification to the Office of Environmental Compliance, Surveillance Division of the actual date of initial start-up of the source postmarked within 10 working days after such date.

* * *

[See Prior Text in B]

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment, Environmental Technology Division shall be given a copy of the test results in writing signed by the person responsible for the tests within 45 days after completion of the test.

* * *

[See Prior Text in B.2 - 4.e]

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment, Environmental Technology Division by a certified letter sent before the close of business on the 45th day following the completion of the emission test.

* * *

[See Prior Text in B.6]

7. The owner or operator shall notify the Office of Environmental Assessment, Environmental Technology Division of any emission test required to demonstrate compliance with this Subchapter at least 30 days before the emission test to allow the administrative authority the opportunity to have an observer present during the test.

* * *

[See Prior Text in C - C.1]

2. When required at any other time requested by the administrative authority, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the Office of Environmental Assessment, Environmental Technology Division with a copy of a written report of the results within 60 days of the evaluation. The owner or operator of the source shall furnish the Office of Environmental Assessment, Environmental Technology Division with written notification of the date of the performance evaluation at least 30 days before the evaluation is to begin.

* * *

[See Prior Text in C.3 - 4]

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Assessment, Environmental Technology Division for approval a plan describing the affected sources and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

* * *

[See Prior Text in C.5.a - 7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

* * *

[See Prior Text in A - B.Planned Operation]

*Recognized Disposal Site*Ca waste disposal site which has been approved or permitted by the Department of Environmental Quality.

* * *

[See Prior Text in B.Regulated Asbestos-containing Material

(RACM) - F.2]

a. provide the Office of Environmental Services, Permits Division with typed notice of intention to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation. This form is available from the Office of Environmental Services, Permits Division or through the department's website located at www.deq.state.la.us. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. The use of a prior version of the AAC-2 form is acceptable unless the department has previously provided the owner or operator with a copy of the current version, or the owner or operator is aware of the latest version.

* * *

[See Prior Text in F.2.b - F.2.c.iv.(a).(i)]

(ii). provide the Office of Environmental Services, Permits Division with a written notice of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

* * *

[See Prior Text in F.2.c.iv.(b)]

(i). provide the Office of Environmental Services, Permits Division with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subsection F.1.b of this Section, provide the Office of Environmental

Services, Permits Division written notice of a new start date at least 10 working days before commencement of demolition. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

* * *

[See Prior Text in F.2.c.iv.(c) - f.i.(c)]

ii. Within five working days after the notification is made by phone, a typed notification as specified in Subsection F.2.d and e shall be submitted to the Office of Environmental Services, Permits Division in order to obtain an ADVF.

g. Use the following procedures in order that the department can trace disposal of asbestos-containing waste material:

i. Each demolition or renovation notification received by the department that is associated with a project that generates asbestos-containing waste material shall result in a confirmation letter with a specific project number to the owner or operator accompanied by an Asbestos Disposal Verification Form (ADVF) with a specific facility code.

* * *

[See Prior Text in F.2.g.ii - iii]

iv. The completed ADVF from the transporter shall be verified and signed by the disposal site owner or operator and mailed to the Office of Environmental Services, Permits Division within 30 working days. A copy is to be returned to the waste generator.

* * *

[See Prior Text in F.2.g.v - G.2]

a. Notify the Office of Environmental Services, Permits Division at least 20 days before beginning the spraying operation. Include the following information in the notice:

* * *

[See Prior Text in G.2.a.i - I]

1. Deposit all asbestos-containing waste material at a waste disposal site recognized by the department. A completed AAC-7 form shall have been submitted to the Office of Environmental Services, Permits Division by the disposal facility for prior recognition. Updated information will be required upon request. The latest AAC-7 form may be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us. The Office of Environmental Services, Permits Division will maintain a current list of recognized asbestos waste disposal sites.

* * *

[See Prior Text in I.2 - 3.a.iii]

b. Use an alternative emission control and waste treatment method that has received prior written approval by the administrative authority. To obtain approval for an alternative method, a written application must be submitted to the Office of Environmental Services, Permits Division demonstrating that the following criteria are met:

* * *

[See Prior Text in I.3.b.i - 5.b]

c. report in writing to the Office of Environmental Services, Permits Division if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the

initial transporter. Include in the report the following information:

* * *

[See Prior Text in I.5.c.i - J.1.a.v)

vi. store all wrapped and contained asbestos-containing waste material in a labeled, secured area away from the public, where it will not be subject to disturbance or tampering until it can be transported to a waste disposal site recognized by the department.

* * *

[See Prior Text in J.1.b - 4.c]

d. report in writing to the Office of Environmental Services, Permits Division if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

* * *

[See Prior Text in J.4.d.i - K.2.b]

c. when requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Office of Environmental Services, Permits Division to determine whether a fence or a natural barrier adequately deters access by the general public;

* * *

[See Prior Text in K.3]

4. notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this Section, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Office of Environmental Services, Permits Division at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

* * *

[See Prior Text in K.4.a - L.6.g]

7. submit the following reports to the Office of Environmental Services, Permits Division:

* * *

[See Prior Text in L.7.a - 8]

M. Reporting and Recordkeeping. Any new source to which this Subchapter applies (with the exception of sources subject to Subsections D, F, G, and H of this Section), which has an initial start-up date preceding the effective date of this Subchapter, shall provide the following information to the administrative authority, postmarked or delivered, within 90 days of the effective date. In the case of a new source that does not have an initial start-up date preceding the effective date, the information shall be provided to the administrative authority, postmarked or delivered, within 90 days of the initial start-up date. Any owner or operator of an existing source shall provide the following information to the administrative authority within 90 days of the effective date of this Subchapter, unless the owner or operator of the existing source has previously provided this information to the administrative authority. Any changes in the information

provided by any existing source shall be provided to the administrative authority, postmarked or delivered, within 30 days after the change. The owner or operator of any existing source to which this Section is applicable shall, within 90 days after the effective date, provide the following information to the Office of Environmental Services, Permits Division:

* * *

[See Prior Text in M.1 – N.3.a]

b. be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion, if previously approved by the Department of Environmental Quality. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior written approval by the administrative authority. For purposes of this Subsection, any used, spent, or other waste oil is not considered a dust suppression agent.

* * *

[See Prior Text in N.4 - 5.a.v]

b. as soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed ADVF to the waste generator and to the Office of Environmental Services, Permits Division;

c. upon discovering a discrepancy between the quantity of waste designated on the ADVF and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the Office of Environmental Services, Permits Division. Describe the discrepancy and attempts to reconcile it, and submit a copy of the ADVF with the report.

* * *

[See Prior Text in N.5.d - 7]

8. Submit to the Office of Environmental Services, Permits Division, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

* * *

[See Prior Text in N.9]

10. Notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date shall be provided to the administrative authority at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

* * *

[See Prior Text in N.10.a – P.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter A. Toxic Emissions Reporting Requirements
§5307. Reporting Requirements

A. An initial emissions inventory report is due on or before October 1, 1994, from the facilities within the specified categories that use the listed chemical(s) pursuant to LAC 33:III.5301. The report shall be submitted on a form or in an electronic format specified by the department to the Department of Environmental Quality, and include the following information:

[See Prior Text in A.1 – 7]

B. Subsequent reports will be due on or before July 1 of each year. The report shall be submitted to the Department of Environmental Quality, Office of Environmental Services, Permits Division, and include the information requested in Subsection A of this Section for the preceding calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:431 (April 1994), Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences
Subchapter B. Risk Management Program Requirements
§5911. Registration for Stationary Sources

A. The owner or operator of each stationary source that has a covered process as defined by 40 CFR 68.3 shall register with the Department of Environmental Quality, Office of Environmental Compliance, Surveillance Division by the latest of the following dates:

* * *

[See Prior Text in A.1 – B.4]

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the Department of Environmental Quality, Office of Environmental Compliance, Surveillance Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:1125 (November 1996), LR 23:1496 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Title 33

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste

Chapter 1 General Provisions and Definitions
§105. Program Scope

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

appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A]

1. Within 90 days after the promulgation of these regulations anyone subject to these regulations who has not previously notified the department on the Notification of Hazardous Waste Activity Form—HW-1, or whose notification on Form HW-1 is not approved, must notify the Office of Environmental Services, Permits Division using Form HW-1. Within 90 days after changes in waste characteristics or changes in these regulations that result in changes in the notification, interim status facilities must revise their notification form by resubmitting a corrected copy of Form HW-1.

* * *

[See Prior Text in A.2 - C.1.b]

2. The Office of Environmental Services, Permits Division is responsible for nonhazardous solid wastes treated, stored and/or disposed of in public and private solid waste facilities.

* * *

[See Prior Text in C.3 - 3.a]

b. injection wells, less related surface installations and areas, for industrial on-site or commercial disposal of hazardous wastes, until the effective date of Act 97 of 1983 (scheduled to be February 1, 1984), after which time they shall be regulated by the Department of Environmental Quality in accordance with the provisions of Title 30 of the Louisiana Revised Statutes.

4. The department is responsible for radioactive materials.

* * *

[See Prior Text in C.5 - D.1.i.iii.(d)]

(e). prior to operating pursuant to this exclusion, the plant owner or operator submits to the Office of Environmental Services, Permits Division a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the administrative authority for reinstatement. The administrative authority may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

* * *

[See Prior Text in D.1.j - p.iv.(c)]

v. the owner or operator provides a notice to the Office of Environmental Services, Permits Division identifying the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in non-land-based units. This notification must be

updated when there is a change in the type of materials recycled or the location of the recycling process; and

* * *

[See Prior Text in D.1.p.vi - 5.c.ii]

iii. the additional quantities and time frames allowed in Subsection D.5.c.i and ii of this Section are subject to all the provisions in Subsection D.5.a and b.iii-vi of this Section. The generator or sample collector must apply to the Office of Environmental Services, Permits Division and provide in writing the following information:

* * *

[See Prior Text in D.5.c.iii.(a) - 6]

a. no less than 45 days before conducting treatability studies, the facility notifies the Office of Environmental Services, Permits Division in writing that it intends to conduct treatability studies under this Subsection;

* * *

[See Prior Text in D.6.b - h]

i. the facility prepares and submits a report to the Office of Environmental Services, Permits Division by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

* * *

[See Prior Text in D.6.i.i - 6.j]

k. the facility notifies the Office of Environmental Services, Permits Division by letter when the facility is no longer planning to conduct any treatability studies at the site.

* * *

[See Prior Text in D.7 - J.1]

2. Non-Emergency Conditions. For any unauthorized discharge of a hazardous waste which does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance, Surveillance Division, within 24 hours of learning of the discharge and in accordance with other provisions of LAC 33:I.Chapter 39.

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998),

LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:

§109. Definitions

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

* * *

[See Prior Text]

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

* * *

[See Prior Text in Ancillary Equipment - Hazardous Waste.4.b.ii.(c)(i)]

(ii). A one-time notification and certification must be placed in the facility's files and sent to the Office of Environmental Services, Permits Division for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

* * *

[See Prior Text in Hazardous Waste.4.b.ii.(c)(ii)[a] - Zone of Engineering Control]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, 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:

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

§303. Overview of the Permit Program

A. General Application Requirements

1. Permit Application. Any person who is required to have a permit (including new applicants and permittees with

expiring permits) shall complete, sign, and submit an application to the Office of Environmental Services, Permits Division as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

* * *

[See Prior Text in A.3 - H.1]

2. An application for a permit for a new TSD facility (including both Parts I and II) may be filed any time after promulgation of these standards, applicable to such facility. The application shall be filed with the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in H.3]

4. A new facility must obtain an EPA identification number. EPA identification numbers will be issued only by the EPA. However, application for an EPA Identification Number shall be made by completing the Hazardous Waste Notification form provided by the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in I - Q]

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 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§309. Conditions Applicable to All Permits

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a

specific citation to these regulations must be given in the permit.

* * *

[See Prior Text in A - L]

1. **Planned Changes.** The permittee shall give notice to the Office of Environmental Services, Permits Division, as soon as possible, of any planned physical alterations or additions to the permitted facility.

2. **Anticipated Noncompliance.** The permittee shall give advance notice to the Office of Environmental Services, Permits Division of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

* * *

[See Prior Text in L.3 - 7.d]

8. **Manifest Discrepancy Report.** If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within five days, the permittee must submit a report including a copy of the manifest to the Office of Environmental Services, Environmental Assistance Division.

9. **Unmanifested Waste Report.** An unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division within five days of receipt of unmanifested waste.

10. **Annual Report.** An annual report must be submitted to the Office of Environmental Services, Environmental Assistance Division covering facility activities during the previous calendar year.

* * *

[See Prior Text in L.11]

12. **Other Information.** If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the administrative authority, he shall promptly submit such facts or information to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§321. Modification of Permits

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, any other change in the site, facility, or operations which materially deviates from a permit or materially increases danger to the public health or the environment, and any operator or ownership change must be reported in writing to the Office of Environmental Services, Permits Division prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. The administrative authority may approve an

ownership change (transfer of permit) based on the following factors:

* * *

[See Prior Text in A.1 - B.1]

2. Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the administrative authority in accordance with LAC 33:V.321.C. The new owner or operator must submit a revised permit application to the Office of Environmental Services, Permits Division no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the administrative authority. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of LAC 33:V.Chapter 37 (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of LAC 33:V.Chapter 37. The new owner or operator must demonstrate compliance with LAC 33:V.Chapter 37 requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the administrative authority by the new owner or operator of compliance with LAC 33:V.Chapter 37, the administrative authority shall notify the old owner or operator that he or she no longer needs to comply with LAC 33:V.Chapter 37 as of the date of demonstration.

* * *

[See Prior Text in C - 1.a]

i. The permittee must notify the Office of Environmental Services, Permits Division concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

* * *

[See Prior Text in C.1.a.ii - 2]

a. For Class 2 modifications, listed in LAC 33:V.322, the permittee must submit a modification request to the Office of Environmental Services, Permits Division that:

* * *

[See Prior Text in C.2.a.i - 10.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits

* * *

[See Prior Text in A]

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Department of Environmental Quality (DEQ), Legal Affairs Division in accordance with Act 97 of 1983.

* * *

[See Prior Text in B.1 - 4.e]

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 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 5. Permit Application Contents
Subchapter A. General Requirements for Permit Applications

§501. Permit Application

A. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit a permit application to the Office of Environmental Services, Permits Division as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by RCRA permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

* * *

[See Prior Text in B - C.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Specific Information Requirements

§520. Specific Part II Information Requirements for Groundwater Protection

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in LAC 33:V.3301.B and C:

* * *

[See Prior Text in A - F.4]

G. if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of the permit application, the owner or operator must

submit to the Office of Environmental Services, Permits Division, sufficient information supporting data, and analyses to establish a compliance monitoring program that meets the requirements of LAC 33:V.3319. Except as provided in LAC 33:V.3317.H, the owner or operator must also submit to the Office of Environmental Services, Permits Division, an engineering feasibility plan for a corrective action program necessary to meet the requirements of LAC 33:V.3321, unless the owner or operator obtains written authorization in advance from the administrative authority to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with LAC 33:V.3319, the owner or operator must address the following items:

* * *

[See Prior Text in G.1 - H.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)

* * *

[See Prior Text in A - B.2.h.x]

i. The applicant must submit to the Office of Environmental Services, Permits Division a certification that the trial burn has been conducted in accordance with the approved trial burn plan and must submit the results of all the analyses and determinations required in Subsection B.2.h of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

* * *

[See Prior Text in B.2.j - C.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818 (September 1996), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter G. Remedial Action Plans (RAPs)C General Information

§565. How Do I Apply for a RAP?

To apply for a RAP, you must complete an application, sign it, and submit it to the Office of Environmental Services, Permits Division according to the requirements in this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000), amended LR 26:

§590. To Whom Must I Submit My RAP Application?

You must submit your application for a RAP to the Office of Environmental Services, Permits Division for approval.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000), amended LR 26:

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter A. Permits

§703. Permit Evaluation

A. Application Distribution. Upon acceptance of an application for review, the administrative authority will distribute copies of the application (Part I) for review and comment to: the public (filed with local libraries or other public facility), notification of which is to be published in a bulletin (see LAC 33:V.717), and as an ad in a local newspaper; Department of Health and Human Resources, Office of Health Services and Environmental Quality; Department of Wildlife and Fisheries; Office of Public Works of the Department of Transportation and Development; or the successors to any of the above; and to local governing authorities of any municipality and parish within whose territorial jurisdiction the facility or activity is located.

* * *

[See Prior Text in B - D.2.f]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Hearings

§708. Preapplication Public Meeting and Notice, Public Notice Requirements at the Application Stage, and Information Repository

[See Prior Text in A - 4.a.iii]

iv. a notice to the department. The applicant shall send a copy of the newspaper notice to the Office of Environmental Services, Permits Division and to the appropriate units of state and local government, in accordance with LAC 33:V.717.A.2.

* * *

[See Prior Text in A.4.b - C.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:659 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§709. Evidentiary Hearings on Operating Permit Applications for Commercial Hazardous Waste Treatment, Storage, Disposal, or Recycling Facilities

* * *

[See Prior Text in A]

B. An evidentiary hearing shall be held after the technical review on a permit application for operation of a

commercial hazardous waste treatment, storage, disposal, or recycling facility.

* * *

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

c. those who request notice in writing and those who are on the area mailing list developed by the department.

* * *

[See Prior Text in D.2 - F]

G. The presiding officer shall not make findings of fact, conclusions of law, or recommendations or render decisions on the merits of the permit application. The presiding officer's authority terminates once the record is complete and has been submitted to the administrative authority.

* * *

[See Prior Text in H - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:683 (August 1990), LR 17:362 (April 1991), LR 21:565 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 9. Manifest System for TSD Facilities
§903. Manifest Requirements

* * *

[See Prior Text in A]

1. a state manifest document number which shall be obtained from the Office of Environmental Services, Environmental Assistance Division if the destination point is in Louisiana;

* * *

[See Prior Text in A.2 - C]

D. The manifest form must be obtained from the Office of Environmental Services, Environmental Assistance Division. A Louisiana manifest shall be used as follows:

* * *

[See Prior Text in D.1 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 17:362 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§907. Manifest Discrepancies

* * *

[See Prior Text in A]

B. Upon discovering a discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g. with telephone conversations). The owner or operator must submit to the Office of Environmental Services, Environmental Assistance Division within five working days a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. After the discrepancy is resolved, a corrected copy is to be sent to the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§909. Unmanifested Waste Report

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, then the owner or operator must prepare and submit a single copy of a report to the administrative authority within 15 days after receiving the waste. Such unmanifested waste storage, treatment, or disposal shall be covered by the facility permit or an emergency permit (LAC 33:V.701), and treatment or disposal shall not occur until approval of the administrative authority is given. The unmanifested waste report must be submitted on the form provided by the Office of Environmental Services, Environmental Assistance Division or through the department's website at www.deq.state.la.us. Such report must be designated "Unmanifested Waste Report" and include the following information:

* * *

[See Prior Text in A - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§911. Manifest Forms

* * *

[See Prior Text in A]

B. Sample manifest forms will be available upon request from the Office of Environmental Services, Environmental Assistance Division.

* * *

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§913. Manifest Document Flow

* * *

[See Prior Text in A - E]

F. The generator and hazardous waste facility operator each shall submit an annual report to the Office of Environmental Services, Environmental Assistance Division including manifest numbers, total quantity by type of waste handled, its disposition, and all other information requested by the department on the annual report forms. The report shall cover the preceding calendar year and shall be submitted by March 1.

* * *

[See Prior Text in G]

H. Except as otherwise provided in LAC 33:V.919 and 1309.G, hazardous waste facility operators are required to report to the Office of Environmental Services, Environmental Assistance Division any irregularities between the wastes actually received and the waste

described on the manifest, or any other irregularities, within five days.

* * *

[See Prior Text in I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§919. Hazardous Waste Rejections

If any hazardous waste is rejected by the operator of a hazardous waste facility, the operator of that facility is to notify the Office of Environmental Services, Environmental Assistance Division immediately (within 24 hours) by telephone and give reasons why the waste was rejected. Within seven days of the refusal to accept the wastes, the operator must provide the administrative authority with a written explanation of why the waste was rejected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 11. Generators

Subchapter A. General

§1105. EPA Identification Numbers

A generator must not treat, store, dispose of, transport or offer for transportation hazardous waste without having received an active EPA identification number.

* * *

[See Prior Text in A]

B. A generator must notify the Office of Environmental Services, Permits Division within seven days if any of the information submitted in the application for the identification number changes. Because EPA identification numbers are site-specific, if a facility moves to another location, the owner/operator must obtain a new EPA identification number for the facility.

* * *

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1107. The Manifest System

* * *

[See Prior Text in A - A.7]

8. Except as otherwise provided in LAC 33:V.919 and 1309.F, generators are required to report to the Office of Environmental Services, Environmental Assistance Division any irregularities between the wastes actually received and the waste described on the manifest, or any other irregularities, within 15 days.

9. The manifest form and the continuation sheet used must be obtained from the Office of Environmental Services, Environmental Assistance Division.

* * *

[See Prior Text in A.10 - D.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.7.d.iv.(b)]

(c). in the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us. The report must include the following information:

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 August 1999), LR 26:277 (February 2000), LR 26:

§1111. Recordkeeping and Reporting

* * *

[See Prior Text in A - B]

1. A generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit a single copy of an annual report to the Office of Environmental Services, Environmental Assistance Division by March 1 of each year. The annual report must be submitted on the form provided by the administrative authority and it must cover generator activities during the previous calendar year. The reports must also include the following information:

* * *

[See Prior Text in B.1.a - h]

2. Generators who also dispose, treat, or store hazardous waste on-site shall also submit annual reports to the Office of Environmental Services, Environmental Assistance Division, reporting total quantity, by type, of

waste handled, and how that waste was disposed, treated, or stored. Generators must maintain on site a copy of each report submitted to the department for a period of at least three years from the date of the report. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth in LAC 33:V.1113.G.

* * *

[See Prior Text in C - C.1]

2. A generator must submit an Exception Report to the Office of Environmental Services, Environmental Assistance Division if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

* * *

[See Prior Text in C.2.a - D]

E. Quarterly Reports. Generators who dispose of hazardous waste on-site shall submit a quarterly report (form approved by the administrative authority) no later than 15 days after the beginning of the quarter to the Office of Environmental Services, Environmental Assistance Division reporting total quantities (calculated on a daily basis), by type of waste handled, and how that waste was disposed of during the previous calendar quarter, and shall retain on-site a copy of the report for at least three years from the date of disposal.

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 16:220 (March 1990), LR 17:365 (April 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1113. Exports of Hazardous Waste

* * *

[See Prior Text in A - D.1.b.viii]

2. Notification shall be sent to the Office of Environmental Services, Environmental Assistance Division with "Attention: Notification to Export" prominently displayed on the front of the envelope. [Note: This does not relieve the regulated community from the requirement of submitting notification to the Office of Waste Programs Enforcement, RCRA Enforcement Division (OS-520), EPA, as required by 40 CFR 262.53 (b).]

* * *

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

5. in lieu of the requirements of LAC 33:V.1107.A.6, the primary exporter must obtain the manifest form from the Office of Environmental Services, Environmental Assistance Division;

* * *

[See Prior Text in E.6 - I.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the

Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1123. Imports of Foreign Hazardous Waste

* * *

[See Prior Text in A - D.4]

E. Notification shall be sent to the Office of Environmental Services, Environmental Assistance Division with "Attention: Notification to Import Foreign Hazardous Waste" prominently displayed on the front of the envelope. Such notices shall be sent by certified mail.

* * *

[See Prior Text in F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:20 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1125. Unmanifested Foreign Hazardous Waste

A. Any person who imports foreign generated material that has not been classified as hazardous waste prior to entry into the state of Louisiana, but subsequently is determined to be hazardous waste, must immediately notify the Office of Environmental Services, Environmental Assistance Division by telephone.

* * *

[See Prior Text in B]

1. file in writing an unmanifested waste report with the Office of Environmental Services, Environmental Assistance Division which shall include;

* * *

[See Prior Text in B.1.a - 2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:21 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Transfrontier Shipments of Hazardous Waste

§1127. Transfrontier Shipments of Hazardous Waste for Recovery Within the OECD

* * *

[See Prior Text in A - G.1.f]

2. Exception Reports. Any person who meets the definition of primary exporter in LAC 33:V.109 must file an exception report, in lieu of the requirements of LAC 33:V.1111.C, with the Office of Environmental Services, Environmental Assistance Division if any of the following occurs:

* * *

[See Prior Text in G.2.a - I.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 13. Transporters

§1309. Compliance with the Manifest

* * *

[See Prior Text in A - E]

F. Transporters will pick up and ship only those wastes which are properly prepared for shipment (see LAC 33:V.1109), and which are accompanied by a properly filled out manifest, and appear to be the hazardous waste described on the manifest. If the transporter notices any irregularities or rejects a shipment for any reason, he must notify the Office of Environmental Services, Environmental Assistance Division as soon as possible, but no later than the next working day.

G. Except as provided in LAC 33:V.919 and 1309.F, transporters are required to report to the Office of Environmental Services, Environmental Assistance Division any irregularities between the wastes received and the waste described on the manifest, or any other irregularities, within five days.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1504. Construction Quality Assurance Program

* * *

[See Prior Text in A - C.2]

D. Certification. Waste shall not be received in a unit subject to LAC 33:V.1504 until the owner or operator has submitted to the Office of Environmental Services, Permits Division by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out, that the unit meets the requirements of LAC 33:V.2903.J or K, 2303.C or D, or 2503.L or M, and the procedure in LAC 33:V.309.L.3.b has been completed. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1505. Discharges from the Site

* * *

[See Prior Text in A - 1]

2. air emissions, if any, must be in conformity with air limitations of the Clean Air Act administered by the Office of Environmental Services, Permits Division, operating under an Air Quality Permit as required, and reported as required by that permit. The air permit must be applied for prior to the issuance of a hazardous waste permit.

* * *

[See Prior Text in B - C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1513. Contingency Plan and Emergency Procedures

* * *

[See Prior Text in A - 1]

2. A contingency plan to be implemented in the event of an emergency shall be filed with the Office of Environmental Services, Permits Division and, after approval, with the local fire and police departments (if any operate in the area), hospitals and emergency response teams operating in the area which are subject to call by the operator or the department.

* * *

[See Prior Text in A.3 - C]

1. The contingency plan must be submitted to the Office of Environmental Services, Permits Division with the permit application and, after modification or approval, will become a condition of any permit issued.

* * *

[See Prior Text in C.2 - F.8.b]

9. The owner or operator must notify the Office of Environmental Compliance, Surveillance Division and appropriate state and local authorities that the facility is in compliance with LAC 33:V.1513.F.8 before operations are resumed in the affected area(s) of the facility.

10. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementation of the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Office of Environmental Compliance, Surveillance Division which includes:

* * *

[See Prior Text in F.10.a - g]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1527. Receiving and Monitoring Incoming Waste

* * *

[See Prior Text in A - E]

F. Unmanifested Waste Reports. Any wastes presented for disposal that are not accompanied by a properly completed manifest shall be rejected. The TSD operator shall note the name of the driver, hauler, and the vehicle identification numbers. He shall notify the Office of Environmental Compliance, Surveillance Division by phone immediately and in writing within seven days of the refusal to accept the waste and provide the administrative authority with the required information.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A - C.3]

D. Annual Report. The owner or operator must prepare and submit a single copy of an annual report to the Office of Environmental Services, Environmental Assistance Division by March 1 of each year. The report form must be used for this report. The annual report must cover facility activities during the previous calendar year. Information submitted on a more frequent basis may be included by reference or in synopsis form where it is not pertinent to reporting under LAC 33:V.Chapter 9 or monitoring reporting under LAC 33:V.3317. It must include the following information:

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), LR 25:1799 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:

§1531. Required Notices

A. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Office of Environmental Services, Environmental Assistance Division in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

* * *

[See Prior Text in B - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 17. Air Emission Standards

Subchapter A. Process Vents

§1715. Reporting Requirements

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services, Permits Division by dates specified by the administrative authority. The report shall include the following information:

* * *

[See Prior Text in A.1 - B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Equipment Leaks

§1737. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak

* * *

[See Prior Text in A - B]

1. An owner or operator must notify the Office of Environmental Services, Permits Division that the owner or operator has elected to comply with the requirements of this Section.

* * *

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

D. If an owner or operator decides to comply with this Section no longer, the owner or operator must notify the Office of Environmental Services, Permits Division in writing that the work practice standard described in LAC 33:V.1729.A-E will be followed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1739. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair

* * *

[See Prior Text in A - 1]

2. An owner or operator must notify the Office of Environmental Services, Permits Division before implementing one of the alternative work practices.

* * *

[See Prior Text in B - B.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:439 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1745. Reporting Requirements

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services, Permits Division by dates specified by the administrative authority. The report shall include the following information.

* * *

[See Prior Text in A.1 - B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

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

§1747. Applicability

* * *

[See Prior Text in A - D.2]

3. the owner or operator notifies the Office of Environmental Services, Permits Division, in writing, that

hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Subsection D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Subsection D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:

§1755. Standards: Tanks

* * *

[See Prior Text in A - E.3.c]

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

* * *

[See Prior Text in E.3.d.i]

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

* * *

[See Prior Text in E.3.e - F.3.b.iv]

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

* * *

[See Prior Text in F.3.c.i - L.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:

§1767. Reporting Requirements

A. Each owner or operator managing hazardous waste in a tank, surface impoundment, or container exempted from

using air emission controls under the provisions of LAC 33:V.1751.C shall report to the Office of Environmental Compliance, Enforcement Division each occurrence when hazardous waste is placed in the waste management unit in noncompliance with the conditions specified in LAC 33:V.1751.C.1 or 2, as applicable. Examples of such occurrences include placing in the waste management unit a hazardous waste having an average VO concentration equal to or greater than 500 ppmw at the point of waste origination or placing in the waste management unit a treated hazardous waste of which the organic content has been reduced by an organic destruction or removal process that fails to achieve the applicable conditions specified in LAC 33:V.1751.C.2.a-f. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

B. Each owner or operator using air emission controls on a tank in accordance with the requirements LAC 33:V.1755.C shall report to the Office of Environmental Compliance, Enforcement Division each occurrence when hazardous waste is managed in the tank in noncompliance with the conditions specified in LAC 33:V.1755.B. The owner or operator shall submit a written report within 15 calendar days of the time that the owner or operator becomes aware of the occurrence. The written report shall contain the EPA identification number, facility name and address, a description of the noncompliance event and the cause, the dates of the noncompliance, and the actions taken to correct the noncompliance and prevent recurrence of the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.

C. Each owner or operator using a control device in accordance with the requirements of LAC 33:V.1761 shall submit a semiannual written report to the Office of Environmental Compliance, Enforcement Division, except as provided for in Subsection D of this Section. The report shall describe each occurrence during the previous six-month period when either:

* * *

[See Prior Text in C.1 - D.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1720 (September 1998), LR 25:442 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 18. Containment Buildings
§1802. Design and Operating Standards

* * *

[See Prior Text in A - C.3.a.iii]

iv. within seven days after the discovery of the condition, notify the Office of Environmental Assessment, Environmental Technology Division of the condition and, within 14 working days, provide a written notice to the administrative authority with a description of the steps taken

to repair the containment building and the schedule for accomplishing the work;

* * *

[See Prior Text in C.3.b]

c. upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Assessment, Environmental Technology Division in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.1802.C.3.a.iv; and

* * *

[See Prior Text in C.4 - E]

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 19. Tanks
§1905. Design and Installation of New Tank Systems or Components

A. Owners or operators of new tank systems or components must obtain and submit to the Office of Environmental Assessment, Environmental Technology Division, at time of submittal of Part II information, a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated and corrosion protection to ensure that it will not collapse, rupture or fail. This assessment, which will be used by the administrative authority to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

* * *

[See Prior Text in A.1 - G]

H. Owners or operators of new tanks systems or components subject to the accumulation time exclusion of LAC 33:V.1109.E.1 must obtain and submit to the Office of Environmental Assessment, Environmental Technology Division, prior to placing the tank system in service, a written assessment, reviewed and certified by an independent registered professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for storing or treating hazardous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed, and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. The assessment, which will be used by the administrative authority to review the acceptability of the tank system design, must include at a minimum the requirements specified in LAC 33:V.1905.A.1-5.

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 13:651 (November 1987), LR 16:614 (July 1990), LR 16:683 (August 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1907. Containment and Detection of Releases

* * *

[See Prior Text in A - H]

1. The Office of Environmental Assessment, Environmental Technology Division must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in LAC 33:V.1907.G according to the following schedule:

* * *

[See Prior Text in H.1.a - I.5]

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 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1913. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements.

* * *

[See Prior Text in A - D]

1. Any release to the environment, except as provided in LAC 33:V.1913.D.2, must be reported to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us within 24 hours of its detection. If the release has been reported pursuant to LAC 33:V.105.J, that report will satisfy this requirement.

* * *

[See Prior Text in D.2 - 2.b]

3. Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the Office of Environmental Compliance, Surveillance Division:

* * *

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

F. Certification of Major Repairs. If the owner/operator has repaired a tank system in accordance with LAC 33:V.1913.E and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with LAC 33:V.513 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the Office of Environmental Compliance,

Surveillance Division within seven days after returning the tank system to use.

Note: The administrative authority may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order requiring corrective action or such other response as is deemed necessary to protect human health or the environment.

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 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2227. Treatment Standards Expressed as Specified Technologies

* * *

[See Prior Text in A]

B. Any person may submit an application to the Office of Environmental Services, Permits Division demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achieved by methods specified in LAC 33:V.2227.A, C, and D or specified in LAC 33:V.Chapter 22.Table 8. The applicant must submit information demonstrating that his or her treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis of such information and any other available information, the administrative authority may approve the use of the alternative treatment method if he or she finds that the alternative treatment method provides a measure of performance equivalent to those achieved by methods specified in LAC 33:V.2227.A, C, and D or specified in LAC 33:V.Chapter 22.Table 8. Any approval must be stated in writing and may contain such provisions and conditions as the administrative authority deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination.

* * *

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2231. Variance from a Treatment Standard

* * *

[See Prior Text in A - A.2.b]

B. Each petition must be submitted to the Office of Environmental Services, Permits Division for consideration in accordance with the procedures in LAC 33:V.105.H.

* * *

[See Prior Text in C - C.2]

D. The Office of Environmental Services, Permits Division will give public notice of the intent to approve or deny a petition and will provide the person requesting the

variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

* * *

[See Prior Text in E - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2237. Exemption for Surface Impoundments Treating Hazardous Waste

* * *

[See Prior Text in A - A.3.c]

4. The owner or operator must submit to the Office of Environmental Services, Permits Division a written certification that the requirements of Subsection A.3 of this Section have been met and a copy of the waste analysis plan required under Subsection A.2 of this Section. The following certification is required:

"I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

* * *

[See Prior Text in B - C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2239. Procedures for Case-by-Case Extensions of an Effective Date

A. Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the Office of Environmental Services, Permits Division for an extension of the effective date of any applicable prohibition established under this Chapter. The applicant must provide the following, and in each case the burden of proof will be on the applicant:

* * *

[See Prior Text in A.1 - F]

G. Any person granted an extension under this Section must immediately notify the Office of Environmental Services, Permits Division as soon as he or she has knowledge of any change in the conditions certified in the application.

H. Any person granted an extension under this Section shall submit written progress reports at intervals designated by the Office of Environmental Services, Permits Division which may not exceed six months. Such reports must describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery, or disposal capacity; must identify any event which may cause or has caused a delay in the development of the capacity, and must summarize the steps taken to mitigate the delay. The administrative authority can revoke the extension at any time if the applicant does not make a good-faith effort to meet the schedule for completion, if the department denies or revokes any required permit, if conditions certified in the application change, or for any violation of the Louisiana Environmental Quality Act or regulations promulgated thereto.

* * *

[See Prior Text in I - J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection

A. Any person seeking an exemption to allow land disposal except by deep well injection of a prohibited hazardous waste in a particular unit or units must submit a petition to the Office of Environmental Services, Permits Division that meets the following requirements:

* * *

[See Prior Text in A.1 - F.5.c]

G. Each petition must be submitted to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in H]

1. If the owner or operator plans to make changes to the unit design, construction, or operation, such changes must be proposed in writing, and the owner or operator shall submit a demonstration to the Office of Environmental Services, Permits Division at least 30 days before making the changes. The administrative authority will determine whether the proposed changes invalidate the terms of the

petition and will determine the appropriate response. Any changes must be approved by the administrative authority prior to being made.

2. If the owner or operator discovers that a condition at the site which was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Office of Environmental Services, Permits Division within 10 days of discovery of the change. The administrative authority will determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance and revocation of the petition or petition modifications, or other responses.

I. If the owner or operator determines that hazardous constituent(s) are migrating from the unit, the owner or operator must immediately suspend receipt of prohibited wastes at the unit and notify the Office of Environmental Compliance within 24 hours and in writing within 10 days of the determination that a release has occurred. Following receipt of the notification, the administrative authority will determine within 60 days of receiving notification whether the owner or operator can continue to receive prohibited wastes in the unit and whether the exemption is to be revoked. The administrative authority shall also determine whether further examination of any migration is warranted under applicable provisions of LAC 33:V.Chapter 33 or 43.

J. Each petition must include the following statement signed by the petitioner or a duly authorized representative and must be submitted to the Office of Environmental Services, Permits Division:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

* * *

[See Prior Text in K - Q]

R. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services, Permits Division by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

* * *

[See Prior Text in S - T.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2243. Administrative Procedures for Exemptions under LAC 33:V.2241 and 2271, No-Alternative Determinations under LAC 33:V.2237, and Case-by-Case Extensions of an Effective Date under LAC 33:V.2239

Before making a final decision on the exemption, determination, or extension request, the department will provide the person requesting the exemption, determination, or extension and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the exemption, determination, or extension, the opportunity to submit written comments on the request on the conditions of the exemption, determination, or extension, allowing a 45-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the exemption, determination, or extension request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), LR 26:

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A - E.1]

2. Such plan must be filed with the Office of Environmental Services, Permits Division a minimum of 30 days prior to the treatment activity, with delivery verified.

* * *

[See Prior Text in E.3 - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

* * *

[See Prior Text in A - C]

D. Wastes that exhibit a characteristic are also subject to the requirements of LAC 33:V.2245, except that once the waste is no longer hazardous, a one-time notification and

certification must be placed in the generator or treaters files and sent to the Office of Environmental Services, Permits Division. The notification and certification must be updated if the process or operation generating the waste changes and/or if the solid waste disposal facility receiving the waste changes. However, the generator or treater need only notify the administrative authority on an annual basis if such changes occur. In such circumstances, a notification and certification must be sent to the administrative authority by the end of the calendar year, but no later than December 31.

* * *

[See Prior Text in D.1 - E]

1. a one-time notification, including the following information, must be submitted to the Office of Environmental Services, Permits Division:

* * *

[See Prior Text in E.1.a - F.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements

* * *

[See Prior Text in A - D]

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.A.2-4 regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) is not required to notify the receiving facility, in accordance with Subsection B of this Section. With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in Subsection C of this Section and a notice which includes the information listed in Subsection B of this Section (except the manifest number) to the Office of Environmental Services, Permits Division. The recycling facility also must keep records of the name and location of each entity receiving the hazardous waste-derived product.

* * *

[See Prior Text in F - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:

Subchapter B. Hazardous Waste Injection Restrictions
§2253. Procedures for Case-by-Case Extensions to an Effective Date

The owner or operator of a Class I hazardous waste injection well may submit an application to the Office of Environmental Services, Permits Division for an extension of the effective date of any applicable prohibition established under LAC 33:V.Chapter 22.Subchapter A according to the procedures of LAC 33:V.2239.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

A. Any person seeking an exemption to allow land disposal by deep well injection of a prohibited hazardous waste in a particular injection well or wells must submit a petition to the Office of Environmental Services, Permits Division that does the following:

* * *

[See Prior Text in A.1 - G.2]

H. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services, Permits Division for reissuance of the exemption to include an additional prohibited waste or wastes or to modify any conditions placed on the exemption by the administrative authority. The administrative authority may reissue the exemption if the petitioner complies with the requirements of LAC 33:V.2271.A-F.

I. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services, Permits Division to modify an exemption to include an additional nonprohibited hazardous waste or wastes. The administrative authority may grant the modification if he or she determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

* * *

[See Prior Text in J - T.1]

a. notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us within 24 hours of obtaining such evidence;

* * *

[See Prior Text in T.1.b - U.4.c]

5. The permittee shall submit a request to the Office of Environmental Services, Permits Division for reissuance of the exemption at least 180 days prior to the end of the term. If the applicant submits a timely and technically complete application, and the administrative authority, through no fault of the applicant, fails to act on the application for reissuance on or before the expiration date of the existing exemption, the permittee may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing exemption

which shall remain in effect until final action on the application is taken by the administrative authority.

* * *

[See Prior Text in V]

1. The petitioner shall submit a plan to the Office of Environmental Assessment, Environmental Technology Division outlining the protocol used to:

* * *

[See Prior Text in V.1.a - Y]

Z. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services, Permits Division by March 1 of each calendar year during the term of the exemption, describing in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2273. Petition for Determinations Concerning No Alternatives to Land Disposal of a Prohibited Waste by Deep Well Injection

* * *

[See Prior Text in A - B]

C. Any person seeking a determination of no alternatives must submit a petition to the Office of Environmental Services, Permits Division that does the following:

* * *

[See Prior Text in C.1 - D]

E. Except as otherwise provided in this Section, if a hazardous waste not subject to an existing determination is to be injected, a petition that addresses such hazardous waste must be submitted to the Office of Environmental Services, Permits Division and a determination of no alternatives be made prior to this waste being injected. The provisions contained in Subsection J of this Section, shall apply with respect to such hazardous waste.

* * *

[See Prior Text in E.1 - 2]

F. If a new injection well(s) is to be used to inject a hazardous waste subject to an existing approved determination under this Section, a new petition is not necessary, provided the owner or operator submits a notice to the Office of Environmental Assessment, Environmental Technology Division. The notice shall include a copy of the EPA exemption approval for the new well(s) and a copy of the permit issued by the Louisiana Department of Natural Resources, Office of Conservation for the new well(s).

* * *

[See Prior Text in G - L.1]

2. The petitioner shall submit a petition to the Office of Environmental Services, Permits Division for reissuance of a determination at least 180 days prior to the end of the term. If the petitioner submits a timely and technically complete petition and the administrative authority, through no fault of the petitioner, fails to act on the petition for

reissuance on or before the expiration date of the existing determination, the petitioner may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing determination, which shall remain in effect until final action on the petition is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:1801 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 23. Waste Piles
§2303. Design and Operating Requirements

* * *

[See Prior Text in A - K.4]

a. notify the Office of Environmental Assessment, Environmental Technology Division of the leak in writing within seven days after detecting the leak; and

* * *

[See Prior Text in K.4.b - L]

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 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2306. Response Actions

* * *

[See Prior Text in A - B]

1. notify the Office of Environmental Assessment, Environmental Technology Division in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Assessment, Environmental Technology Division within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

* * *

[See Prior Text in B.3 - 5]

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Assessment, Environmental Technology Division the results of the analyses specified in LAC 33:V.2306.B.3-5, of actions taken, and of remedial actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative authority a report summarizing the results of any remedial actions taken and actions planned.

* * *

[See Prior Text in C - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by

the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2307. Inspection of Synthetic Liners

A. The facility must provide the Office of Environmental Assessment, Environmental Technology Division with 30 days advance notice of the initial liner installation to allow the administrative authority the opportunity to inspect the liner and its installation.

B. The liner must be inspected on a regular basis by removing the waste pile. The facility must notify the Office of Environmental Assessment, Environmental Technology Division at least 30 days prior to the inspection to allow the administrative authority the opportunity to inspect the liner. If deterioration, a crack, or other condition is identified that is causing or could cause a leak, the owner or operator must:

* * *

[See Prior Text in B.1 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 25. Landfills

§2503. Design and Operating Requirements

* * *

[See Prior Text in A - K.1.m]

n. it is not a radioactive waste as defined by the Radiation Protection regulations (LAC 33:XV); and

* * *

[See Prior Text in K.1.o - N.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:368 (April 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2508. Response Actions

* * *

[See Prior Text in A - B]

1. notify the Office of Environmental Services, Permits Division in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, Permits Division within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

* * *

[See Prior Text in B.3 - 5]

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Assessment, Environmental Technology Division the results of the analyses specified in LAC 33:V.2508.B.3-5, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative

authority a report summarizing the results of any remedial actions taken and remedial actions planned.

* * *

[See Prior Text in C - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2521. Closure and Post-closure Care

* * *

[See Prior Text in A - B.6]

C. During the post-closure care period, if liquid leaks into a leak detection system installed under LAC 33:V.3305, the owner or operator must notify the Office of Environmental Assessment, Environmental Technology Division of the leak in writing within seven days after detecting the leak.

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 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 27. Land Treatment

§2707. Treatment Demonstration

* * *

[See Prior Text in A - D.2.b]

3. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Office of Environmental Services, Permits Division a certification, signed by a person authorized to sign a permit application or report under LAC 33:V.507 and 509, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the administrative authority approves a later date.

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 26:

§2711. Unsaturated Zone Monitoring

An owner or operator subject to this Chapter must establish an unsaturated zone monitoring program to discharge the following responsibilities.

* * *

[See Prior Text in A - G]

1. notify the Office of Environmental Services, Permits Division of this finding in writing within seven

days. The notification must indicate what constituents have shown statistically significant increases;

2. within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to modify the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone.

* * *

[See Prior Text in H]

1. notify the Office of Environmental Services, Permits Division in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a determination under this Subsection;

2. within 90 days, submit a report to the Office of Environmental Services, Permits Division demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

3. within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

* * *

[See Prior Text in H.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2719. Closure and Post-Closure Care

* * *

[See Prior Text in A - A.8]

B. For the purpose of complying with LAC 33:V.3517, when closure is completed, the owner or operator may submit to the Office of Environmental Services, Permits Division certification by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

* * *

[See Prior Text in C - C.7]

D. The owner or operator is not subject to regulation under LAC 33:V.2719.A.8 and 2719.C if the administrative authority finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in LAC 33:V.2719.D.3. The owner or operator may submit such a demonstration to the Office of Environmental Services, Permits Division at any time during the closure or post-closure care periods. For the purposes of this Subsection:

* * *

[See Prior Text in D.1 - 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR

14:790 (November 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 28. Drip Pads

§2803. Assessment of Existing Drip Pad Integrity

* * *

[See Prior Text in A]

B. The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of LAC 33:V.2805.C and submit the plan to the Office of Environmental Services, Permits Division no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of LAC 33:V.2805 and must document the age of the drip pad to the extent possible. The plan must be reviewed and certified by an independent qualified, registered professional engineer.

C. Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Office of Environmental Services, Permits Division the as-built drawings for the drip pad together with a certification by an independent, qualified registered professional engineer attesting that the drip pad conforms to the drawings.

* * *

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2805. Design and Operating Requirements

Owners and operators of drip pads must ensure that the pads are designed, installed, and operated in accordance with LAC 33:V.2805.A or C.

* * *

[See Prior Text in A - N.1.c]

d. within 24 hours after discovery of the condition, notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us of the condition and, within 10 working days, provide written notice to the Office of Environmental Compliance, Surveillance Division with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

* * *

[See Prior Text in N.2]

3. Upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Compliance, Surveillance Division in writing and provide a certification, signed by an independent qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with LAC 33:V.2805.N.1.d.

* * *

[See Prior Text in O - P]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 29. Surface Impoundments

§2903. Design and Operating Requirements

[Comment: The permit applicant must submit detailed plans and specifications accompanied by an engineering report that must collectively include the information itemized and address the following in addition to the design and operating requirements: (1) a description of the proposed maintenance and repair procedures; (2) a description of the operating procedures that will ensure compliance with this Section; and (3) a certification by a qualified engineer which states that the facilities comply with the applicable design requirements in this Section. The owner or operator of a new facility must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications.]

* * *

[See Prior Text in A - I.4]

a. notify the Office of Environmental Services, Permits Division of the leak in writing within seven days after detecting the leak; and

* * *

[See Prior Text in I.4.b - L.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2906. Response Actions

* * *

[See Prior Text in A - B]

1. notify the Office of Environmental Services, Permits Division in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, Permits Division within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

* * *

[See Prior Text in B.3 - 5]

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Services, Permits Division the results of the analyses specified in LAC 33:V.2906.B.3-5, the results of actions taken, and remedial actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the Office of Environmental Services, Permits Division a report summarizing the results of any remedial actions taken and actions planned.

* * *

[See Prior Text in C - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2909. Emergency Repairs; Contingency Plans

* * *

[See Prior Text in A - B.5]

6. notify the Office of Environmental Compliance of the problem by phone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays, or e-mail at surveillance@deq.state.la.us in 24 hours and in writing within seven days after detecting the problem.

* * *

[See Prior Text in C - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3005. Permit Standards for Burners

* * *

[See Prior Text in A - D.4.b]

c. For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow the owner or operator to analyze samples, compute data, and submit to the Office of Environmental Services, Permits Division the trial burn results, and for the administrative authority to modify the facility permit to reflect the trial burn results, the administrative authority will specify the operating requirements most likely to ensure compliance with the emission standards of LAC 33:V.3009-3015, based on engineering judgment.

* * *

[See Prior Text in D.4.d - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3007. Interim Status Standards for Burners

* * *

[See Prior Text in A - B.5.c]

6. Public Notice Requirements at Precompliance. On or before August 21, 1991, the owner or operator must submit a notice with the following information for publication in a major local newspaper of general circulation and send a copy of the notice to the appropriate units of state and local government. The owner or operator must provide to the Office of Environmental Services, Permits Division with the certification of precompliance evidence of submitting the notice for publication. The notice, which shall be entitled "Notice of Certification of Precompliance with Hazardous Waste Burning Requirements of LAC 33:V.3007.B", must include:

* * *

[See Prior Text in B.6.a - i]

j. location (mailing address) of the applicable LDEQ Regional Office, where further information can be obtained on LDEQ regulation of hazardous waste burning.

* * *

[See Prior Text in B.7 - C.1.m]

2. Prior Notice of Compliance Testing. At least 30 days prior to the compliance testing required by LAC 33:V.3007.C.3, the owner or operator shall notify the Office of Environmental Services, Permits Division and submit the following information:

* * *

[See Prior Text in C.2.a - 7.b.iii]

8. Revised Certification of Compliance. The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) to the Office of Environmental Services, Permits Division under the following procedures:

* * *

[See Prior Text in C.8.a]

b. at least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator shall notify the Office of Environmental Services, Permits Division and submit the following information:

* * *

[See Prior Text in C.8.b.i - iii]

iv. complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of LAC 33:V.3009-3015 when operating under revised operating conditions. The protocol shall include a schedule of pre-testing and compliance testing. If the owner and operator revises the scheduled date for the compliance test, he/she shall notify the Office of Environmental Services, Permits Division in writing at least 30 days prior to the revised date of the compliance test;

* * *

[See Prior Text in C.8.c]

d. submit to the Office of Environmental Services, Permits Division a revised certification of compliance under LAC 33:V.3007.C.4.

D. Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the Office of Environmental Services, Permits Division a recertification of compliance under provisions of LAC 33:V.3007.C within three years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of LAC 33:V.3007.C.8.

* * *

[See Prior Text in E - L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

* * *

[See Prior Text in A - A.2]

3. Dioxin-listed Waste. A boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027 must achieve a DRE of 99.9999 percent for each POHC designated (under Subsection A.1.b of this Section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. The DRE is determined for each POHC from the equation in Subsection A.1 of this Section. In addition, the owner or operator of the boiler or industrial furnace must notify the Office of Environmental Services, Permits Division of his intent to burn EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027.

* * *

[See Prior Text in A.4 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 31. Incinerators

§3103. General Requirements

A. The operator of a hazardous waste incinerator shall secure a permit from the Office of Environmental Services, Permits Division of the department.

[Comment: The permit application must also include the information required in LAC 33:V.3115.]

* * *

[See Prior Text in B - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3115. Incinerator Permits for New or Modified Facilities

* * *

[See Prior Text in A - B.13.j]

14. the applicant must submit to the Office of Environmental Services, Permits Division a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in Subsection B.13 of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

15. all data collected during any trial burn must be submitted to the Office of Environmental Services, Permits Division following the completion of the trial burn.

* * *

[See Prior Text in B.16 - C.2]

D. For the purposes of determining feasibility of compliance with the performance standards of LAC 33:V.3111 and of determining adequate operating conditions under LAC 33:V.3117, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit to the Office of Environmental Services, Permits Division a trial burn plan and perform a trial burn in accordance with LAC 33:V.529.B and Subsection B, B.1-11, and 13-16 or, instead, submit other information as specified in LAC 33:V.529.C. The administrative authority must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of Subsection B.12 of this Section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under LAC 33:V.529.A are exempt from compliance with LAC 33:V.3111 and 3117 and, therefore, are exempt from the requirements to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in Subsection B.13 of this Section, with Part II of the permit application. If completion of this process conflicts with the date set for submission of the Part II application, the applicant must contact the administrative authority to establish a later date for submission of the Part II application or the trial burn results. Trial burn results must be submitted prior to issuance of a permit. When the applicant submits a trial burn plan with Part II of the permit application, the administrative authority will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

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 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 33. Ground Water Protection

§3317. Detection Monitoring Program

An owner or operator required to establish a detection monitoring program under this Subpart must, at a minimum, discharge the following responsibilities:

* * *

[See Prior Text in A - G.3]

4. Within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to establish a compliance monitoring program meeting the requirements of LAC 33:V.3319. The application must include the following information:

* * *

[See Prior Text in G.4.a - d]

5. Within 180 days, submit to the Office of Environmental Services, Permits Division:

* * *

[See Prior Text in G.5.a - 6]

a. notify the Office of Environmental Services, Permits Division in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he or she intends to make a demonstration under this Paragraph;

b. within 90 days, submit a report to the Office of Environmental Services, Permits Division that demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

* * *

[See Prior Text in G.6.c - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 10:496 (July 1984), LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3319. Compliance Monitoring Program

An owner or operator required to establish a compliance monitoring program under this Chapter must, at a minimum, discharge the following responsibilities:

* * *

[See Prior Text in A - H]

1. notify the Office of Environmental Services, Permits Division of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded; and

2. submit, to the Office of Environmental Services, Permits Division, an application for a permit modification to establish a corrective action program meeting the requirements of LAC 33:V.3321 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the administrative authority under LAC 33:V.3317.H.5. The application must at a minimum include the following information:

* * *

[See Prior Text in H.2.a - I]

1. notify the Office of Environmental Services, Permits Division in writing within seven days that he intends to make a demonstration under this Paragraph;

2. within 90 days, submit a report to the Office of Environmental Services, Permits Division which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation;

3. within 90 days, submit to the Office of Environmental Services, Permits Division an application for

a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

* * *

[See Prior Text in I.4]

J. If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3321. Corrective Action Program

An owner or operator required to establish a corrective action program under this Subpart must, at a minimum, discharge the following responsibilities:

* * *

[See Prior Text in A - F]

G. the owner or operator must report in writing to the Office of Environmental Assessment, Remediation Services Division on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually; and

H. if the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services, Permits Division an application for a permit modification to make any appropriate changes to the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 35. Closure and Post-Closure

§3503. Notification of Intention to Close a Facility

A. At least 180 days prior to closure, the operator must notify the Office of Environmental Services, Permits Division of intention to close and supply the following information:

* * *

[See Prior Text in A.1 - 4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter A. Closure Requirements

§3505. Closure Procedures

* * *

[See Prior Text in A]

B. If the request is made to change the closure plan, the operator will submit revisions to the plan to the Office of Environmental Services, Permits Division, supported by

necessary scientific and engineering data to permit evaluation by the department, and the procedures established in permit process will be followed in evaluating and approving the requested changes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3511. Closure Plan; Amendment of Plan

* * *

[See Prior Text in A - B.7]

C. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services, Permits Division a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services, Permits Division for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

* * *

[See Prior Text in C.2 - 2.c]

3. The owner or operator must submit to the Office of Environmental Services, Permits Division a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan under LAC 33:V.2911.D or 2315.D must submit an amended closure plan to the Office of Environmental Services, Permits Division no later than 60 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521, or no later than 30 days from that date if the determination is made during partial closure or final closure. The administrative authority will approve, disapprove, or modify this amended plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved closure plan will become a condition of any hazardous waste permit issued.

* * *

[See Prior Text in C.4 - D]

1. The owner or operator must notify the Office of Environmental Services, Permits Division in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit.

The owner or operator must notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Office of Environmental Services, Permits Division in writing at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

* * *

[See Prior Text in D.2 - E]

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 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), , amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3513. Closure; Time Allowed for Closure

* * *

[See Prior Text in A - E]

1. Submit to the Office of Environmental Services, Permits Division with the request to modify the permit:

* * *

[See Prior Text in E.1.a - 7.e]

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 17:478 (May 1991), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3517. Certification of Closure

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.3707.

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division, a survey plat indicating the location and dimensions of landfills cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a

professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Chapter 35 regulations.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Post-Closure Requirements

§3523. Post-Closure Plan, Amendment of Plan

A. Written Plan. The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by LAC 33:V.2911.D and 2315.C to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under LAC 33:V.2315.C and 2911.D must submit a post-closure plan to the Office of Environmental Services, Permits Division within 90 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.3519-3527. The plan must be submitted with the permit application, in accordance with LAC 33:V.517.P, and approved by the administrative authority as part of the permit issuance procedures under these regulations. In accordance with LAC 33:V.311 the approved post-closure plan will become a condition of any hazardous waste permit issued.

* * *

[See Prior Text in B - C]

D. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services, Permits Division a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended post-closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services, Permits Division for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

* * *

[See Prior Text in D.2 - 2.d]

3. The owner or operator must submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at a closure and is not otherwise required to submit a contingent post-closure plan under LAC 33:V.2911.D and 2315.C must submit a post-closure plan to the Office of Environmental Services, Permits Division no

later than 90 days after the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521. The administrative authority will approve, disapprove or modify this plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved post-closure plan will become a permit condition.

* * *

[See Prior Text in D.4]

E. Certification of Completion of Post-closure Care. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3525. Post-Closure Notices

A. No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

* * *

[See Prior Text in B - C.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 18:1256 (November 1992), LR 23:568 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3527. Certification of Completion of Post-Closure Care

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered

mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 37. Financial Requirements

Subchapter A. Closure Requirements

§3707. Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. Under this Part, the owner or operator must choose from the options as specified in LAC 33:V.3707.A-F, which choice the administrative authority must find acceptable based on the application and the circumstances.

* * *

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of this Part by establishing a closure trust fund which conforms to the requirements of this Subpart, and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in A.2 - 6]

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate covered by the trust fund.

* * *

[See Prior Text in A.9 - B]

1. An owner or operator may satisfy the requirements of this Part by obtaining a surety bond which conforms to the requirements of this Paragraph and submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least

60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

* * *

[See Prior Text in B.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in B.8 - C]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this Subsection and submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

* * *

[See Prior Text in C.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in C.8 - D]

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Subsection and submitting the letter to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue

letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in D.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in D.8 - E]

1. An owner or operator may satisfy the requirements of this Part by obtaining closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

* * *

[See Prior Text in E.2 - 8.e]

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate, and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in E.10 - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

* * *

[See Prior Text in F.3.a - c.ii]

4. An owner or operator of a new facility must submit the items specified in LAC 33:V.3707.F.3 to the Office of Management and Finance, Financial Services Division at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

5. After the initial submission of items specified in LAC 33:V.3707.F.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the

close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.3707.F.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.3707.F.1, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

* * *

[See Prior Text in F.7 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Post-Closure Requirements

§3711. Financial Assurance for Post-Closure Care

The owner or operator of a hazardous waste management unit subject to the requirements of LAC 33:V.3709 must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. Under this Section, the owner or operator must choose from the options as specified in Subsections A-F of this Section, which choice the administrative authority must find acceptable based on the application and the circumstances.

* * *

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of this Part by establishing a post-closure trust fund which conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in A.2 - 6]

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for

release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

* * *

[See Prior Text in A.9 - B]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this Subsection and submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

* * *

[See Prior Text in B.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

* * *

[See Prior Text in B.9 - C]

1. An owner or operator of a facility which has been issued a standard permit may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this Subsection and by submitting the bond to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

* * *

[See Prior Text in C.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-

closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in C.8]

9. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

* * *

[See Prior Text in C.10 - D]

1. An owner or operator may satisfy the requirements of this Part by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Paragraph and by submitting the letter to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in D.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in D.8 - 9]

10. If the owner or operator does not establish alternate financial assurance as specified in this Part and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Management and Finance, Financial Services Division of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit.

During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Part and obtain written approval of such assurance from the administrative authority.

* * *

[See Prior Text in D.11 - E]

1. An owner or operator may satisfy the requirements of this Part by obtaining post-closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact business in Louisiana.

* * *

[See Prior Text in E.2 - 7]

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

* * *

[See Prior Text in E.8.a - e]

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in E.10 - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

* * *

[See Prior Text in F.3.a - c.ii]

* * *

4. An owner or operator of a new facility must submit the items specified in LAC 33:V.3711.F.3 to the Office of Management and Finance, Financial Services Division at least 60 days before the date on which hazardous waste is first received for disposal.

5. After the initial submission of items specified in LAC 33:V.3711.F.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.3711.F.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.3711.F.1 of this Part, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

* * *

[See Prior Text in F.7 - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1512 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Insurance Requirements

§3715. Liability Requirements

* * *

[See Prior Text in A - A.1]

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

* * *

[See Prior Text in A.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

[See Prior Text in A.7.a - B.1]

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

* * *

[See Prior Text in B.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

* * *

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

D. Adjustments by the Administrative Authority. If the administrative authority determines that the levels of financial responsibility required by LAC 33:V.3715.A or B are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the administrative authority may adjust the level of financial responsibility required by LAC 33:V.3715.A and B as may be necessary to protect human health and the environment. This adjusted level will be based on the administrative authority's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the administrative authority determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with LAC 33:V.3715.B. An owner or operator must furnish to the Office of Management and Finance, Financial Services Division, within a reasonable time, any information which the administrative authority requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under LAC 33:V.321.

* * *

[See Prior Text in E - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Management and Finance, Financial Services Division:

* * *

[See Prior Text in F.3.a - c.ii]

4. An owner or operator of a new facility must submit the items specified in LAC 33:V.3715.F.3 to the a Office of Management and Finance, Financial Services Division at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

* * *

[See Prior Text in F.5]

6. If the owner or operator no longer meets the requirements of LAC 33:V.3715.F.1, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of liability coverage must be submitted to the Office of Management and Finance, Financial Services Division within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

* * *

[See Prior Text in F.7 - H]

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in H.2 - I]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in I.2 - J]

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in J.2 - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:486 (April 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1513 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Incapacity Regulations

§3717. Incapacity of Owners or Operators, Guarantors, or Financial Institutions

A. An owner or operator must notify the Office of Management and Finance, Financial Services Division by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.3707.F and

3711.F must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.H).

* * *

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 38. Universal Wastes
Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3831. Off-Site Shipments

* * *

[See Prior Text in A - F.2]

G. If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Office of Environmental Compliance, Surveillance Division of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

* * *

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

A. Except as provided in Subsection A.1 and 2 of this Section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Office of Environmental Services, Permits Division, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

* * *

[See Prior Text in A.1 - B.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3853. Off-Site Shipments

* * *

[See Prior Text in A - F.2]

G. If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Office of Environmental Compliance, Surveillance Division of the illegal shipment, and provide the name, address, and phone

number of the originating shipper. The administrative authority will provide instructions for managing the hazardous waste.

* * *

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Standards for Destination Facilities

§3875. Off-Site Shipments

* * *

[See Prior Text in A - B.2]

C. If the owner or operator of a destination facility receives a shipment containing hazardous waste that was shipped as a universal waste, the owner or operator of the destination facility must immediately notify the Office of Environmental Compliance, Surveillance Division of the illegal shipment, and provide the name, address, and phone number of the shipper. The administrative authority will provide instructions for managing the hazardous waste.

* * *

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 39. Small Quantity Generators

§3903. Quantitative Limit

A generator is a small quantity generator if he generates less than an average of 100 kilograms of hazardous waste per calendar month except as specified in LAC 33:V.3911. If the quantitative limit set forth in this Section is exceeded, the generator must renotify the Office of Environmental Services, Permits Division of his change in status and remain in that category for the next calendar year. At no time shall a small quantity generator generate over 1000 kilograms in a calendar month.

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 13:237 (April 1987), repromulgated LR 18:1256 (November 1992), amended LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3907. Recycle

A. The generator must notify the Office of Environmental Services, Permits Division of his on-site reuse/recycle activities in accordance with LAC 33:V.4103.

* * *

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 20:1000 (September 1994), LR

20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§3915. Requirements

The small quantity generator must:

* * *

[See Prior Text in A - C.4.b]

5. the owner or operator shall be required to submit to the Office of Environmental Services, Environmental Assistance Division an annual report for all hazardous waste shipped off-site. The annual report is due by March 1 of each calendar year covering the period of January 1 to December 31 of the previous year. The report will include the generator ID, the type of waste, the amount of waste, and the disposition of the waste;

* * *

[See Prior Text in C.6 - C.7.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1497 (August 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 40. Used Oil

Subchapter D. Standards for Used Oil Transporter and Transfer Facilities

§4029. Notification

* * *

[See Prior Text in A]

B. Mechanics of Notification. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil transporters and transfer facilities who have previously notified must renotify the Office of Environmental Services, Permits Division of used oil activity.

D. Used oil transporters and transfer facilities must notify the Office of Environmental Services, Permits Division within seven business days if any of the information submitted in the application for the identification number changes.

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 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Standards for Used Oil Processors and Re-Refiners

§4043. Notification

* * *

[See Prior Text in A]

B. Mechanics of Notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Office of Environmental

Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil processors and re-refiners who have previously notified must renotify the Office of Environmental Services, Permits Division of used oil activity.

D. Used oil processors and re-refiners must notify the Office of Environmental Services, Permits Division within seven business days if any of the information submitted in the application for the identification number changes.

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 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4045. General Facility Standards

* * *

[See Prior Text in A - B.6.h.ii]

iii. the owner or operator must notify the Office of Environmental Compliance, Surveillance Division and appropriate local authorities that the facility is in compliance with LAC 33:V.4045.B.h.i and ii before operations are resumed in the affected area(s) of the facility.

i. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report about the incident to the Office of Environmental Compliance, Surveillance Division. The report must include:

* * *

[See Prior Text in B.6.i.i - vii]

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter F. Standards for Used Oil Burners Which Burn Off-specification Used Oil for Energy Recovery

§4065. Notification

* * *

[See Prior Text in A]

B. Mechanics of Notification. A used oil burner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil burners which burn off-specification used oil for energy recovery and have previously notified must renotify the Office of Environmental Services, Permits Division of this used oil activity.

D. A used oil burner must notify the Office of Environmental Services, Permits Division within seven business days if any of the information submitted in the application for the identification number changes.

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 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter G. Standards for Used Oil Fuel Marketers §4083. Notification

* * *

[See Prior Text in A]

B. A marketer who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Permits Division of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1) EPA Form 8700-12.

C. Upon promulgation of this Chapter, used oil fuel marketers who have previously notified must renotify the Office of Environmental Services, Permits Division of used oil activity.

D. A generator must notify the Office of Environmental Services, Permits Division within seven days if any of the information submitted in the application for the identification number changes.

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 41. Recyclable Materials

§4101. Applicability

* * *

[See Prior Text in A - C]

D. Upon transport of a recyclable material from the generation site and out of the direct control of the generator, the owner of the recyclable material shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us within 24 hours of any determination that the material shall not be used, reused, or recycled. Following such a determination the recyclable material is no longer considered a recyclable material and is fully subject to all requirements of these regulations.

* * *

[See Prior Text in E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4107. Spills

* * *

[See Prior Text in A - B]

C. Owners of the spilled material are considered to be generators for the purposes of these regulations. In an emergency situation, all reporting and manifest requirements of these rules and regulations for generators may be suspended. However, the owners of the material must submit a full report on the spill, including location of spill, type of

material spilled, cause of spill, amount of spilled material, damages incurred, and how the spilled material was cleaned up, transported, and disposed of. This report shall be forwarded to the Office of Environmental Compliance, Surveillance Division no later than 20 days following the spill.

D. Whenever a spill of recyclable material occurs that requires immediate removal to protect human health or the environment, the transporter shall immediately notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us as required by the "Notification Regulations and Procedures for Unauthorized Discharges and Spills." (See LAC 33:I.Chapter 39.)

* * *

[See Prior Text in E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Special Requirements for Group II Recyclable Materials

§4123. Manifest Document Flow

* * *

[See Prior Text in A - C]

D. If a recycle facility refuses to accept a recyclable material for use, the facility operator must notify the Office of Environmental Services, Environmental Assistance Division immediately and provide the following information:

* * *

[See Prior Text in D.1 - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 17:366 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4127. Procedures Governing the Transporter's Portion of the Manifest System

* * *

[See Prior Text in A - B]

C. If the facility rejects a shipment of recyclable material, the transporter shall return it to the generator, notify the Office of Environmental Services, Environmental Assistance Division of the action immediately, and give reasons to his best understanding why the material was rejected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4129. Procedures Governing the Portion of the Manifest System for the Recycle Facility

* * *

[See Prior Text in A - B]

C. If the operator of the facility rejects any recyclable material he is to notify the Office of Environmental Services, Environmental Assistance Division immediately and give reasons for the rejection.

* * *

[See Prior Text in D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 43. Interim Status

§4301. Purpose and Applicability

A. The purpose of interim status is to allow existing facilities to operate in an appropriate and responsible manner during the period of time required to process and review permit application or until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. Interim status facilities must, when required by the administrative authority, submit to the Office of Environmental Services, Permits Division a permit application in compliance with the requirements of these regulations. Failure to submit an application is a violation of interim status and will result in revocation of a facility's interim status designation. Once revoked the facility will be treated as an unpermitted facility and appropriate legal action will be taken.

* * *

[See Prior Text in B - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), LR 25:1466 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter A. General Facility Standards

§4320. Construction Quality Assurance Program

* * *

[See Prior Text in A - C.2]

D. Certification. The owner or operator of units subject to LAC 33:V.4320 must submit to the Office of Environmental Services, Permits Division by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of LAC 33:V.4462.A, 4476, or 4512.A. The owner or operator may receive waste in the unit after 30 days from the administrative authority's receipt of the CQA certification unless the administrative authority determines

in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Groundwater Monitoring

§4367. Applicability

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

* * *

[See Prior Text in A - C]

1. submit to the Office of Environmental Assessment, Remediation Services Division a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of LAC 33:V.4373.G, for an alternate groundwater monitoring system;

* * *

[See Prior Text in C.2 - E.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4373. Preparation, Evaluation, and Response

* * *

[See Prior Text in A - E]

F. Within 15 days after the notification under LAC 33:V.4373.E, the owner or operator must develop and submit to the Office of Environmental Assessment, Remediation Services Division a specific plan, based on the outline required under LAC 33:V.4373.A and certified by a qualified geologist or geotechnical engineer, for a groundwater quality assessment program at the facility.

* * *

[See Prior Text in G - H.2]

I. The owner or operator must make his first determination under LAC 33:V.4373.H as soon as technically feasible, and, within 15 days after that determination, submit to the Office of Environmental Assessment, Remediation Services Division a written report containing an assessment of the groundwater quality.

J. If the owner or operator determines, based on the results of the first determination under LAC 33:V.4373.H, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in LAC 33:V.4371 and 4373.B. If the owner or operator reinstates the indicator evaluation program, he must notify the Office of Environmental Assessment, Remediation Services Division in the report submitted under LAC 33:V.4373.I.

* * *

[See Prior Text in K - K.1]

2. within 30 days or other schedule required by the administrative authority, after the establishment of the groundwater protection standard, the owner or operator shall submit to the Office of Environmental Assessment, Remediation Services Division a corrective action and monitoring plan;

* * *

[See Prior Text in K.3 - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of the Secretary, LR 24:2248 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4375. Recordkeeping and Reporting

* * *

[See Prior Text in A - A.1]

2. report the following groundwater monitoring information to the Office of Environmental Assessment, Remediation Services Division:

* * *

[See Prior Text in A.2.a - B.1]

2. annually, until final closure of the facility, submit to the Office of Environmental Assessment, Remediation Services Division a report containing the results of his or her groundwater quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the groundwater during the reporting period. This information must be submitted no later than March 1 following each calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter F. Closure and Post-Closure

§4381. Closure Plan; Amendment of Plan

* * *

[See Prior Text in A - B.8]

C. Amendment of Plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Office of Environmental Services, Permits Division to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the administrative authority.

* * *

[See Prior Text in C.1 - 2]

3. An owner or operator with an approved closure plan must submit the modified plan to the Office of Environmental Services, Permits Division at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an

unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owner or operator of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with LAC 33:V.4501. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in LAC 33:V.4381.D.4.

4. The administrative authority may request modifications to the plan under the conditions described in LAC 33:V.4381.C.1. An owner or operator with an approved closure plan must submit the modified plan within 60 days of the request from the Office of Environmental Services, Permits Division, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved in accordance with the procedures in LAC 33:V.4381.D.4.

* * *

[See Prior Text in D]

1. The owner or operator must submit the closure plan to the Office of Environmental Services, Permits Division at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the administrative authority in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin partial or final closure of a boiler or industrial furnace. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin final closure of a facility with only tanks, container storage, or incinerator units.

* * *

[See Prior Text in D.2 - 2.b]

3. The owner or operator must submit his closure plan to the Office of Environmental Services, Permits Division no later than 15 days after:

* * *

[See Prior Text in D.3.a - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:614 (July

1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4383. Closure; Time Allowed for Closure

* * *

[See Prior Text in A - E.4.c]

5. During the period of corrective action, the owner or operator shall provide semiannual reports to the Office of Environmental Assessment, Remediation Services Division that describe the progress of the corrective action program, compile all groundwater monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

* * *

[See Prior Text in E.6 - 7.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 14:791 (November 1988), LR 17:478 (May 1991), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4387. Certification of Closure

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.4403.H.

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable LAC 33:V.Chapters 35 or 43 regulations.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4391. Post-Closure Plan; Amendment of Plan

A. Written Plan. By May 19, 1988, the owner or operator of a hazardous waste disposal unit must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Office of Environmental Services, Permits Division within 90 days of the date that the owner or operator or administrative authority determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of LAC 33:V.4389-4395.

* * *

[See Prior Text in B - C.5]

D. Amendment of Plan. The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan must submit a written request to the Office of Environmental Services, Permits Division to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the administrative authority.

* * *

[See Prior Text in D.1 - 2]

3. An owner or operator with an approved post-closure plan must submit the modified plan to the Office of Environmental Services, Permits Division at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with LAC 33:V.4457.B or LAC 33:V.4475.A, is required to close as a landfill in accordance with LAC 33:V.4501, the owner or operator must submit a post-closure plan within 90 days of the determination by the owner or operator or administrative authority that the unit must be closed as a landfill. If the amendment to the post-closure plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in LAC 33:V.4391.F.

4. The administrative authority may request modifications to the plan under the conditions described in LAC 33:V.4391.D.1. An owner or operator with an approved post-closure plan must submit the modified plan no later than 60 days after the request from the administrative authority. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modifications to the post-closure plan will be approved in accordance with the procedures in LAC 33:V.4391.F. If the administrative authority determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure plan for approval to the Office of

Environmental Services, Permits Division within 90 days of the determination.

E. The owner or operator of a facility with hazardous waste management units subject to these requirements must submit his post-closure plan to the administrative authority at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date he "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste, or if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator must submit the post-closure plan to the Office of Environmental Services, Permits Division no later than 15 days after:

* * *

[See Prior Text in E.1 - G.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4393. Post-Closure Notices

A. No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services, Permits Division, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

* * *

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

c. the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by LAC 33:V.4387 and LAC 33:V.4393.A have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Office of Environmental Services, Permits Division; and

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4395. Certification of Completion of Post-Closure Care

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, Permits Division, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.4407.H.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter G. Financial Requirements

§4403. Financial Assurance for Closure

By the effective date of these regulations an owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in LAC 33:V.4403.A-E.

* * *

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by establishing a closure trust fund which conforms to the requirements of this Paragraph, and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in A.2 - 6]

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in LAC 33:V.4403 for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current closure cost estimate covered by the trust fund.

* * *

[See Prior Text in A.9]

10. After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in

the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the administrative authority will instruct the trustees to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the administrative authority has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with LAC 33:V.4407.H that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

* * *

[See Prior Text in A.11 - B]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by obtaining a surety bond which conforms to the requirements of this Paragraph and submitting the bond to the Office of Management and Finance, Financial Services Division. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

* * *

[See Prior Text in B.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4403 to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

* * *

[See Prior Text in B.9 - C]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Paragraph and submitting the letter to the Office of Management and Finance, Financial Services Division. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in C.2 - 6]

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4403 to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in C.8]

9. If the owner or operator does not establish alternate financial assurance as specified in LAC 33:V.4403, and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Management and Finance, Financial Services Division of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in LAC 33:V.4403 and obtain written approval of such assurance from the administrative authority.

* * *

[See Prior Text in C.10 - D]

1. An owner or operator may satisfy the requirements of LAC 33:V.4403 by obtaining closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the administrative authority. By the effective date of these regulations the owner or operator must submit to the Office of Management and Finance, Financial Services Division a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the Office of Management and Finance, Financial Services Division or establish other financial assurance as specified in this Section. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

* * *

[See Prior Text in D.2 - 5]

6. The owner or operator must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the owner or operator as specified in LAC 33:V.4403.D.10. Failure to pay the premium, without substitution of alternate financial assurance as specified in LAC 33:V.4403, will constitute a significant violation of these regulations, warranting such remedy as the administrative authority deems necessary.

Such violation will be deemed to begin upon receipt by the Office of Management and Finance, Financial Services Division of a notice of future cancellation, termination, or failure to renew, due to nonpayment of the premium, rather than upon the date of expiration.

* * *

[See Prior Text in D.7]

8. The policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

* * *

[See Prior Text in D.8.a - e]

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4403 to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in D.10 - E.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

* * *

[See Prior Text in E.3.a - 4.f]

5. After the initial submission of items specified in LAC 33:V.4403.E.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.4403.E.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.4403.E.1, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in LAC 33:V.4403. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

* * *

[See Prior Text in E.7 - F]

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in LAC 33:V.4403 to meet the requirements of LAC 33:V.4403 for more than one facility. Evidence of financial assurance submitted to the Office of Management and Finance, Financial Services Division must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing the funds available through the mechanism for closure of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

* * *

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 14:791 (November 1988), LR 16:219 (March 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4407. Financial Assurance for Post-Closure Care

An owner or operator of each hazardous waste disposal unit must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in Subsections A-E of this Section.

* * *

[See Prior Text in A]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.A by establishing a post-closure trust fund which conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in A.2 - 6]

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in LAC 33:V.4407 for all or part of the trust fund, he may submit a written request to the Office of Management and Finance, Financial Services Division for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

* * *

[See Prior Text in A.9 - 10]

11. An owner or operator, or any other person authorized to perform post-closure care, may request reimbursement for the post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the trustee to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed statement of reasons.

* * *

[See Prior Text in A.12 - B]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.B by obtaining a surety bond which conforms to the requirements of this Paragraph and submitting the bond to the Office of Management and Finance, Financial Services Division. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

* * *

[See Prior Text in B.2 - 6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4407.B to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

* * *

[See Prior Text in B.9 - C]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.C by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Paragraph and by submitting the letter to the Office of Management and Finance, Financial Services Division. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

* * *

[See Prior Text in C.2 - 4]

5. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120

days before the current expiration date, the issuing institution notifies both the owner or operator, and the Office of Management and Finance, Financial Services Division by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator, and the administrative authority have received the notice, as evidenced by the return receipts.

* * *

[See Prior Text in C.6]

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4407 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in C.8 - C.9]

10. If the owner or operator does not establish alternate financial assurance as specified in LAC 33:V.4407 and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Management and Finance, Financial Services Division of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in LAC 33:V.4407 and obtain written approval of such assurance from the administrative authority.

* * *

[See Prior Text in C.11 - D]

1. An owner or operator may satisfy the requirements of LAC 33:V.4407.D by obtaining post-closure insurance which conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division. The owner or operator must submit to the administrative authority a letter from an insurer stating that the insurer is considering issuance of post-closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the administrative authority or establish other financial assurance as specified in LAC 33:V.4407. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

* * *

[See Prior Text in D.2 - 4]

5. An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the insurer to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the insurer to make such reimbursements, he will provide a detailed written statement of reasons.

* * *

[See Prior Text in D.6 - 7]

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

* * *

[See Prior Text in D.8.a - e]

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in LAC 33:V.4407 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in D.10 - E.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Management and Finance, Financial Services Division:

* * *

[See Prior Text in E.3.a - c.ii]

4. The owner or operator may obtain an extension of the time allowed for submission of the documents specified in LAC 33:V.4407.E.3 if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements

for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Office of Management and Finance, Financial Services Division. This letter from the chief financial officer must:

* * *

[See Prior Text in E.4.a - f]

5. After the initial submission of items specified in LAC 33:V.4407.E.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.4407.E.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.4407.E.1, he must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in LAC 33:V.4407. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

* * *

[See Prior Text in E.7 - 11.a]

b. the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

* * *

[See Prior Text in E.11.c - F]

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this Subsection to meet the requirements of this Subsection for more than one facility. Evidence of financial assurance submitted to the Office of Management and Finance, Financial Services Division must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

* * *

[See Prior Text in H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4411. Liability Requirements

* * *

[See Prior Text in A - A.1]

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

* * *

[See Prior Text in A.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

* * *

[See Prior Text in A.7.a - B.1]

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Management and Finance, Financial Services Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

* * *

[See Prior Text in B.1.b - 6]

7. An owner or operator shall notify the Office of Management and Finance, Financial Services Division in writing within 30 days whenever:

* * *

[See Prior Text in B.7.a - F.2]

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in F.3.a - c.ii]

4. The owner or operator may obtain a one-time extension of the time allowed for submission of the documents specified in LAC 33:V.4411.F.3 if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or

operator's fiscal year. To obtain the extension, the chief financial officer for the owner or operator must send a letter to the Office of Management and Finance, Financial Services Division. This letter from the chief financial officer must:

* * *

[See Prior Text in F.4.a - f]

5. After the initial submission of items specified in LAC 33:V.4411.F.3, the owner or operator must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in LAC 33:V.4411.F.3.

6. If the owner or operator no longer meets the requirements of LAC 33:V.4411.F.1, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in LAC 33:V.4411. Evidence of liability coverage must be submitted to the Office of Management and Finance, Financial Services Division within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

* * *

[See Prior Text in F.7 - H]

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in H.2 - I]

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in I.2 - J]

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Subsection and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in J.2 - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:627 (May 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4413. Incapacity of Owners or Operators, Guarantors, or Financial Institutions

A. An owner or operator must notify the Office of Management and Finance, Financial Services Division by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S.

Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.4403.E and 4407.E must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.H).

* * *

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter I. Tanks

§4437. Containment and Detection of Releases

* * *

[See Prior Text in A - H]

1. The Office of Environmental Services, Permits Division must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in LAC 33:V.4437.G according to the following schedule:

* * *

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

2. As part of the notification, the owner or operator must also submit to the Office of Environmental Services, Permits Division a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in LAC 33:V.4437.G.1 or 2.

3. The demonstration for a variance must be completed and submitted to the Office of Environmental Services, Permits Division within 180 days after notifying the administrative authority of intent to conduct the demonstration.

* * *

[See Prior Text in H.4 - I.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter J. Surface Impoundments

§4449. Action Leakage Rate

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a proposed action leakage rate to the Office of Environmental Services, Permits Division when submitting the notice required under LAC 33:V.4462.B. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

* * *

[See Prior Text in B - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4451. Response Actions

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a response action plan to the Office of Environmental Services, Permits Division when submitting the proposed action leakage rate under LAC 33:V.4449. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in LAC 33:V.4451.B.

* * *

[See Prior Text in B - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4462. Design Requirements

* * *

[See Prior Text in A]

B. The owner or operator of each unit referred to in LAC 33:V.4462.A must notify the Office of Environmental Services, Permits Division at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

* * *

[See Prior Text in C - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 17:368 (April 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter K. Waste Piles

§4472. Response Actions

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a response action plan to the Office of Environmental Services, Permits Division when submitting the proposed action leakage rate under LAC 33:V.4474. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in LAC 33:V.4472.B.

* * *

[See Prior Text in B - C.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by

the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§4474. Action Leakage Rates

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a proposed action leakage rate to the Office of Environmental Services, Permits Division when submitting the notice required under LAC 33:V.4476. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

* * *

[See Prior Text in B - C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter L. Land Treatment

§4489. Closure and Post-Closure

* * *

[See Prior Text in A - D.4]

E. For the purpose of complying with LAC 33:V.4387, when closure is completed the owner or operator may submit to the Office of Environmental Services, Permits Division certification both by the owner or operator and by an independent qualified soil scientist in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

* * *

[See Prior Text in F - F.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter M. Landfills

§4512. Design and Operating Requirements

* * *

[See Prior Text in A]

B. The owner or operator of each unit referred to in LAC 33:V.4512.A must notify the Office of Environmental Services, Permits Division at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

* * *

[See Prior Text in C - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266

(March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter N. Incinerators

§4522. Interim Status Incinerators Burning Particular Hazardous Wastes

* * *

[See Prior Text in A - B]

1. The owner or operator will submit an application to the Office of Environmental Services, Permits Division containing applicable information in LAC 33:V.529 and LAC 33:V.3115 demonstrating that the incinerator can meet the performance standards in LAC 33:V.Chapter 31 when they burn these wastes.

* * *

[See Prior Text in B.2 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter O. Thermal Treatment

§4534. Interim Status Thermal Treatment Devices Burning Particular Hazardous Waste

* * *

[See Prior Text in A -B]

1. The owner or operator will submit an application to the Office of Environmental Services, Permits Division containing the applicable information in LAC 33:V.529 and LAC 33:V.3115 demonstrating that the thermal treatment unit can meet the performance standard in LAC 33:V.Chapter 31 when they burn these wastes.

* * *

[See Prior Text in B.2 - 3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter T. Containment Buildings

§4703. Design and Operating Standards

* * *

[See Prior Text in A - C.3.a.iii]

iv. within seven days after the discovery of the condition, notify the Office of Environmental Assessment, Environmental Technology Division of the condition and, within 14 working days, provide a written notice to the administrative authority with a description of the steps taken to repair the containment building and the schedule for accomplishing the work;

* * *

[See Prior Text in C.3.b]

c. upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Assessment, Environmental Technology Division in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been

completed according to the written plan submitted in accordance with LAC 33:V.4703.C.3.a.iv; and

* * *

[See Prior Text in C.4 - E]

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 49. Lists of Hazardous Wastes

Appendix E. Wastes Excluded Under LAC 33:V.105.M

* * *

[See Prior Text in DuPont Dow Elastomers L.L.C.]

Table E1 - Wastes Excluded	
Facility	Address
Marathon Oil Co.	Garyville, LA

[See Prior Text]	
(5) - Data Submittal:	
Marathon must notify the department in writing at least two weeks prior to initiating condition (1)(A). The data obtained during condition (1)(A) must be submitted to the Office of Environmental Services, Permits Division, within the specified 90 days. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on-site for a minimum of five years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time will be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:	

[See Prior Text]	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:

Chapter 51. Fee Schedules

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. Trial Burn or Test Burn Observer Fee. This is a special fee charged at a daily rate to cover the cost to the department of providing and placing on site a regulatory observer team during incinerator trial burns, boiler/industrial furnace trial burns or other types of test burns required by regulations or the administrative authority when an observer team is required by regulations, specified by permit conditions, or considered necessary to ensure that human health and the environment are adequately protected.

* * *

[See Prior Text in A.1 - B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 53. Military Munitions

§5309. Standards Applicable to the Storage of Solid Waste Military Munitions

* * *

[See Prior Text in A - A.1.c]

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Office of Environmental Services, Permits Division of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Subsection A.1 of this Section is claimed;

e. the owner or operator must provide oral notice to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances shall be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Subsection A.1 of this Section;

* * *

[See Prior Text in A.1.f - 3]

B. Notice of Termination of Waste Storage. The owner or operator must notify the Office of Environmental Services, Permits Division when a storage unit identified in Subsection A.1.d of this Section will no longer be used to store waste military munitions.

* * *

[See Prior Text in C - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1757 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 1. General Provisions and Definitions

§103. Regulatory Overview

* * *

[See Prior Text in A]

B. Site Discovery and Evaluation

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other

persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Office of Environmental Assessment, Remediation Services Division, within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

* * *

[See Prior Text in B.2 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999), LR 26:

§117. Definitions

A. For all purposes of these rules and regulations, the terms used in this Chapter shall have the meanings given below unless specified otherwise or unless the context or use clearly indicates otherwise.

* * *

[See Prior Text]

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

* * *

[See Prior Text]

Department—the Department of Environmental Quality.

* * *

[See Prior Text]

Secretary—the secretary of the Department of Environmental Quality.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2179 (November 1999), LR 26:

Chapter 2. Site Discovery and Evaluation

§201. Site Discovery

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the Office of Environmental Assessment, Remediation Services Division any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. Mandatory Reporting

* * *

[See Prior Text in B.1 - 2]

3. The department shall be notified in writing within 30 calendar days of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site. A written report shall be prepared and sent to the Office of Environmental Compliance, Surveillance Division. The date that the department was officially notified shall be determined as follows:

* * *

[See Prior Text B.3.a - 5.f]

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made in writing to the Office of Environmental Compliance, Surveillance Division.

[See Prior Text D -D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999), LR 26::

Chapter 3. Administrative Processes

§303. Declaration that a Site is Abandoned

[See Prior Text A - B.2]

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing by writing to the Office of the Secretary, Legal Affairs Division, regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

[See Prior Text C - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2184 (November 1999), LR 26:

Chapter 4. PRP Search, Notification, and Demand for Remediation

§403. Notification to Provide Information

A. The Office of Environmental Assessment, Remediation Services Division, shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

[See Prior Text B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 2

Chapter 5. Site Remediation

§501. Remedial Actions

[See Prior Text A]

B. The Office of Environmental Assessment, Remediation Services Division, shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

[See Prior Text B.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:

§502. Role of PRPs in Remedial Actions

A. The Office of Environmental Assessment, Remediation Services Division, may, as its sole discretion, direct PRPs to perform any site investigation, remedial investigation, corrective action study, and/or remedial action in accordance with the following:

[See Prior Text A.1 - 5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:

§505. Removal Action

[See Prior Text A - A.3]

4. If the removal action results in achievement of the RECAP standards established by the department, the Office of Environmental Assessment, Remediation Services Division, may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

[See Prior Text A.5]

B. A removal action work plan shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

[See Prior Text B.1 - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), LR 26:

§507. Remedial Investigation

[See Prior Text A - B]

C. To complete a RI the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall provide the following:

[See Prior Text C.1 - 3]

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by

the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

* * *

[See Prior Text C.4.a - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), LR 26:

§509. Corrective Action Study

* * *

[See Prior Text A - C.5]

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999), LR 26:

§515. Revisions to the Final Remedy

* * *

[See Prior Text A - B]

1. notify the Office of Environmental Assessment, Remediation Services Division, that a modification is necessary;

* * *

[See Prior Text B.2 - 3]

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the Office of Environmental Assessment, Remediation Services Division, shall:

* * *

[See Prior Text C.1 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), LR 26:

§521. Post-Remedial Management

* * *

[See Prior Text A - A.2]

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the Office of

Environmental Assessment, Remediation Services Division, for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

* * *

[See Prior Text B.1 - 8]

C. Monitoring. If required by the department, a monitoring plan shall be developed by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

* * *

[See Prior Text C.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), LR 26:

Chapter 6. Cost Recovery

§607. Determination of Remedial Costs; Demand to PRPs

A. Timing. The Office of Environmental Assessment, Remediation Services Division, may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

* * *

[See Prior Text B - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999), LR 26:

Chapter 7. Settlement and Negotiations

§705. Negotiations

* * *

[See Prior Text A - B.4]

C. Negotiations After Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the Office of Environmental Assessment, Remediation Services Division, for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or

conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

* * *

[See Prior Text D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999), LR 26:

§709. De Minimis Settlements

* * *

[See Prior Text A - C]

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a cash payment to the Office of Management and Finance, Financial Services Division, by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

* * *

[See Prior Text E - F.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), LR 26:

§711. Mixed Funding

* * *

[See Prior Text A - B]

C. Eligibility and Mixed Funding Criteria. The Office of Environmental Assessment, Remediation Services Division, shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

* * *

[See Prior Text C.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), LR 26:

Chapter 8. Public Information and Participation

§801. Public Information

* * *

[See Prior Text A - B]

1. Information Repositories. The Office of Environmental Assessment, Remediation Services Division, may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

* * *

[See Prior Text B.2 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), LR 26:

§803. Public Participation

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

* * *

[See Prior Text A.1 - 1.b]

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Assessment, Remediation Services Division.

* * *

[See Prior Text 2.a]

b. Prior to any public comment period, the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

* * *

[See Prior Text B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), LR 26:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

' 101. Scope and Purpose

The Louisiana Legislature recognizes that the safety and welfare of state citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management system" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

* * *

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§111. Review of the Rules and Regulations

These rules and regulations shall be reviewed and revised as follows:

A. Frequency. The department will review these rules and regulations at least once every three years.

* * *

[See Prior Text in B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§113. Public Information Service

A. Responses to Suggestions and Complaints. The department will respond to complaints and suggestions and disseminate all pertinent information concerning solid waste. Information will be disseminated by letter or telephone communication in response to direct inquiries and through a departmental bulletin issued periodically that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

* * *

[See Prior Text in B]

C. Mailing List. The department will maintain a mailing list of groups or individuals interested in public hearings and other such activities of the Office of Environmental Services, Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§115. Definitions

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

* * *

[See Prior Text]

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

* * *

[See Prior Text]

Applicant—any person who intends to be a standard permit-holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

* * *

[See Prior Text]

Assets—all existing and all probable future economic benefits obtained or controlled by a particular entity.

Authority—the Louisiana Resource Recovery and Development Authority established by R.S. 30:2301.1 et seq.

* * *

[See Prior Text]

Order Authorizing Commencement of Operations—a written authorization issued by the administrative authority after a permit-holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

* * *

[See Prior Text]

Solid Waste—any garbage, refuse, or sludge from a wastewater-treatment plant, water-supply treatment plant, or air pollution—control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

Solid Waste Management System—the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a business or by any municipality, authority, trust, parish, or any combination thereof.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

[COMMENT1]

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

* * *

[See Prior Text in A]

1. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or which are stored, processed, or disposed in accordance with a best management practice plan which has been provided to the Office of Environmental Services, Permits Division and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

* * *

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following solid wastes, that are processed or disposed of in an environmentally sound manner are not subject to the

permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A - I]

J. woodwastes which are beneficially used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, Permits Division, provided the following requirements are met:

1. the generator must notify the Office of Environmental Services, Permits Division of such activity at each site in accordance with LAC 33:VII.503.A;

2. the generator must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report in accordance with the standards in LAC 33:VII.1109, which reports amounts of woodwastes beneficially used at each site;

* * *

[See Prior Text in K - L]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et eq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A - D]

1. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.503.A; and

2. the facility must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721;

* * *

[See Prior Text in E - H]

1. the facility must notify the Office of Environmental Services, Permits Division of such activity in accordance with LAC 33:VII.503.A;

2. the facility must submit to the Office of Environmental Assessment, Remediation Services Division a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721;

* * *

[See Prior Text in H.3 - I.3]

4. the facility must notify the Office of Environmental Services, Permits Division of its activities in accordance with LAC 33:VII.503.A;

5. the facility must submit to the Office of Environmental Services, Environmental Assistance Division a disposer annual report which accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721; and

* * *

[See Prior Text in I.6 - J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264(June 2000), LR 26:

§307. Exemptions

* * *

[See Prior Text in A - C.1]

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Permits Division within 60 days after the granting of an emergency exemption.

* * *

[See Prior Text in D - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§311. Submittal of Information by Persons Other than Permit Holder or Applicant

Documentation must be provided to the Office of Environmental Services, Permits Division by the permit holder or applicant authorizing other persons to submit information on their behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§315. Mandatory Provisions

All persons conducting activities regulated under these regulations shall comply with the following provisions:

* * *

[See Prior Text in A - G.1]

a. Permit holders for existing Type I landfills and Type I landfarms operating under a standard permit must submit to the Office of Environmental Services, Permits Division, no later than February 1, 1994, a mandatory modification document to address these regulations.

* * *

[See Prior Text in G.1.b - G.2]

a. Permit holders of existing Type II landfills operating under a standard permit must submit to the

department, no later than August 1, 1994, a mandatory modification document to address these regulations.

* * *

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

a. Permit holders for all other Type I, Type I-A, Type II, and Type II-A facilities operating under a standard permit must submit to the department, no later than February 1, 1994, a mandatory modification document to address these regulations.

* * *

[See Prior Text in G.3.b - G.6]

7. Permit-holders of facilities which have earthen ditches that lead to or from units of the facility and receive solid waste must:

a. submit a plan to the department by February 1, 1994, to:

* * *

[See Prior Text in G.7.a.i - G.8]

9. The permit holder of a Type II facility must submit to the department a new or amended closure plan and a post-closure plan in the form of a permit modification to address these regulations no later than October 9, 1993, or by the initial receipt of waste, whichever is later.

10. Municipal solid waste landfills that commenced construction, reconstruction, or modification or began accepting waste on or after May 30, 1991, are subject to 40 CFR part 60, subpart WWW - Standards of Performance for Municipal Solid Waste Landfills. Described landfills may be required to have an operating permit under the Air Quality regulations, LAC 33:III.

11. Municipal solid waste landfills that accepted waste on or after November 8, 1987, or for which construction, reconstruction, or modification was commenced before May 30, 1991, may be subject to 40 CFR part 60, subpart Cc - Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. Described landfills may be required to have an operating permit under the Air Quality regulations, LAC 33:III.

H. Existing Facilities Operating Under a Temporary Permit with Pending Permit Applications. Permit holders of existing facilities operating under a temporary permit must submit to the department, no later than January 1, 1994, an addendum to the permit application to address these regulations. Existing facilities which do not hold a standard permit must be upgraded in accordance with the applicable deadlines according to facility type in Subsection G of this Section unless earlier deadlines are required by the administrative authority.

* * *

[See Prior Text in I]

1. Applicants of proposed facilities with permit applications on file with the department must submit to the Office of Environmental Services, Permits Division, no later than January 1, 1994, an addendum to their application to address these regulations.

* * *

[See Prior Text in I.2]

J. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2001 et seq., particularly R.S. 30:2012. These inspections may be conducted during

normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

* * *

[See Prior Text in K - L]

M. Notice of Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified within 48 hours by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us or other means of communication when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit.

* * *

[See Prior Text in N - R.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§319. Assignment and Reassignment of Responsibilities

* * *

[See Prior Text in A]

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.317.B as may be deemed necessary to operate the program more effectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 5. Solid Waste Management System

Subchapter A. Administration, Classification, and Inspection Procedures

§501. Administration

This program shall be administered by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§503. Notification

A. Notification

1. Except as provided for in Subsection A.2 of this Section, persons who generate industrial solid waste and or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these

regulations, notify the Office of Environmental Services, Permits Division in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services, Permits Division or through the department's website at www.deq.state.la.us.

2. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

3. Owners or operators of pickup stations are required to notify the Office of Environmental Services, Permits Division of such activities within 30 days after they become subject to these regulations. Existing facilities which have previously notified are not required to renotify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§505. Classification of Existing Facilities Which Have Not Been Previously Classified or Which Are Not Presently Operating under a Standard Permit

* * *

[See Prior Text in A - A.1]

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department will perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services, Permits Division a notice of his intent to upgrade or close a facility.

* * *

[See Prior Text in B - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§509. Inspection Procedures

The following are the types of inspections made at solid waste processing or disposal facilities.

A. Classification Inspection. A classification inspection is required for all existing facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.503.A.1).

B. Compliance Inspections. The department will inspect each facility and each facility's records periodically to determine the facility's compliance with the terms of standard or temporary permits and these regulations.

* * *

[See Prior Text in C]

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services, Permits Division by a registered engineer, licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Assessment, Environmental Technology Division by a registered engineer, licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Assessment, Environmental Technology Division unless a longer time period is set by mutual agreement.

* * *

[See Prior Text in C.4]

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, in writing, of the date on which construction will begin, in order to allow a representative of the division the opportunity to witness the construction.

* * *

[See Prior Text in E]

1. Start-Up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Assessment, Environmental Technology Division, by a registered engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Assessment, Environmental Technology Division.

* * *

[See Prior Text in E.3]

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Assessment, Environmental Technology Division by a registered engineer licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

* * *

[See Prior Text in F.2]

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Permits Division has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit

holder has filed a request for a closure inspection. Closure inspections must be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Permit System for Facilities Classified for Upgrade or Closure

§511. Permit System

* * *

[See Prior Text in A - A.2]

a. Generators who are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.503.A.1. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.701.

b. Transporters who are not processors or disposers of solid waste are not required to secure a permit, but must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.503.A.1. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.705.

* * *

[See Prior Text in A.2.c]

d. Pickup stations at which no solid waste is processed or disposed of are not required to secure a permit. Pickup stations are subject to the standards found in LAC 33:VII.703 and 707 and must notify the Office of Environmental Services, Permits Division in accordance with LAC 33:VII.503.A.

* * *

[See Prior Text in B - C]

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person(s) notifying the Office of Environmental Services, Permits Division will be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

* * *

[See Prior Text in C.2 - D.2]

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Permits Division a new permit application at least 455 days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

* * *

[See Prior Text in D.2.b - G.2]

3. The applicant shall provide appropriate documentation to the Office of Environmental Services,

Permits Division that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

* * *

[See Prior Text in H]

AUTHORITY NOTE: Promulgated in accordance with R.S.30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

* * *

[See Prior Text in A.2 - A3]

B. Permit Application Requirements

1. Any person who generates, transports or stores solid waste is not issued a permit but is under the jurisdiction of the department and must comply with the applicable provisions of these regulations.

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, and 523, and submit four copies to the Office of Environmental Services, Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

* * *

[See Prior Text in B.2.b]

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Permits Division within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Permits Division shall provide written notice on the subject matter to the parish governing authority, who shall promptly notify each parish municipality affected by the application.

* * *

[See Prior Text in D - D.1]

2. The applicant shall make available to the department the assistance of professional engineers or other

trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant must resubmit the entire standard permit application to the Office of Environmental Services, Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

[See Prior Text in E.2 - F.1.b]

c. one copy to the appropriate regional office; and

d. two copies to remain in the department's headquarters in Baton Rouge.

[See Prior Text in F.2]

3. After the five copies are submitted to the Office of Environmental Services, Permits Division, notices will be placed in the department's bulletin (if one is available), the official journal of the state, and in the official journal of the parish where the facility is located. The Office of Environmental Services, Permits Division shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. The applicant is responsible for providing the Office of Environmental Services, Permits Division with proof of publication.

[See Prior Text in F.4]

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Permits Division will send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person

making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices will be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. Those persons on the Office of Environmental Services, Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Permits Division until the close of business 30 days after the date of a public hearing will be reviewed by the Office of Environmental Services, Permits Division.

[See Prior Text in G - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§515. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.505 and LAC 33:VII.Chapter 7 establish the evaluation criteria used by the Office of Environmental Services, Permits Division.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Permits Division four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

[See Prior Text in B.2 - 3]

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder will be required to resubmit the entire application to the Office of Environmental Services, Permits Division, including the review fee, by a date set by the administrative authority.

[See Prior Text in C.2]

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete will be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of

Environmental Services, Permits Division three copies of the closure plan which incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans must incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§517. Permit Modifications

* * *

[See Prior Text in A]

1. Modification Requests

a. The permit holder shall notify the Office of Environmental Services, Permits Division in advance of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

i. Initially, four copies of all modification requests shall be provided to the Office of Environmental Services, Permits Division. Each individual copy of the document shall be 8 1/2" by 11" and shall be bound in standard three-ring binder(s).

* * *

[See Prior Text in A.1.a.ii]

b. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services, Permits Division:

* * *

[See Prior Text in A.1.b.i - 2.a.xi]

b. Permit modifications which require public notice and that have been determined by the Office of Environmental Services, Permits Division to be technically complete will be accepted for public review. When the permit modification is accepted for public review, the permit holder must forward copies of the permit modification as follows:

i. two copies to the Office of Environmental Services, Permits Division main office in Baton Rouge;

ii. one copy to the appropriate regional office;

* * *

[See Prior Text in A.2.b.iii - iv]

c. The permit holder shall provide the Office of Environmental Services, Permits Division with evidence that

copies of the permit modification have been forwarded to the local parish governing authority and the parish public library.

d. After distribution of the permit modification, the permit holder is responsible for placing a notice in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notice will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Permits Division. The permit holder is responsible for providing the Office of Environmental Services, Permits Division with proof of publication of the notice.

* * *

[See Prior Text in A.2.e - 4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Permit Application

§521. Part II. Supplementary Information, All Processing and Disposal Facilities

The following information is required in the permit application for solid waste processing and disposal facilities. All responses and exhibits must be identified in the following sequence to facilitate the evaluation. Additionally, all applicable sections of LAC 33:VII.Chapter 7 must be addressed and incorporated into the application responses. If a section does not apply, the applicant must state that it does not apply and explain why.

* * *

[See Prior Text in A - F.5.c]

d. for an existing facility, all data on samples taken from monitoring wells in place at the time of the permit application must be included. (If this data exists in the department records, the administrative authority may allow references to the data in the permit application.) For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility, groundwater data (one sampling event) shall be submitted before waste is accepted;

* * *

[See Prior Text in F.5.e - M]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 7. Solid Waste Standards

Subchapter A. General Standards

§701. Standards Governing Industrial Solid Waste Generators

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off site.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste. The form to be used shall be obtained from the department or through the department's website at www.deq.state.la.us.

[See Prior Text in A.3]

4. The report shall be submitted to the Office of Environmental Services, Environmental Assistance Division by August 1 of each reporting year.

[See Prior Text in A.5 - B.1]

a. submit to the Office of Environmental Services, Permits Division a generator notification form (which is to be provided by the administrative authority) which includes analysis, analytical data, and/or process knowledge which confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the Office of Environmental Services, Permits Division.

[See Prior Text in B.2 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing All Solid Waste Disposal Facilities (Type I and II)

[See Prior Text in A - E.1.c.i]

ii. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

[See Prior Text in E.1.c.iii - iii.(e).(v)]

d. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant must submit to the Office of Environmental Services, Permits Division well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit

modification fee will not be required. Well-completion details should include, but are not limited to:

[See Prior Text in E.1.d.i - e.ii.(c)]

(d). The permit holder must notify the Office of Environmental Services, Permits Division of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

[See Prior Text in E.1.f - 3.a]

b. Initial Sampling

i. For a new facility, monitoring wells must be sampled and the analytical data for a sampling event must be submitted to the Office of Environmental Assessment, Environmental Technology Division before waste is accepted.

ii. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the analytical data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division within 90 days after installation of the monitoring wells.

[See Prior Text in E.3.b.iii - d]

e. The permit holder or applicant must submit four bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division no later than 90 days after each sampling event. The reports must be submitted on forms provided by the administrative authority and shall include at a minimum:

[See Prior Text in E.3.e.i - f.i]

ii. submit to the Office of Environmental Assessment, Environmental Technology Division, within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes from background levels; and

[See Prior Text in E.3.f.iii - iii.(a)]

(b). submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality.

[See Prior Text in E.3.f.iv - 4.b.ii]

c. No later than 90 days after the completion of the initial or subsequent sampling events for all Appendix C, Table 2 parameters or constituents required in Subsection E.4.b of this Section, the permit holder must submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the Appendix C, Table 2 parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all Appendix C, Table 2 parameters or constituents required in Subsection E.4.b of this Section, the permit holder must:

* * *

[See Prior Text in E.4.c.i - iii]

d. If the concentrations of all Appendix C, Table 2 parameters or constituents are shown to be at or below background values, using the statistical procedures in Subsection E.2.e of this Section, for two consecutive sampling events, the permit holder must notify the Office of Environmental Assessment, Environmental Technology Division, and upon written approval of the administrative authority, may return to detection monitoring.

* * *

[See Prior Text in E.4.e]

f. If one or more Appendix C, Table 2 parameters or constituents are detected at statistically significant levels above the groundwater protection standard established under Subsection E.4.g of this Section, in any sampling event, using the statistical procedures in Subsection E.2.e of this Section, the permit holder must, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the Appendix C, Table 2 parameters or constituents which have exceeded the groundwater protection standard. The permit holder must also:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification, to the Office of Environmental Services, Permits Division that provides for:

* * *

[See Prior Text in E.4.f.i.(a) - iv]

v. may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder must continue assessment monitoring at the facility in accordance with Subsection E.4 of this Section, or may return to detection monitoring if the Appendix C, Table 2 parameters or constituents are below background as specified in Subsection E.4.d of this Section. Until such a written approval is given, the permit holder must comply with Subsection E.4.f of this Section, including initiating an assessment of corrective action measures.

* * *

[See Prior Text in E.4.g - 6]

a. Based on the results of the corrective measures assessment conducted under Subsection E.5 of this Section, the permit holder must select a remedy that, at a minimum, meets the standards of Subsection E.6.b of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E.5 of this Section, the permit holder must submit four bound copies (8 1/2 by 11 inches) of a corrective-action plan to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which will meet the requirements of Subsection E.6.b-d of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective-

action plan must also provide for a corrective-action groundwater monitoring program as described in Subsection E.7.a.i of this Section.

* * *

[See Prior Text in E.6.b - 7.a.ii]

b. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Subsection E.6.b of this Section are not being achieved through the remedy selected. A revised corrective-action plan providing other methods or techniques that could practically achieve compliance with the requirements of Subsection E.6.b of this Section must accompany the demonstration.

* * *

[See Prior Text in E.7.c]

d. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division demonstrating that compliance with the requirements under Subsection E.6.b of this Section cannot be achieved with any currently available methods.

e. If the administrative authority approves, in writing, the demonstration submitted pursuant to Subsection E.7.d of this Section, the permit holder must, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:I.Chapter 13:

* * *

[See Prior Text in E.7.e.i - 8.b]

c. If assessment monitoring parameters or constituents are detected at concentrations significantly different from background in the resampling event in Subsection E.4.b of this Section, the permit holder must, within 14 days of the determination, submit a report to the Office of Environmental Assessment, Environmental Technology Division identifying the assessment monitoring parameters or constituents which are statistically different from background concentrations. The permit holder must also:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 by 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification, to the Office of Environmental Services, Permits Division that provides for:

* * *

[See Prior Text in E.8.c.i.(a) - 9.a]

b. Within 270 days after the submission of the assessment plan, the permit holder must submit four bound copies (8 1/2 by 11 inches) of a corrective-action plan to remediate the groundwater to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which shall also include:

* * *

[See Prior Text in E.9.b.i - 10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§711. Standards Governing Landfills (Type I and II)

* * *

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or through the department's website at www.deq.state.la.us.

* * *

[See Prior Text in C.1.a.ii - b.iii.(p)]

(q). copies of all documents received from and submitted to the department.

* * *

[See Prior Text in C.2 - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in D - D.3.a.i]

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

* * *

[See Prior Text in D.3.a.ii.(a) - iii]

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us;

(b). within seven days of detection submit a report to the Office of Environmental Compliance that provides the methane gas levels detected and a description of the steps taken to protect human health; and

(c). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division for the

methane gas releases to the administrative authority. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

iv. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us when strong odors occur at facility boundaries.

* * *

[See Prior Text in D.3.a.v - c.i]

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services, Permits Division for approval in the operational plan.

* * *

[See Prior Text in D.3.d - 5.c]

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

* * *

[See Prior Text in E.1.a - 3.c]

d. The permit holder shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. A form to be used for this purpose is provided in Appendix F. The facility shall provide the Office of Environmental Services, Permits Division with a true copy of the document filed and certified by the parish clerk of court.

* * *

[See Prior Text in E.4 - F.3]

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Compliance, Surveillance Division on the integrity of the final cap;

* * *

[See Prior Text in F.3.b - d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§713. Standards Governing Surface Impoundments (Type I and II)

* * *

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or through the department's website at www.deq.state.la.us.

* * *

[See Prior Text in C.1.a.ii - b.iii.(o)]

(p). copies of all documents received from or submitted to the department.

* * *

[See Prior Text in C.2 - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in D - D.3.a.i]

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

* * *

[See Prior Text in D.3.a.ii.(a) - iii]

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us;

(b). within seven days of detection, submit a report to the Office of Environmental Compliance that

provides the methane gas levels detected and a description of the steps taken to protect human health; and

(c). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

iv. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Subsection D.3.a.ii of this Section.

* * *

[See Prior Text in D.3.a.v - c]

d. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I. Chapter 39.

* * *

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

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

* * *

[See Prior Text in E.1.a - 3.b.v]

vi. analyses to be sent to the Office of Environmental Services, Permits Division confirming that clean closure has been achieved;

* * *

[See Prior Text in E.3.b.vii]

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Permits Division before backfilling takes place. The administrative authority will determine whether the facility has been closed properly.

* * *

[See Prior Text in E.3.c - F.2.b]

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence,

erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Compliance, Surveillance Division on the integrity of the final cap;

* * *

[See Prior Text in F.2.b.ii - iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§715. Standards Governing Landfarms (Type I and II)

* * *

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us.

* * *

[See Prior Text in C.1.a.ii - b.iii.(n)]

(o). copies of all documents received from or submitted to the department;

(p). a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions shall be submitted semiannually to the Office of Environmental Assessment, Environmental Technology Division or more frequently if deemed necessary by the administrative authority;

* * *

[See Prior Text in C.1.b.iii.(q) - (r)]

(s). annual reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division for a minimum of three years (Type II landfarms) and 10 years (Type I landfarms) after closure and shall contain analyses of all test results of the soils. The post closure monitoring annual reporting may be reduced for certain types of landfarms if the permit-holder demonstrates to the administrative authority satisfaction that such is warranted.

* * *

[See Prior Text in C.2 - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid

Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in D - D.3.a.i]

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Permits Division a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

* * *

[See Prior Text in D.3.a. ii.(a) - iii]

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us;

(b). within seven days of detection, submit a report to the Office of Environmental Compliance, Surveillance Division that provides the methane gas levels detected and a description of the steps taken to protect human health; and

(c). within 60 days of detection, submit a remediation plan for the methane gas released to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule.

iv. The permit holder shall notify the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us when strong odors occur at facility boundaries.

* * *

[See Prior Text in D.3.a.v - k.ii.(a)]

(b). An operating plan for the facility shall be filed with the Office of Environmental Services, Permits Division that demonstrates how the animal feed will be distributed to preclude ingestion by humans and that describes the measures to be taken to safeguard against possible health hazards from the entry of cadmium or other heavy metals into the food chain, as may result from alternative land use.

* * *

[See Prior Text in D.3 k.ii.(c) - 5]

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

[See Prior Text in E.1.a - F.3.a]

b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division for a period of three years after closure and shall contain results of analysis of all soil/waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251(December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Solid Waste Processors
§717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

[See Prior Text in A - F.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us. The following applies to reports:

[See Prior Text in F.1.a.ii - 2.a]

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

[See Prior Text in G - G.3.h.ii]

(a). Testing procedures, schedules, and methods must be submitted to the Office of Environmental Services, Permits Division for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

[See Prior Text in G.3.h.ii.(b) - 5]

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and

filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

[See Prior Text in H]

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the a Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

[See Prior Text in I.1.a - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Minor Processing and Disposal Facilities

§719. Standards Governing All Minor Processing and Disposal Facilities (Type III)

[See Prior Text in A - D.1]

2. A design for surfacing natural soils that do not meet the requirement in Subsection D.1 of this Section shall be prepared and installed under the supervision of a registered engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Subsection D.1 of this Section shall be provided to the Office of Environmental Services, Permits Division.

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal

during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us.

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

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the department.

[See Prior Text in B.1.b.iii - 2]

3. Type III facilities receiving construction and demolition debris and woodwaste shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

[See Prior Text in B.3.a - C.4]

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

[See Prior Text in D]

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

[See Prior Text in D.1.a - 3.b]

c. The permit holder shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. A form to be used for this purpose is provided in LAC 33:VII.Chapter 11.Appendix F. The facility shall provide the Office of Environmental Services, Permits Division with a true copy of the document filed and certified by the parish clerk of court.

[See Prior Text in D.4 - E.2]

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division for a period of three years after closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§723. Composting Facilities (Type III)

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us.

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

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the department.

[See Prior Text in B.1.b.iii - 2]

3. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

[See Prior Text in C - D]

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

[See Prior Text in D.1.a - 2.b]

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3, 4, and 5 must be provided to the Office of Environmental Services, Permits Division.

[See Prior Text in D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§725. Separation and Woodwaste Processing Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us. The following applies to reports:

* * *

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

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in B.1.b.iii - 2]

3. Type III facilities receiving solid waste for separation shall have the number and levels of certified operators employed at the facility as required by the Louisiana Administrative Code, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Permits Division shall be notified within 30 days of any changes in the employment status of certified operators.

* * *

[See Prior Text in C - C.5]

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Permits Division and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subsection C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Permits Division.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

* * *

[See Prior Text in D.1.a - 2.b]

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3, 4, and 5 must be provided to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste

§727. Financial Assurance

* * *

[See Prior Text in A - A.1]

a. Permit holders or applicants for Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

b. Permit holders or applicants for Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$500,000 per occurrence, and \$500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

c. Permit holders or applicants for Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$250,000 per occurrence, and \$250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in A.1.d - d.i.(c).(iii)]

(iv). cancellation of the policy, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Management and Finance, Financial Services Division;

(v). any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Management and Finance, Financial Services Division;

* * *

[See Prior Text in A.1.d.i.(c).(vi)]

(d). the wording of the liability endorsement shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Solid Waste Facility Liability Endorsement

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in 1 – 4]

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

(e). the wording of the certificate of insurance shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Solid Waste Facility Certificate Of Liability Insurance

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

* * *

[See Prior Text in 1 – 3]

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

* * *

[See Prior Text in A.1.d.ii - ii.(c)]

(d). The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the Office of Management and Finance, Financial Services Division receive the notice, as evidenced by the return receipts.

(e). The wording of the letter of credit shall be identical to the wording that follows, except that the

instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Solid Waste Facility Irrevocable Letter Of Credit

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70884-2231
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [] at the request and for the account of [permit holder's or applicant's name and address] for its [list site identification number, site name, facility name, and facility permit number] at [location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars [] upon presentation of:

* * *

[See Prior Text in 1 – 2]

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.727.A.1.d.ii.(e), effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[date]

iii. Financial Test

(a). To meet this test, the applicant, permit holder, parent corporation of the applicant (corporate guarantor), or permit holder must submit to the Office of Management and Finance, Financial Services Division the documents required by Subsection A.2 of this Section demonstrating that the requirements of that Subsection have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder,

applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

* * *

[See Prior Text in A.1.d.iii.(b) - iv.(a).(iii)]

(iv). the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial-test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Management and Finance, Financial Services Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in Subsection A.1 of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

(v). the guarantor agrees to notify the Office of Management and Finance, Financial Services Division by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

* * *

[See Prior Text in A.1.d.iv.(a).(vi) - (xi)]

(b). A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Management and Finance, Financial Services Division that a corporate guarantee is a legally valid and enforceable obligation in that state.

* * *

[See Prior Text in A.1.e - 2.a]

b. The applicant or permit holder shall submit to the Office of Management and Finance, Financial Services Division the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures:

* * *

[See Prior Text in A.2.b.i - ii]

iii. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Subsection A.2.b.i and ii of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure plan. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Management and Finance, Financial Services Division within 15 days following such adjustment.

* * *

[See Prior Text in A.2.b.iv - c.iv]

d. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in A.2.d.i - vii]

viii. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

* * *

[See Prior Text in A.2.d.ix (including Solid Waste Facility Trust Agreement/Standby Trust Agreement)]

e. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in A.2.e.i - v]

vi. Whenever the current cost-estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

* * *

[See Prior Text in A.2.e.vii - viii (including Solid Waste Facility Financial Guarantee Bond)]

f. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in A.2.f.i - v]

vi. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates

and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

vii. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Management and Finance, Financial Services Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

* * *

[See Prior Text in A.2.f.viii (including Solid Waste Facility Performance Bond)]

g. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in A.2.g.i - iii]

iv. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Management and Finance, Financial Services Division by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

* * *

[See Prior Text in A.2.g.v]

vi. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

* * *

[See Prior Text in A.2.g.vii]

viii. The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Solid Waste Facility Irrevocable Letter Of Credit

Secretary
Louisiana Department of Environmental Quality
Post Office Box 82231
Baton Rouge, Louisiana 70804-2231
Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list site identification number, site name, facility name, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$ _____ upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. _____ drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the Uniform Customs and Practice for Documentary Letters of Credit (1983), International Chamber of Commerce Publication No. 400, shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.727.A.2.g.viii, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]

[date]

h. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the requirements of this Subparagraph and submitting a certificate of such insurance to the Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text in A.2.h.i - iv]

v. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and post-closure may request

reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Management and Finance, Financial Services Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

[See Prior Text in A.2.h.vi - vii]

viii. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Management and Finance, Financial Services Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

[See Prior Text in A.2.h.viii.(a) - (e)]

ix. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Management and Finance, Financial Services Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

[See Prior Text in A.2.h.x - i.i.(b).(iii)]

ii. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Management and Finance, Financial Services Division:

[See Prior Text in A.2.i.ii.(a) - iii]

iv. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Management and Finance, Financial Services Division a letter from the chief financial officer certifying the following information:

[See Prior Text in A.2.iv.(a) - (d)]

(e). The wording of the letter from the chief financial officer shall be identical to the wording as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Solid Waste Facility Letter From The Chief Financial Officer

(Liability Coverage, Closure, and/or Post-Closure) Secretary

Louisiana Department of Environmental Quality
Post Office Box 82231

Baton Rouge, Louisiana 70884-2231

Attention: Office of Management and Finance, Financial Services Division

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be either the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.727.A.1," "LAC 33:VII.727.A.2," or LAC 33:VII.727.A.1 and A.2"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the site identification number, site name, facility name, and facility permit number.]

[See Prior Text in 1 - 4]

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage For Accidental Occurrences

[Fill in Alternative I if the criteria of LAC 33:VII.727.A.2.i.i.(a) are used.]

ALTERNATIVE I		
1. Amount of annual aggregate liability coverage to be demonstrated	\$ _____	
*2. Current assets	\$ _____	
*3. Current liabilities	\$ _____	
*4. Tangible net worth	\$ _____	
*5. If less than 90 percent of assets are located in the U.S., give total U.S. assets	\$ _____	
	YES	NO
6. Is line 4 at least \$10 million?	—	—
7. Is line 4 at least 6 times line 1?	—	—
*8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9.	—	—
9. Is line 4 at least 6 times line 1?	—	—

[Fill in Alternative II if the criteria of LAC 33:VII.727.A.2.i.i.(b) are used.]

ALTERNATIVE II		
1. Amount of annual aggregate liability coverage to be demonstrated	\$ _____	
2. Current bond rating of most recent issuance of this firm and name of rating service	_____	
3. Date of issuance of bond	_____	
4. Date of maturity of bond	_____	
*5. Tangible net worth	\$ _____	
*6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$ _____	
	YES	NO
7. Is line 5 at least \$10 million?	—	—
8. Is line 5 at least 6 times line 1?	—	—
*9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10.	—	—
10. Is line 6 at least 6 times line 1?	—	—

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

Part B. Closure And/Or Post Closure

[Fill in Alternative I if the criteria of LAC 33:VII.727.A.2.i.i.(a) are used.]

ALTERNATIVE I		
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$ _____	
*2. Tangible net worth	\$ _____	
*3. Net worth	\$ _____	
*4. Current Assets	\$ _____	
*5. Current liabilities	\$ _____	
*6. The sum of net income plus depreciation, depletion, and amortization	\$ _____	
*7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$ _____	
	YES	NO
8. Is line 2 at least \$10 million?	—	—
9. Is line 2 at least 6 times line 1?	—	—
*10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11.	—	—
11. Is line 7 at least 6 times line 1?	—	—

[Fill in Alternative II if the criteria of LAC 33:VII.727.A.2.i.i.(b) are used.]

ALTERNATIVE II		
1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above)	\$ _____	
2. Current bond rating of most recent issuance of this firm and name of rating service	_____	
3. Date of issuance of bond	_____	
4. Date of maturity of bond	_____	
*5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line)	\$ _____	
*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)	\$ _____	
	YES	NO
7. Is line 5 at least \$10 million?	—	—
8. Is line 5 at least 6 times line 1?	—	—
9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.	—	—
10. Is line 6 at least 6 times line 1?	—	—

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

Part C. Liability Coverage, Closure, And/Or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.727.A.2.i.i.(a) are used.]

ALTERNATIVE I		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$ _____	
2. Amount of annual aggregate liability coverage to be demonstrated	\$ _____	
3. Sum of lines 1 and 2	\$ _____	
*4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.)	\$ _____	
*5. Tangible net worth	\$ _____	
*6. Net worth	\$ _____	
*7. Current assets	\$ _____	
	\$ _____	

*8. Current liabilities		
*9. The sum of net income plus depreciation, depletion, and amortization	\$ _____	
*10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$ _____	
	YES	NO
11. Is line 5 at least \$10 million?	_____	_____
12. Is line 5 at least 6 times line 3?	_____	_____
*13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14.	_____	_____
14. Is line 10 at least 6 times line 3?	_____	_____

[Fill in Alternative II if the criteria of LAC 33:VII.727.A.2.i.i.(b) are used.]

ALTERNATIVE II		
1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above)	\$ _____	
2. Amount of annual aggregate liability coverage to be demonstrated	\$ _____	
3. Sum of lines 1 and 2	\$ _____	
4. Current bond rating of most recent issuance of this firm and name of rating service	_____	
5. Date of issuance of bond	_____	
6. Date of maturity of bond	_____	
*7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.)	\$ _____	
*8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.)	\$ _____	
	YES	NO
9. Is line 7 at least \$10 million?	_____	_____
10. Is line 7 at least 6 times line 3?	_____	_____
*11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12	_____	_____
12. Is line 8 at least 6 times line 3?	_____	_____

(The following is to be completed by all firms providing the financial test)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.727.A.2.i.iv.(e).

[Signature of Chief Financial Officer for the Firm]

[Typed Name of Chief Financial Officer]

[Title]

[Date]

* * *

[See Prior Text in A.2.i.v - vi]

vii. After initial submission of the items specified in Subsection A.2.i.ii of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Management and Finance, Financial Services Division within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Subsection A.2.i.ii of this Section.

* * *

[See Prior Text in A.2.i.viii - ix.(d)]

(e). Guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Management and Finance, Financial Services Division and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in Subsection A.2 of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so.

(f). The guarantor agrees to notify the Office of Management and Finance, Financial Services Division by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding.

* * *

[See Prior Text in A.2.i.ix.(g) - (h)]

(i). The guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of Subsection A.2 of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Management and Finance, Financial Services Division and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts.

* * *

[See Prior Text in A.2.i.x.(j) - j.iii.(d).(ii)]

(e). A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Management and Finance, Financial Services Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

* * *

[See Prior Text in A.2.j.iii.(f) - k.i.(a).(ii)]

(b). the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Management and

Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

(c). if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division.

[See Prior Text in A.2.k.ii - ii.(b)(ii)]

(c). If a local government guarantor no longer meets the requirements of Subsection A.2.j of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Management and Finance, Financial Services Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

[See Prior Text in A.2.l - m]

i. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer to the Office of Management and Finance, Financial Services Division so stating;

[See Prior Text in A.2.m.ii - B]

1. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.709.E must provide to the Office of Management and Finance, Financial Services Division a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.709.E. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

a. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Management and Finance, Financial Services Division until the corrective action program is completed in accordance with LAC 33:VII.709.E.

b. The permit holder must provide an increased corrective action cost estimate to the Office of Management and Finance, Financial Services Division and the amount of financial assurance provided under Subsection B.2 of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

c. Subject to approval of the administrative authority, the permit holder may provide a reduced corrective action cost estimate to the Office of Management and Finance, Financial Services Division and the amount of financial assurance provided under Subsection B.2 of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Management and Finance, Financial Services Division justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

[See Prior Text in B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1316 (October 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 9. Enforcement

§909. Closing Unauthorized and Promiscuous Dumps

Unauthorized and promiscuous dumps shall be closed through the following procedure.

[See Prior Text in A - C.2.e]

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance; and

[See Prior Text in C.2.g - E.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1051 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 11. Beneficial-Use Facilities

§1105. Part I Application Form for Beneficial-Use Facilities

The applicant shall complete a beneficial-use application Part I Form (see Appendix G of this Chapter). The following notes refer to the items on the form requiring that information:

[See Prior Text in A - O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1109. Standards Governing Beneficial-Use Facilities

[See Prior Text in A - F.1.a]

i. The permit holder shall submit annual reports to the Office of Environmental Services, Environmental Assistance Division indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the Office of Environmental Services, Environmental Assistance Division. A form for this purpose must be obtained from the Office of Environmental Services, Environmental Assistance Division or the department's website at www.deq.state.la.us. The following standards apply to reports:

[See Prior Text in F.1.a.ii - iv]

v. Facilities which receive industrial solid waste shall utilize, in their annual report, the seven-digit industrial waste number that has been assigned by the department to the industrial solid waste generator.

vi. Reports shall be submitted as provided in Subsection F.1.b.ii.(f) - (h) of this Section.

[See Prior Text in F.1.b - b.ii.(e)]

(f). copy of the semiannual soil waste mixtures tests and analyses of the results, with conclusions, submitted semi annually to the Office of Environmental Assessment, Environmental Technology Division, or more frequently if deemed necessary by the administrative authority.

[See Prior Text in F.1.b.ii.(g)]

(h). Annual reports of the analysis of all tests results on the soils; land-use, and crop information; calculated amounts of waste applied per acre; total amounts of nitrogen applied per acre; and cumulative metals loading per acre shall be submitted to the Office of Environmental Assessment, Environmental Technology Division.

[See Prior Text in F.2 - H]

1. All permit holders shall notify the Office of Environmental Services, Permits Division in writing at least 90 days before closure or intention to close or abandon any individual units within a facility and shall provide the following information:

[See Prior Text in H.1.a - 2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix A

Example of a Public Notice to be Placed in the Local Newspaper for Intention to Submit a Permit Application to the Office of Environmental Services, Permits Division for Existing/ Proposed Solid Waste Facilities

**Public Notice
Of**

**Intent To Submit Permit Application
(Name Of Applicant/Facility)**

Facility (Location), Parish (Location), Louisiana

Notice is hereby given that (name of applicant; mailing address) does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Permits Division, an application for a permit to operate a (type of solid waste facility) in (parish name), Range, Township, Section, which is approximately (identify the physical location of the site by direction and distance from the nearest town).

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services Permits Division
Post Office Box 82135
Baton Rouge, Louisiana 70884-2135

Appendix F

**Document to be Filed in the Parish Records Upon
Final**

Closure of a Solid Waste Disposal Facility

(Name of permit holder) hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on (date facility was closed) in accordance with the Louisiana Administrative Code, Title 33, Part VII. Inquiries regarding the contents of (the facility) may be directed to (name of person with knowledge of the contents of the facility) at (address of person with knowledge of the content of the facility).

Property Description
(Provide the specific description of the location of the facility)

Signature of Person Filing Parish Record
Typed Name and Title of Person Filing Parish Record
Date

(A true copy of the document must be certified by the parish clerk of court.)

**Subpart 3. Louisiana Resource Recovery and
Development Authority**

**Chapter 151. General Provisions
§15103. Legislative Authority and Governance**

[See Prior Text in A]

B. The authority is subject to the provisions of the act and, as to rulemaking, the Administrative Procedure Act (R.S. 49:950 et seq.). In addition, the actions and activities performed or carried out by the authority and its contractors in accordance with the act must be in conformity with applicable law, policies and rules of the state, in accordance with the Louisiana Solid Waste Management Plan, and in accordance with all applicable statutes, permitting procedures and regulations of the department.

C. The authority is a function and responsibility of the Department of Environmental Quality and operates as a functional division within the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502

(October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§15109. Definition

All terms used in these rules shall have their usual meaning unless the context otherwise requires or unless specifically defined in the act or in substantive regulations which have been promulgated by the authority or the department under Chapter 11 of Title 30 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§15111. Filings with the Authority

Whenever these rules or the act permit or require the filing of any notice, petition, document, or other correspondence with the Louisiana Resource Recovery and Development Authority, such filing shall be addressed and mailed to Louisiana Resource Recovery and Development Authority, Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§15117. Public Participation

A. The authority shall secure maximum input from interested groups and the public in the performance of its functions and shall provide information concerning its activities and solicit public participation by providing at least the following services:

[See Prior Text in A.1 - 2]

3. entry of a summary of authority actions in a publication or by such other means as may be determined by the authority to be necessary or desirable; and

[See Prior Text in A.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Part IX. Water Quality Regulations

Chapter 1. General Provisions

§101. Scope and Purpose

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

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

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

§103. Authority

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

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

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

§107. Definitions

[See Prior Text]

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

[See Prior Text]

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

[See Prior Text]

DEQC—the Department of Environmental Quality.

[See Prior Text]

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

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

[See Prior Text]

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

[See Prior Text]

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

[See Prior Text]

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

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

[See Prior Text]

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

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

Chapter 3. Permits

§301. Scope

* * *

[See Prior Text in A]

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

* * *

[See Prior Text in B.1-C.7]

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

* * *

[See Prior Text in D.1]

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

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

* * *

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

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

* * *

[See Prior Text in E.5-7]

F. Any unpermitted facility or activity that exists or is under construction on the effective date of these regulations and falls under the jurisdiction of LAC 33:IX.301.B shall submit a completed application to the Office of Environmental Services, Permits Division within 180 days of the effective date. Upon receipt of the application by the department within the prescribed 180 days, the facility shall be deemed in compliance with LAC 33:IX.301.B except where the administrative authority has initiated action against the facility following an investigation or complaint. All facilities or activities which meet the requirements outlined in LAC 33:IX.301.J.4 or LAC 33:IX.301.K.4 shall be exempt from the requirements of this Paragraph.

* * *

[See Prior Text In G-J.2.b]

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

* * *

[See Prior Text In J.3]

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

* * *

[See Prior Text In J.3.a.i-b.ii]

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

* * *

[See Prior Text in K-K.1]

2. Definition

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

* * *

[See Prior Text in K.3]

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

* * *

[See Prior Text in K.3.a.i-iv]

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

* * *

[See Prior Text In L-N]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§303. Permit Application Information

A. Any person desiring to obtain a LWDPS permit from the department shall make application on forms prescribed by the department and shall submit such information as required in LAC 33:IX.303.E below. Such person shall submit any reasonable additional information deemed necessary by the department to complete or correct deficiencies in the application before processing of the application will be completed. No application shall be

deemed complete and ready for disposition until all reasonable additional information has been supplied. A site visit by department personnel shall be required if determined to be necessary by the department. The department shall not make a final determination on any application until such time as the applicant has supplied the requested information and otherwise corrected any deficiencies.

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

[See Prior Text In C-D]

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

[See Prior Text In E.1-7]

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

9. for each discharge outlet, a) the latitude and longitude to the nearest second [or if this information is unavailable to at least the nearest 15 seconds], b) the Section, Township, and Range information or other means, acceptable to the department, to locate each discharge outlet; and, c) the name of the immediate receiving water body and river mile point where applicable. When the discharge is to an unnamed receiving water, the first named water, and the approximate distance thereto, shall be indicated;

[See Prior Text In E.10-14]

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

[See Prior Text In E.15.a-18]

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

[See Prior Text In E.20-G]

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

[See Prior Text In G.1.a]

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

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

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

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

[See Prior Text In G.2.c]

3. Exception. In cases where the application is withdrawn by the applicant, a written notification must be provided to the Office of Environmental Services, Permits Division stating that no discharge or other activity that would require a permit under these regulations is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under LAC 33:IX.303.G.2.

[See Prior Text In H- H.2.b]

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

3. If an authorization under LAC 33:IX.303.H of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of LAC 33:IX.303.H.2 of this Section shall be submitted to the Office of Environmental Services, Permits Division prior to or together with any reports, information, or applications to be signed by an authorized representative.

[See Prior Text In H.4]

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

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

§307. Modification, Revocation and Reissuance

A. Any permittee shall report to the Office of Environmental Services, Permits Division any facility changes which result in increases in the quantity of pollutants discharged or decreases in the quality of the discharges. The permittee shall also report any facility changes which result in decreases in the quantity of pollutants discharged or increases in the quality of discharges of pollutants where such change is expected to last in excess of 180 days. Such report shall be by

submission of a modified permit application or, if the discharge does not violate the effluent limitations specified in the permit, by submission of notice to the Office of Environmental Services, Permits Division of the nature of such facility changes. The permittee shall not commence any facility expansion, production increases, or process modifications which result in new or increased discharges of pollutants without receiving a modified LWDPs permit or written authorization from the Office of Environmental Services, Permits Division. The provisions of this Paragraph shall not apply to facility changes that were considered during the permitting process.

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

[See Prior Text In B.1-3]

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

[See Prior Text In B.5-D.3]

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

[See Prior Text In D.5-F]

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

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

§309. Renewal and Termination

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

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

[See Prior Text In B.1]

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

[See Prior Text In B.3]

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

[See Prior Text In D-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§311. Standard Permit Conditions

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

[See Prior Text In A-I]

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

[See Prior Text In I.1.a]

b. have access to and copy any records that the department or its authorized representative determines are necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day;

c. take photographs;

[See Prior Text In I.1.d-3]

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

[See Prior Text In J]

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

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

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

[See Prior Text In J.2-2.c]

3. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit, for a period of at least three years from the date of the sample measurement or report. This period may be extended by request of the department at any time.

[See Prior Text In J.4-7]

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

[See Prior Text In J.9-10]

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

[See Prior Text In J.12]

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

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

[See Prior Text In J.15- K]

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

[See Prior Text In K.1.a-c]

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

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

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

[See Prior Text In K.3]

4. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if the bypass is required for essential maintenance to assure efficient operation. Any bypass that meets the requirements of this Paragraph and is expected to or does continue for longer than seven days shall be reported in writing to the Office of Environmental Services, Permits Division within 10 working days of initiation of the bypass. These bypasses are not subject to the provisions of LAC 33:IX.311.K.1 and 2.

[See Prior Text In L-L.2]

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

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

§313. Fact Sheets

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

[See Prior Text In A.1-2]

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

[See Prior Text In B-B.6]

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

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

§315. Public Information

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

[See Prior Text In A.1-4]

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

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

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

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

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

[See Prior Text In E]

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

[See Prior Text In E.1.a-F.1]

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

[See Prior Text In F.3]

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§317. Special Permits/Programs

A. General Permits

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

[See Prior Text In A.1.a-3]

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

[See Prior Text In A.5-6]

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

[See Prior Text In A.7.a-B]

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

[See Prior Text In B.2-C]

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

[See Prior Text In C.1.a-D]

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

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

Chapter 5. Enforcement

§501. General

[See Prior Text In A-D]

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

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

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

§503. Investigations

A. Any person may file an oral or written complaint concerning an alleged violation or environmental problem with the Office of Environmental Compliance by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or e-mail at surveillance@deq.state.la.us. The complainant may remain anonymous, if desired, and such a request for anonymity shall not be considered as a prejudicial factor in evaluation of the appropriate response to the complaint.

[See Prior Text In B]

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

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

[See Prior Text In B.3-C]

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

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

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

§507. Civil and Criminal Enforcement

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

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

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

[See Prior Text In D]

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

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

Chapter 7. Effluent Standards

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

[See Prior Text in A-C.1.b.iii]

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

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

[See Prior Text In C.1.b.vi- 2.b.viii]

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

[See Prior Text In C.2.b.x- c.iii]

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

[See Prior Text In C.2.c.v]

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

[See Prior Text In C.2.e-3.c]

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

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

[See Prior Text In C.3.f-4.a]

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

[See Prior Text In C.4.c-5.b.ii]

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

[See Prior Text In C.5.c.i-iii]

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

[See Prior Text In C.5.d.i-iv]

v. the Office of Environmental Services, Permits Division representative concludes that no adverse environmental effects will result from the discharge of pretreated and diluted wastewater.

e. An on-site inspection by Office of Environmental Services, Permits Division personnel may be required prior to discharge approval.

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:261 (April 1989), amended LR 17:263 (March 1991), LR 23:860 (July 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§709. Miscellaneous Small Dischargers

[See Prior Text In A-B.4]

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

[See Prior Text In C-H.3]

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

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

Chapter 9. Spill Prevention and Control §905. Requirements for Preparation and Implementation of Plans

A. Operators of facilities in operation or under construction on or before the effective date of these regulations that meet the criteria outlined in LAC 33:IX.903 shall prepare a plan within 180 days of the effective date of these regulations. The plan shall be fully implemented as soon as possible after preparation, but not later than one year after it was prepared. The Office of Environmental Services, Permits Division may, upon written request, grant additional implementation time to existing facilities in those cases where substantial upgrading or modification may be required in order to comply with this Chapter.

[See Prior Text In B]

C. Operators of facilities for which a plan is required shall keep a complete copy of the plan at the facility if the facility is normally attended at least eight hours per day, or at the nearest office within the state if the facility is not so attended. The plan shall be made available to authorized representatives of the department for on-site review during normal working hours. Plans need not be submitted to the department unless a request to do so has been made by an authorized representative of the department.

D. Amendment of Plans by the Department. After review of the plan by the department and/or upon receiving notice of a spill pursuant to the notification requirements of R.S. 30:2025(J), the department may require the operator of the facility to amend the plan if it finds that the plan does not meet the requirements of this Chapter.

[See Prior Text In E-F]

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

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

§907. Guidelines for the Preparation and Implementation of a Plan

A. The plan shall be prepared in accordance with sound engineering practices. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed, and the details of installation and operational start-up shall be explained individually. The department recognizes that the designs of major facilities differ and that in certain cases the appropriate methods for spill prevention and control must be site-specific. While the guidelines presented herein suggest the use of specific methodologies for this purpose, alternate methods may be employed if it can be demonstrated to the satisfaction of the department that the alternate methods will adequately prevent and control spills, and that they are reasonably equivalent to the suggested methods. A complete plan shall follow the sequence outlined in LAC 33:IX.903.B-E.

[See Prior Text In B-J]

K. Verification by the Department. Facilities at which this Chapter applies may be inspected by an authorized representative of the department to assure implementation

and adequacy of the plan. Such inspections shall be covered by the conditions provided for in LAC 33:IX.311.I of these regulations.

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

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

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

[See Prior Text]

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

* * *

[See Prior Text]

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

Person—any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person which shall include, but not limited to, trusts, joint stock companies, associations, the State of Louisiana, political subdivisions of the state, commissions, and interstate bodies.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:

§1109. Policy

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

* * *

[See Prior Text in A-A.1]

2. The administrative authority will not approve any wastewater discharge or certify any activity for federal permit that would impair water quality or use of state waters. Waste discharges must comply with applicable state and federal laws for the attainment of water quality goals. Any new, existing, or expanded point source or nonpoint source discharging into state waters, including any land clearing which is the subject of a federal permit application, will be required to provide the necessary level of waste treatment to protect state waters as determined by the administrative authority. Further, the highest statutory and regulatory requirements shall be achieved for all existing point sources and best management practices (BMPs) for nonpoint

sources. Additionally, no degradation shall be allowed in high-quality waters that constitute outstanding natural resources, such as waters in the Louisiana Natural and Scenic Rivers System or waters of ecological significance as designated by the department. Those water bodies presently designated as outstanding natural resources are listed in LAC 33:IX.1123.

* * *

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

C. Water Body Exception Categories. Poor water quality will be viewed as a problem to be solved, not as an impediment to categorizing water bodies or assigning designated uses. However, some water bodies, because of natural water quality or physical limitations, may qualify for an excepted use classification. This classification will be made on a case-by-case basis. Whenever data indicate that an excepted classification is warranted, the department will recommend the exception to the state administrative authority for approval. In all cases where exceptions are proposed, the concurrence of the regional administrator of the EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. In most cases, the proposed exception will be considered during the public participation process along with a permit application or management plan update. Exceptions are allowed for the following three categories of water bodies: certain intermittent streams, man-made water bodies, and naturally dystrophic waters. Applications for excepted water use classifications may be considered for certain water bodies which satisfy one of the following descriptions.

* * *

[See Prior Text in C.1-D]

1. Upon permit issuance, modification, or renewal, compliance schedules may be incorporated into a permit to allow a permittee adequate time to make treatment facility modifications necessary to comply with water quality-based permit limitations determined to be necessary to implement new or revised water quality standards. Compliance shall be achieved at the earliest practicable time. The department will establish interim conditions which may consist of, but are not limited to, compliance schedules, monitoring requirements, temporary limits, and milestone dates so as to measure progress toward final project completion (e.g., design completion, construction start, construction completion, date of compliance).

2. A variance from statewide criteria may be allowed in certain cases where the appropriateness of the criteria is questionable. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance shall be valid for no more than three years. Any person may request that the department grant a variance. A variance may be granted only after appropriate public participation and EPA review and approval. Variances from criteria will be allowed for anticipated nonattainment of water quality standards due to one or more of the reasons listed in LAC 33:IX.1109.B.3. Other reasons for approval of a variance may be considered on a case-by-case basis.

* * *

[See Prior Text in E-H.2]

I. Sample Collection and Analytical Procedures. Procedures for collecting and analyzing samples to be used

to determine whether the standards have been attained shall be subject to the following requirements as well as those specified in the department's Quality Assurance (QA) Plan for water monitoring and analysis.

[See Prior Text in I.1-2]

3. Collection and preservation of samples will be in accordance with accepted practices as specified in the department's QA Plan.

[See Prior Text in I.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:966 (October 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1111. Water Use Designations

There are seven water uses designated for surface waters in Louisiana: primary contact recreation, secondary contact recreation, fish and wildlife propagation, drinking water supply, oyster propagation, agriculture, and outstanding natural resource waters. Designated uses assigned to each subsegment apply to all water bodies (listed water body and tributaries/distributaries of the listed water body) contained in that subsegment unless unique chemical, physical, and/or biological conditions preclude such uses. However, the designated uses of drinking water supply, oyster propagation, and/or outstanding natural resource waters apply only to the water bodies specifically named in Table 3 (LAC 33:IX.1123) and not to any tributaries and distributaries to such water body which are typically contained in separate subsegments. A description of each designated use follows.

[See Prior Text in A-F]

G. Outstanding Natural Resource Waters. Outstanding natural resource waters include water bodies designated for preservation, protection, reclamation, or enhancement of wilderness, aesthetic qualities, and ecological regimes, such as those designated under the Louisiana Natural and Scenic Rivers System or those designated by the department as waters of ecological significance. Characteristics of outstanding natural resource waters include, but are not limited to, highly diverse or unique instream and/or riparian habitat, high species diversity, balanced trophic structure, unique species, or similar qualities. This use designation applies only to the water bodies specifically identified in Table 3 (LAC 33:IX.1123) and not to their tributaries or distributaries unless so specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:

§1113. Criteria

[See Prior Text in A-A.1]

2. Quality criteria for the waters of Louisiana are based on their present and potential uses and the existing water quality indicated by data accumulated through monitoring programs of the department and other state and federal agencies as well as universities and private sources. In some cases, available water quality and flow data are not adequate to establish criteria. Criteria in these cases are established on the basis of the best information available from waterbodies which are similar in hydrology, water quality, and physical configuration.

3. General and numerical water quality criteria may be modified to take into account site-specific, local conditions. Whenever data acquired from the sources named in LAC 33:IX.1113.A.2 or other sources indicate that criteria should be modified, the department will develop and recommend revised site-specific criteria. The revised criteria will be submitted to the EPA for approval and promulgated in accordance with established procedures including, but not limited to, those in the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

[See Prior Text in B-B.11]

12. Biological and Aquatic Community Integrity. The biological and community structure and function in state waters shall be maintained, protected, and restored except where not attainable and feasible as defined in LAC 33:IX.1109.B.3. This is the ideal condition of the aquatic community inhabiting the unimpaired water bodies of a specified habitat and region as measured by community structure and function. The biological integrity will be guided by the fish and wildlife propagation use designated for that particular water body. Fish and wildlife propagation uses are defined in LAC 33:IX.1111.C. The condition of these aquatic communities shall be determined from the measures of physical, chemical, and biological characteristics of each surface water body type, according to its designated use (LAC 33:IX.1123). Reference site conditions will represent naturally attainable conditions. These sites should be the least impacted and most representative of water body types. Such reference sites or segments of water bodies shall be those observed to support the greatest variety and abundance of aquatic life in the region as is expected to be or has been recorded during past surveys in natural settings essentially undisturbed by human impacts, development, or discharges. This condition shall be determined by consistent sampling and reliable measures of selected, indicative communities of animals and/or invertebrates as established by the department and may be used in conjunction with acceptable chemical, physical, and microbial water quality measurements and records as deemed for this purpose.

[See Prior Text in B.13-C.1]

2. Chlorides, Sulfates, and Total Dissolved Solids. Numerical criteria for these parameters generally represent the arithmetic mean of existing data from the nearest sampling location plus three standard deviations. For estuarine and coastal marine waters subsegments in Table 3 that have no listed criteria (i.e., designated N/A), criteria will be established on a case-by-case basis using field determination of ambient conditions and the designated uses. For water bodies not specifically listed in the Numerical

Criteria and Designated Table, increases over background levels of chlorides, sulfates, and total dissolved solids may be permitted. Such increases will be permitted at the discretion of the department on a case-by-case basis and shall not cause in-stream concentrations to exceed 250, 250, and 500 mg/L for chlorides, sulfates, and total dissolved solids, respectively, except where a use attainability analysis indicates that higher levels will not affect the designated uses. In permitting such increases, the department shall consider their potential effects on resident biota and downstream water bodies in addition to the background conditions. Under no circumstances shall an allowed increase over background conditions cause any numerical criteria to be exceeded in any listed water body or any other general or numerical criteria to be exceeded in either listed or unlisted water bodies.

* * *

[See Prior Text in C.3-Table 1A.Footnote d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:

§1115. Application Of Standards

* * *

[See Prior Text in A-A.1]

2. An established water quality value (criterion) represents the maximum general or numerical concentration limit or characteristic (with the exception of dissolved oxygen and pH) of a constituent in a waterbody segment that is allowed by the state. For some toxic substances, however, criteria provide both acute and chronic limits for the protection of aquatic life in fresh and marine waters, and separate limits for the protection of human health. Criteria apply at all times, except where natural conditions cause them to be exceeded or where specific exemptions in the standards apply. Water uses, pollution sources, natural conditions, and the water quality criteria are all considered in the department's determination of appropriate permit limits for each wastewater discharge to a waterbody.

* * *

[See Prior Text in A.3-C.7.b]

c. These specified flows will not be appropriate under some circumstances, and alternative formulations will be required to determine appropriate effluent limitations for equivalent protection of human health and aquatic life uses of the stream. These exceptions may include, but are not limited to, seasonally variable effluent discharge rates, hold and release treatment systems, and effluent dominated sites. The department may approve an alternative which is protective of designated uses, to be determined on a case-by-case basis.

* * *

[See Prior Text in C.8-10]

11. In those cases, such as wetlands, where unique site-specific conditions or other considerations preclude the application of specific mixing zone requirements, the

department may specify definable, geometric limits for mixing zones.

12. In those cases where unique site-specific conditions preclude the application of the flow requirements for Category 2 water bodies as stated in Tables 2a and 2b, the department may on a case-by-case basis approve an alternative flow when determining 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) permitted effluent concentrations. Any flow specifications shall be protective of designated uses.

13. In cases for which a diffuser has been approved or required for use with a wastewater discharge, the department may increase the dilution allowed for the application of acute aquatic life criteria at the edge of the zone of initial dilution. The dilution allowed will be determined by the department after consideration of receiving water body characteristics and diffuser capabilities. No increase in dilution will be allowed at the edge of the mixing zone for the application of chronic aquatic life criteria. Physical constraints of a particular water body may preclude the approval and use of a diffuser. The following conditions must be met with the use of a diffuser:

* * *

[See Prior Text in C.13.a-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November, 1991), amended LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:

§1119. Implementation Plan for Antidegradation Policy

* * *

[See Prior Text in A-A.1]

2. This Section explains the specific procedures used by the department as the state's designated water quality management agency to implement the Antidegradation Policy.

* * *

[See Prior Text in B]

1. Procedures and methods by which the Antidegradation Policy is implemented are described in several documents produced under the Water Quality Management (WQM) Process ("The Water Quality Standards (WQS)," "The Water Quality Inventory," "The Water Quality Management Plan," "The Continuing Planning Process"; and "The Water Pollution Control Program Plan"). These documents are available from the department.

* * *

[See Prior Text in B.2-2.e]

f. Enforcement activities of the department help eliminate or ameliorate water quality degradation caused by both permitted and unpermitted discharges. Enforcement actions are directed at dischargers found to be in violation of the Water Control Law or effluent limits detailed in a wastewater permit.

g. The state's Continuing Planning Process (CPP) document describes those administrative, technical, and programmatic processes used by the state to implement its

water pollution control program. The document contains detailed descriptions of each phase of implementation, from the planning of monitoring efforts, to the assessment and reporting of resulting data, to the decision-making process for carrying out policy promulgated by the department. To maintain an annual schedule of water quality needs and activities, the department also developed the Water Pollution Control Program Plan consistent with Section 106 of the Clean Water Act.

[See Prior Text in C-C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1121. Regulation of Toxic Substances Based on the General Criteria

[See Prior Text In A-B]

1. When determining the need for limits based on water quality, the Office of Environmental Services, Permits Division may identify data needs and request that the permittee submit additional data along with the application. Permits may be placed into three categories:

[See Prior Text In B.1.a-3.b.ii]

iii. Multiple toxicity tests using more than one species of test organisms will normally be required. The following tests and species are considered applicable to and representative of Louisiana waters. Other applicable tests and test species may also be used after approval by the department. In general, some combination of the following tests and species will be required.

[See Prior Text In B.3.b.iii.(a)-(b).(vi)]

(c). If a control test reveals upstream ambient water to be toxic, the discharger will redo the toxicity tests using EPA- and department-approved reconstituted water with hardness, alkalinity, pH, and conductivity comparable to the ambient stream for dilution. The department will evaluate the toxicity data if upstream toxicity is indicated.

4. For waterbodies whose designated use is as a drinking water supply, the department will calculate the in-stream concentration for all pollutants discharged for which EPA has promulgated a maximum contaminant level (MCL). The permittee will be required to submit to the Office of Environmental Services, Permits Division sufficient effluent characterization data to make these calculations. Where dilution calculations indicate that in-stream concentrations may exceed the MCL requirements at appropriate flow conditions, the permittee may be required to conduct in-stream chemical monitoring or monitoring at the water supply.

5. To protect human health by eliminating chronic exposure to potentially toxic amounts of pollutants from aquatic species consumed by humans, the department will calculate the in-stream concentrations of all applicable pollutants for which EPA has published human health criteria in the Quality Criteria for Water, 1986, EPA 440/5-86-001, or subsequent revisions. The permittee will be

required to submit to the Office of Environmental Services, Permits Division sufficient effluent characterization data to make these calculations. For operational considerations, if dilution calculations show that after mixing, a suspected carcinogen would be present in the receiving waterbody at a concentration associated with a 10⁶ risk level, in-stream chemical monitoring may be required of the appropriate dischargers. The department will list the waterbody as a priority waterbody and develop a wasteload allocation or make other consideration for it.

C. Options for Implementing Whole Effluent Toxicity Permit Requirements. The option or combination of options to be selected by the department from the following will depend on data availability at the time of permit application and on whether toxicity is known or suspected.

[See Prior Text In C.1-E.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 26:

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1301. Scope and Purpose

It is the purpose of these regulations to establish a fee system for funding the operation and activities under these regulations of the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1307. Definitions

[See Prior Text In A]

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

[See Prior Text]

Department—the Department of Environmental Quality.

Due Date—the date indicated on the invoice.

[See Prior Text]

New, Modified, or Reissued Permit Fee—the fee applicable to any such permit action.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534

(May 1985), amended LR 18:731 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1311. Instructions For Completing Municipal Facility Annual Fee Rating Worksheet

[See Prior Text in A-B.2.Table 1]

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to the department in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

[See Prior Text in C-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:627 (September 1988), LR 18:732 (July 1992), LR 24:327 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1315. Instructions For Completing Industrial Facility Annual Fee Rating Worksheet

[See Prior Text in A-B.2.Table 2]

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to the department in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

[See Prior Text in C-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 18:733 (July 1992), amended LR 24:327 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 15. Water Quality Certification Procedures

§1505. Definitions

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

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1507. Procedures For Issuance Of Water Quality Certification

[See Prior Text in A]

1. Application Requirements. Any person, desiring issuance of a state water quality certification, shall file an application for certification with the Department of Environmental Quality at its office in Baton Rouge. The application should include:

[See Prior Text In A.1.a-n.iv]

2. Processing Fee. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows:

noncommercial activities - \$25/application

commercial activities - \$265/application

Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of Management and Finance, Financial Services Division and shall be nonrefundable.

[See Prior Text In A.3]

4. Approved Land Management Plan Requirement. Applicants whose applications involve the clearing of land for agricultural purposes shall submit to the Office of Environmental Services, Permits Division an approved land management plan for the land to be cleared before the application will be deemed adequate.

[See Prior Text In A.5-8]

B. Alternative Application Submittal. Any applicant may elect to submit to the Office of Environmental Services, Permits Division a duplicate of the proposed federal permit application in lieu of a separate application for state certification. Such submittal must include a cover letter requesting state certification and indicating that the attached copy of a federal permit application is to serve as the application for state certification.

[See Prior Text In C-H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 21. Municipal Facilities Revolving Loan Fund

§2109. Priority System

[See Prior Text In A]

B. Determination of Priority for Participation in the Program. Any municipality which has the authority under applicable law to undertake a wastewater facility project and desires to apply for a loan may submit a completed Pre-Application Form (RF-100) to the Office of Environmental Assessment, Environmental Technology Division. Such projects shall be included on the next fiscal year's state project priority list in accordance with the priority system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2111. Application For Loan

* * *

[See Prior Text In A-E.4]

F. Plans and Specifications. The applicant shall submit plans and specifications to the Office of Environmental Assessment, Environmental Technology Division for review to insure the proposed project meets minimum technical and administrative requirements of federal and state law, is biddable and constructable and will satisfy discharge requirements in accordance with the project's National Pollution Discharge Elimination System (NPDES) and/or State Pollutant Discharge Elimination System permit.

* * *

[See Prior Text In G-H]

I. Financial and Management Capability. The applicant is required to submit to the Office of Environmental Assessment, Environmental Technology Division sufficient information to demonstrate its legal, institutional, managerial, and financial capability to insure the adequate building, operation, maintenance of the facility and debt repayment of the loan.

* * *

[See Prior Text In J-M]

N. Sludge Management Plan. The applicant shall submit a plan to the Office of Environmental Assessment, Environmental Technology Division that complies with the Department of Environmental Quality rules and regulations.

* * *

[See Prior Text In O-P]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2115. Construction of Wastewater Facility Project

* * *

[See Prior Text In A-B.2.c]

d. submit to the Office of Environmental Assessment, Environmental Technology Division all change orders for review and approval.

C. Bid Proposals. The applicant shall submit to the Office of Environmental Assessment, Environmental Technology Division for review a complete statement of work to be performed, the terms and conditions of the proposed contract to be awarded, a clear explanation of the methods of bidding and of evaluating bid prices and the limits of work for each item on the proposal form.

* * *

[See Prior Text In D-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2119. Miscellaneous

A. Annual Audit. The Office of Management and Finance, Financial Services Division shall conduct, or have conducted, an annual audit of the fiscal operation of the revolving loan fund for submission to the governor and the legislature.

* * *

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2123. Appendix 2-Construction Grants Priority System

* * *

[See Prior Text In A-A.5]

6. To this end, the Louisiana Department of Environmental Quality has derived the state of Louisiana construction grants priority system.

* * *

[See Prior Text In A.7-D.2.i]

3. It is the responsibility of each authorized project representative to maintain current and accurate information for his/her project, and to submit any revised or updated project information to the Office of Environmental Assessment, Environmental Technology Division each year for use in preparing the project priority list. Only project information received by April 1 will be considered for inclusion on the next fiscal year's project priority list.

* * *

[See Prior Text In D.4-19]

20. Those projects which have already received federal assistance for Step 1 or Step 2 work must complete and submit the required grant documents to the Office of Environmental Assessment, Environmental Technology Division within the time period allotted. Failure to submit the required documents or a request for a time extension by the scheduled project completion date may result in the removal of the project from the fundable portion of the project priority list.

* * *

[See Prior Text In D.21- F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2125. Appendix 3. State Environmental Review Process

A. General. As required by the provisions of Section 602(b)(6) of the 1987 Amendments to the Clean Water Act, the department shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the municipal facilities revolving loan fund. This review will insure that the project will comply with the applicable local, state and federal laws and department rules relating to the protection and enhancement of the environment. Based upon the staff's review, the secretary, or

his duly authorized representative, will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in these rules shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the department. Potential applicants to the municipal facilities revolving loan fund should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the department and the environmental information which the applicant will be required to submit to the Office of Environmental Assessment, Environmental Technology Division in support of the proposed project.

[See Prior Text In A.1.-C.5.Guidelines for Louisiana Revolving Loans Fund Environmental Review Process]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 22. Drinking Water Revolving Loan Fund
§2209. Application Requirements and Loan Conditions

[See Prior Text In A-B.1]

2. Financial Information. The applicant is required to submit to the Office of Environmental Assessment, Environmental Technology Division sufficient information to demonstrate its legal, institutional, managerial, and financial capability to ensure the construction, operation, and maintenance of the drinking water facilities and repayment of the loan, interest, and administrative fees.

3. Site Certificate. The applicant must submit to the Office of Environmental Assessment, Environmental Technology Division a certificate executed by an attorney certifying that the applicant has acquired all property sites, easements, rights-of-way, or specific use permits necessary for construction, operation, and maintenance of the project described in the approved system improvement plan.

[See Prior Text In C-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, LR 24:29 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

A. Duty to Apply. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, excluded under LAC 33:IX.2315, or a

user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, shall submit a complete application (which shall include a BMP program if necessary under LAC 33:IX.2565) to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G.

[See Prior Text In B- C.1.b]

c. Any other existing treatment works treating domestic sewage not addressed under LAC 33:IX.2331.C.1.a or b must submit the information listed in LAC 33:IX.2331.C.1.c.i-v, to the Office of Environmental Services, Permits Division within one year after publication of a standard applicable to its sewage sludge use or disposal practice(s). The Office of Environmental Services, Permits Division shall determine when such treatment works treating domestic sewage must apply for a permit. The following information must be submitted:

[See Prior Text In C.1.c.i-d]

e. Any treatment works treating domestic sewage that commences operations after promulgation of an applicable standard for sewage sludge use or disposal shall submit an application to the Office of Environmental Services, Permits Division at least 180 days prior to the date proposed for commencing operations.

[See Prior Text In D-E]

F. Information Requirements. All applicants for LPDES permits shall provide the following information to the Office of Environmental Services, Permits Division, using the application form provided by the state administrative authority (additional information required of applicants is set forth in Subsections G-K of this Section and LAC 33:I.1701):

[See Prior Text In F.1-9]

G. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for LPDES permits, except for those facilities subject to the requirements of Subsection H of this Section, shall provide the following information to the Office of Environmental Services, Permits Division, using application forms provided by the state administrative authority:

[See Prior Text In G.1-13]

H. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities Which Discharge Only Nonprocess Wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits which discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Office of Environmental Services, Permits Division, using application forms provided by the state administrative authority:

[See Prior Text In H.1-Note 3.e]

[This revision continues that suspension.]¹

¹ **Editorial Note:** The words "This revision" refer to the document published at 48 FR 14153, Apr. 1, 1983.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2341. Storm Water Discharges

[See Prior Text In A-C.1.e]

2. Group Application for Discharges Associated with Industrial Activity. In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants (except facilities that have existing individual LPDES permits for storm water) that are part of the same subcategory (see 40 CFR subchapter N, part 405 to 471) or, where such grouping is inapplicable, are sufficiently similar as to be appropriate for general permit coverage under LAC 33:IX.2345. The part 1 application shall be submitted to the Office of Environmental Services, Permits Division, for approval. Once a part 1 application is approved, group applicants are to submit Part 2 of the group application to the Office of Environmental Services, Permits Division. A group application shall consist of:

[See Prior Text In C.2.a-b]

D. Application Requirements for Large and Medium Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the state administrative authority under LAC 33:IX.2341.A.1.e, may submit a jurisdiction-wide or system-wide permit application to the Office of Environmental Services, Permits Division. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under LAC 33:IX.2341.A.1.e shall include:

[See Prior Text In D.1-E.2.a]

i. except as provided in LAC 33:IX.2341.E.2.a.ii, part 1 of the application shall be submitted to the department by September 30, 1991;

[See Prior Text In E.2.a.ii-c]

i. except as provided in LAC 33:IX.2341.E.2.c.ii, part 2 of the application shall be submitted to the department by October 1, 1992;

[See Prior Text In E.2.c.ii-d.i]

ii. Facilities that are owned or operated by a municipality and that are rejected as members of part 1 group application shall submit an individual application to

the department no later than 180 days after the date of receipt of the notice of rejection or October 1, 1992, whichever is later.

e. A facility listed under LAC 33:IX.2341.B.14.a-k may add on to a group application submitted in accordance with LAC 33:IX.2341.E.2.a at the discretion of the department, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992; the addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than 10%, unless there are over 100 facilities in the group that are submitting quantitative data; approval to become part of group application must be obtained from the group or the trade association representing the individual facilities.

[See Prior Text In E.3- G.2.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2345. General Permits

[See Prior Text In A.-B.2]

a. Except as provided in LAC 33:IX.2345.B.2.e and f, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Office of Environmental Services, Permits Division a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with LAC 33:IX.2345.B.2.e, contains a provision that a notice of intent is not required or the state administrative authority notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with LAC 33:IX.2345.B.2.f. A complete and timely, notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of LAC 33:IX.2321, 2331, and 2341.

[See Prior Text In B.2.b-C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Permit Conditions

§2355. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2357. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a

specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

[See Prior Text In A-M.3]

a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Office of Environmental Services, Permits Division, if possible at least 10 days before the date of the bypass.

[See Prior Text In M.3.b-N.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2357. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2355, apply to all LPDES permits within the categories specified below:

A. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under LAC 33:IX.2355.L, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Office of Environmental Services, Permits Division as soon as they know or have reason to believe:

[See Prior Text In A.1-B.3.b]

C. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the state administrative authority under LAC 33:IX.2341.A.1.e must submit an annual report to the Office of Environmental Services, Permits Division by the anniversary of the date of the issuance of the permit for such system. The report shall include:

[See Prior Text In C.1-D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2363. Calculating LPDES Permit Conditions

[See Prior Text In A-B.2.b.ii]

(a) the permit shall require the permittee to notify the Office of Environmental Services, Permits Division at least two business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify the anticipated level and the period during which the permittee expects to operate at the alternate level. If the notice covers more than one month, the notice shall specify the reasons for the anticipated production level increase. New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two consecutive months otherwise covered by a notice, the production level at the permitted

facility does not in fact meet the higher level designated in the notice.

(b) the permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Office of Environmental Services, Permits Division under LAC 33:IX.2363.B.2.b.ii.(a), in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice.

(c) The permittee shall submit to the Office of Environmental Services, Permits Division with the DMR the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production.

[See Prior Text In C-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. General Program Requirements

§2415. Public Notice of Permit Actions and Public Comment Period

[See Prior Text In A-D.1]

a. name and address of the DEQ division processing the permit action for which a notice is being given;

[See Prior Text In D.1.b-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2417. Public Comments and Requests for Public Hearings

During the public comment period provided under LAC 33:IX.2415, any interested person may submit written comments to the Office of Environmental Services, Permits Division on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in LAC 33:IX.2427.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2419. Public Hearings

[See Prior Text In A.1-4]

B. Any person may submit to the Office of Environmental Services, Permits Division oral or written statements and data concerning the draft permit. Reasonable

limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under LAC 33:IX.2415 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter L. Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Act

§2515. Early Screening of Applications for Section 316(a) of the Act Variances

[See Prior Text In A-A.4]

B. After submitting the early screening information under LAC 33:IX.2515.A, the discharger shall consult with the state administrative authority at the earliest practicable time (but not later than 30 days after the application is filed) to discuss the discharger's early screening information. Within 60 days after the application is filed, the discharger shall submit for the Office of Environmental Services, Permits Division's approval a detailed plan of study which the discharger will undertake to support its section 316(a) of the Act demonstration. The discharger shall specify the nature and extent of the following type of information to be included in the plan of study: biological, hydrographical and meteorological data; physical monitoring data; engineering or diffusion models; laboratory studies; representative important species; and other relevant information. In selecting representative important species, special consideration shall be given to species mentioned in applicable water quality standards. After the discharger submits its detailed plan of study, the state administrative authority shall either approve the plan or specify any necessary revisions to the plan. The discharger shall provide any additional information or studies which the state administrative authority subsequently determines necessary to support the demonstration, including such studies or inspections as may be necessary to select representative important species. The discharger may provide any additional information or studies which the discharger feels are appropriate to support the demonstration.

[See Prior Text In C-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter R. Toxic Pollutant Effluent Standards and Prohibitions

§2609. Compliance

A. 1. Within 60 days from the date of promulgation of any toxic pollutant effluent standard or prohibition each owner or operator with a discharge subject to that standard or prohibition must notify the Office of Environmental Services, Permits Division of such discharge. Such

notification shall include such information and follow such procedures as the state administrative authority may require.

[See Prior Text In B-G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution

§2713. Removal Credits

[See Prior Text In A-F]

1. Effect of Authorization. Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in LAC 33:IX.2713.A.3.d or its LPDES permit limits and conditions as required by LAC 33:IX.2713.A.3.e. If a POTW elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory or one or more industrial users that initially were not granted removal credits, it must notify the Office of Environmental Services, Permits Division.

[See Prior Text In F.2- H.2.c]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2717. POTW Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval

A. Who Approves Program. A POTW requesting approval of a POTW pretreatment program shall develop a program description which includes the information set forth in Subsection B.1-4 of this Section. This description shall be submitted to the Office of Environmental Services, Permits Division which will make a determination on the request for program approval in accordance with the procedures described in LAC 33:IX.2721.

[See Prior Text In B-D]

E. Approval Authority Action. Any POTW requesting POTW pretreatment program approval shall submit to the Office of Environmental Services, Permits Division three copies of the submission described in Subsection B of this Section, and, if appropriate, Subsection D of this Section. Within 60 days after receiving the submission, the Office of Environmental Services, Permits Division shall make a preliminary determination of whether the submission meets the requirements of Subsection B of this Section and, if appropriate, Subsection D of this Section. If the approval authority makes the preliminary determination that the submission meets these requirements, the approval authority shall:

* * *

[See Prior Text In E.1- G.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2721. Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization.

* * *

[See Prior Text In A-B.1.a.ii]

b. the public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission to the Office of Environmental Services, Permits Division; and

* * *

[See Prior Text In B.1.c- F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2723. Reporting Requirements for POTWs and Industrial Users

* * *

[See Prior Text In A-G.1]

2. If sampling performed by an industrial user indicates a violation, the user shall notify the Office of Environmental Services, Permits Division within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

* * *

[See Prior Text In G.2.a-K.2]

3. not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Office of Environmental Services, Permits Division including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text In L-P.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2725. Variances from Categorical Pretreatment Standards for Fundamentally Different Factors

* * *

[See Prior Text In A-G]

1. Requests for a variance and supporting information must be submitted in writing to the Office of Environmental Services, Permits Division or to the administrator (or his delegate), as appropriate.

* * *

[See Prior Text In G.2- J.1.c]

2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text In J.3-L.2.b.iv]

c. notify the Office of Environmental Services, Permits Division and the POTW of his or her determination; and

* * *

[See Prior Text In L.2.d- M.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2735. Modification of POTW Pretreatment Programs

* * *

[See Prior Text In A-C]

1. The POTW shall submit to the Office of Environmental Services, Permits Division a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances.

* * *

[See Prior Text In C.2-D]

1. The POTW shall notify the Office of Environmental Services, Permits Division of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection C.1 of this Section.

* * *

[See Prior Text In D.2-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter V. Additional Requirements Applicable to the LPDES Program

§2763. Request for Nondisclosure of Confidential Information

* * *

[See Prior Text In A]

1. information determined to be confidential by the department shall be segregated from any information determined to be nonconfidential, provided in cases where

confidential information cannot be reasonably extracted or separated from nonconfidential information, the whole document shall be confidential. Confidential information shall be maintained in a locked file separate from nonconfidential information. The file shall be labeled "confidential," with access appropriately controlled;

[See Prior Text In A.2]

3. except for members of the department staff, authorized persons shall review a confidential file under the supervision of a department staff member. Confidential information shall be removed from the file no longer than is strictly necessary.

B. In accordance with R.S. 30:2030 and 30:2074(D), the department may remove confidential information from its files and return it to the provider when such information is no longer necessary or required for the purposes of the act, these regulations, or any order or under the terms and conditions of any license or permit, and the provider has requested such action in writing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2765. Additional LPDES Permit Application Requirements

A. In addition to the requirements in LAC 33:IX.2331.F, all applicants shall provide the following information to the administrative authority using the application form provided by the department, unless the department determines that such information is not required for the applicant's facility or activity:

[See Prior Text In A.1-2]

B. In addition to the requirements in LAC 33:I.1701 and LAC 33:IX.2331.G.1, H.1, and K.1, all applicants shall provide the following information to the administrative authority using the application form provided by the department, unless the department determines that such information is not required for the applicant's facility or activity:

[See Prior Text In B.1]

2. the section, township, and range information or other means acceptable to the department to locate each discharge; and

[See Prior Text In B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2767. Enforcement Actions

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

[See Prior Text In A.1]

2. knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the department pursuant to the act or these regulations. Violations of this provision may subject the violator to the penalties provided for in the act for perjury or false statements;

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

[See Prior Text In A.4-6]

B. Exception. In cases where the application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services, Permits Division stating that no discharge or other activity that would require a permit from the Office of Environmental Services, Permits Division is currently taking place. Provided that the application was not made in response to enforcement action, the applicant is then exempt from enforcement action for causes listed under LAC 33:IX.2767.A.3 and 4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2773. Inspection and Entry

[See Prior Text In A-A.1]

2. have access to and copy any records that the department or its authorized representative determines are necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day.

[See Prior Text In B-C]

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2781. Public Notice and Availability of Information

A. In addition to the requirements in LAC 33:IX.2415, publication of the notice one time in the newspaper(s) specified by the department and submission of proof of publication will be required. The costs of publication shall be borne by the applicant.

[See Prior Text In B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Part XI. Underground Storage Tanks
Chapter 1. Program Applicability and Definitions
§103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1301.

* * *

[See Prior Text]

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

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. Existing UST Systems

1. All owners of existing UST systems (as defined in LAC 33:XI.103) were required to register such systems by May 8, 1986, (USTs installed after that date were required to be registered within 30 days of bringing such tanks into use) on a form approved by the department. The registration form is accessible on the department website at www.deq.state.la.us Tanks filled with a solid, inert material before January 1, 1974, are not required to be registered with the department. No owner or operator shall allow a regulated substance to be placed into an existing UST system that has not been registered.

* * *

[See Prior Text In A.2]

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the department's Office of Environmental Services, Permits Division of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

B. New UST Systems. Upon the effective date of these regulations, all owners of new UST systems (as defined in LAC 33:XI.103) must, within 30 days of bringing such tanks into use, register them on a form approved by the department. Registration forms shall be filed with the Office of Environmental Services, Permits Division. The following registration requirements apply to new UST systems:

* * *

[See Prior Text In B.1 – C]

1. Any person who sells a UST system shall so notify the Office of Environmental Services, Permits Division in writing within 30 days after the date of the transaction.

2. Any person who acquires a UST system shall submit to the Office of Environmental Services, Permits Division an amended registration form within 30 days after the date of acquisition.

* * *

[See Prior Text In C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§303. Standards for UST Systems

* * *

[See Prior Text In A – A.4.b.ii]

c. Notification of Installation. The owner and operator must notify the Office of Environmental Services, Permits Division in writing at least 30 days before beginning installation of a new UST system. This notification must indicate the number of active or abandoned water wells within 50 feet of the UST system and the type of system to be installed. It must also indicate the methods to be used to comply with LAC 33:XI.Chapter 7.

* * *

[See Prior Text In B – B.5]

a. The owner and operator must notify the Office of Environmental Services, Permits Division in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form must be submitted to the Office of Environmental Services, Permits Division within 30 days after the UST system is upgraded. The owner and operator must certify compliance with LAC 33:XI.303.B on the amended registration form. Beginning January 20, 1992, the amended registration form shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve repair critical junctures or installation critical junctures (as defined in LAC 33:XI.1303) of an UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 5. General Operating Requirements

§507. Repairs Allowed

Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

A. Except in emergencies, the owner and operator shall notify the department's Office of Environmental

Compliance, Surveillance Division in advance of the necessity for conducting a repair to a UST system.

[See Prior Text In B – G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§703. Requirements for Use of Release Detection Methods

[See Prior Text In A - A.1.c.Table]

2. When a release detection method operated in accordance with the performance standards in LAC 33:XI.701.A and B indicates that a release may have occurred, owners and operators must notify the Office of Environmental Compliance in accordance with LAC 33:XI.707–713.

[See Prior Text In A.3- C.2.e.ii]

iii. obtain approval from the Office of Environmental Compliance, Surveillance Division to use the alternate release detection method before the installation and operation of the new UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§707. Reporting of Suspected Releases

All persons having knowledge of any of the conditions listed below shall notify the Office of Environmental Compliance by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or by e-mail at surveillance@deq.state.la.us within 24 hours after becoming aware of the occurrence. After discovery of any of the following conditions, owners and operators of UST systems shall follow the procedures specified in LAC 33:XI.711:

[See Prior Text In A - C.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§713. Reporting and Cleanup of Spills and Overfills

A. Owners and operators of UST systems must contain and immediately clean up a spill or overflow, report it to the Office of Environmental Compliance by telephone at (225) 763-3908, during office hours; (225) 342-1234, after hours, weekends, and holidays; or by e-mail at surveillance@deq.state.la.us within 24 hours and begin

corrective action in accordance with LAC 33:XI.715 in the following cases:

[See Prior Text In A.1- 3]

B. Owners and operators of UST systems must contain and immediately clean up a spill or overflow of petroleum that is less than one barrel and a spill or overflow of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the department:

Office of Environmental Compliance
(225) 763-3908, during office hours
(225) 342-1234, after hours, weekends, and holidays; or
e-mail: surveillance@deq.state.la.us

Note: A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center, under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to appropriate authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§715. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

[See Prior Text In A - B]

Report the release to the:
Office of Environmental Compliance
(225) 763-3908, during office hours
(225) 342-1234, after hours, weekends, and holidays; or
e-mail: surveillance@deq.state.la.us

[See Prior Text In B.2- C.1.f]

2. Within 20 days after release confirmation, owners and operators must submit a report to the Office of Environmental Compliance, Surveillance Division summarizing the initial abatement steps taken under Subsection C.1 of this Section and any resulting information or data.

[See Prior Text In D-D.1.e]

2. Within 45 days of release confirmation, owners and operators must submit the information collected in compliance with Subsection D.1 of this Section to the Office of Environmental Compliance, Surveillance Division in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subsection C.1.f of this Section indicate the presence

of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Office of Environmental Compliance, Surveillance Division, while continuing, as necessary, any actions initiated under Subsections B–D of this Section, or preparing for actions required under Subsections F–G of this Section. To meet the requirements of this Subsection, owners and operators must do the following:

* * *

[See Prior Text In E.1- 3]

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Compliance, Surveillance Division, within 45 days after confirming a release, a free product removal report that provides at least the following information:

* * *

[See Prior Text In E.4.a- G. 4]

a. notify the department’s Office of Environmental Assessment, Remediation Services Division of their intention to begin cleanup;

* * *

[See Prior Text In G.4.b- H.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 9. Out-of-Service UST Systems and Closure §905. Permanent Closure and Changes-in-Service

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B and C of this Section, owners and operators must notify the Office of Environmental Compliance, Surveillance Division of their intent to permanently close or make the change-in-service unless such action is in response to corrective action. Beginning January 20, 1992, all owners and operators must ensure that an individual exercising supervisory control over closure critical junctures (as defined in LAC 33:XI.1303) is certified in accordance with LAC 33:XI.Chapter 13. The assessment of the excavation zone required under LAC 33:XI.907 must be performed after the department is notified but before the permanent closure or change-in-service is completed.

* * *

[See Prior Text In B- Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§907. Assessing the Site at Closure or Change-in-Service

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample

locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Compliance, Surveillance Division within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed. The requirements of this Section are satisfied if one of the external release detection methods allowed in LAC 33:XI.701.A.5 is operating in accordance with the requirements in LAC 33:XI.701.A at the time of closure and indicates that no release has occurred.

* * *

[See Prior Text In B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 11. Financial Responsibility §1111. Financial Test of Self-Insurance

* * *

[See Prior Text In A - C.5.b]

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the department's Office of Management and Finance, Financial Services Division.

* * *

[See Prior Text In Letter from Chief Financial Officer - F]

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Office of Management and Finance, Financial Services Division of such failure within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1113. Guarantee

* * *

[See Prior Text In A-A.2]

B. Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets

the financial test criteria of LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.D and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and to the Office of Management and Finance, Financial Services Division. If the Office of Management and Finance, Financial Services Division notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Office of Management and Finance, Financial Services Division. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in LAC 33:XI.1139.C.

* * *

[See Prior Text In C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

and R.S. 30:2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1121. Use of the Underground Motor Fuel Storage Tank Trust

The administrative authority was authorized by R.S. 30:2194 through 2195.10 to receive and administer the Underground Motor Fuel Storage Tank Trust (UMFSTT) to provide financial responsibility for owners or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner or operator who is eligible for participation in the UMFSTT may use this mechanism to partially fulfill the financial responsibility requirements for eligible USTs. To use the UMFSTT as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner or operator must be an "eligible participant," as defined in Subsection A of this Section. In addition, the owner or operator must use one of the other mechanisms described in LAC 33:XI.1111–1119 or 1123–1125 to demonstrate financial responsibility for the amounts specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the UMFSTT.

A. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

* * *

[See Prior Text]

Eligible Participant—any owner or operator of an underground motor fuel storage tank that has registered said tank with the department and who has met the financial responsibility requirements specified in LAC 33:XI.1121.B.

Response Action—any activity, including, but not limited to, assessment, planning, design, engineering, construction, operation of recovery system, or ancillary services that are

carried out in response to any discharge or release or threatened release of motor fuels into the groundwater or subsurface soils.

* * *

[See Prior Text]

Third-Party Claim—any civil action brought or asserted by any person against any owner of any UST for damages to person or property when damages are the direct result of the contamination of groundwater and/or subsurface soils by motor fuels released during operation of storage tanks covered by this Section.

Underground Motor Fuel Storage Tank—a UST used only to contain an accumulation of motor fuels.

* * *

[See Prior Text In B- D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1123. Trust Fund

* * *

[See Prior Text In A - C]

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Management and Finance, Financial Services Division for release of the excess.

* * *

[See Prior Text In F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance

* * *

[See Prior Text In A - A.2]

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator must obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Office of Management and Finance, Financial Services Division of such failure and submit:

* * *

[See Prior Text In B.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1131. Reporting by Owner or Operator

A. An owner or operator must submit to the Office of Management and Finance, Financial Services Division the appropriate forms listed in LAC 33:XI.1133.B documenting current evidence of financial responsibility as follows:

[See Prior Text In A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the Office of Management and Finance, Financial Services Division by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

[See Prior Text In B]

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Management and Finance, Financial Services Division.

[See Prior Text In D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

[See Prior Text In A-B]

1. To qualify for an examination, a person need not be a resident of Louisiana. A person must provide to the Office of Environmental Services, Permits Division payment of the

examination fee and meet the following requirements to be eligible for a UST certification examination:

[See Prior Text In B.1.a-F]

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Environmental Services, Permits Division by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with LAC 33:XI.1305.F.2 shall be considered a new applicant for certification.

[See Prior Text In F.2-G.2]

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Services, Permits Division within 20 days after his or her knowledge of a change in employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1309. Approval of Continuing Training Courses

A. No course in continuing education submitted to the Office of Environmental Services, Permits Division will be considered for approval unless the course:

[See Prior Text In A.1- 2]

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Services, Permits Division in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

[See Prior Text]

Act—the Louisiana Environmental Quality Act, (R.S. 30:2001 et seq).

[See Prior Text]

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

* * *

[See Prior Text]

Authorized Nuclear Pharmacist—a pharmacist who is:

1. board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties;
2. identified as an authorized nuclear pharmacist on a department, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or
3. identified as an authorized nuclear pharmacist on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the use of radioactive material in the practice of nuclear pharmacy.

Authorized User—a physician, dentist, or podiatrist who is:

1. board certified by at least one of the boards listed in LAC 33:XV.763.C.1, D.1, E.1, F.1, H.1, or I.1;
2. identified as an authorized user on a department, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the medical use of radioactive material; or
3. identified as an authorized user on a permit issued by the department, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the medical use of radioactive material.

Background Radiation—radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices. Background radiation does not include sources of radiation from radioactive materials regulated by the department.

* * *

[See Prior Text]

Depleted Uranium—the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

Dose—a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these regulations, radiation dose is an equivalent term.

* * *

[See Prior Text]

Emergency—any condition existing outside of the bounds of nuclear operating sites owned or licensed by a federal agency, and further any condition existing within or outside of the jurisdictional confines of a facility licensed or registered by the department and arising from the presence of by-product material, source material, special nuclear material, or any other radioactive material or source of radiation that is endangering or could reasonably be expected to endanger the health and safety of the public or to contaminate the environment (R.S. 30:2105).

* * *

[See Prior Text]

Inspection—an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the department and/or administrative authority.

* * *

[See Prior Text]

Licensed (or Registered) Material—radioactive material received, possessed, used, transferred, or disposed of under a general or specific license (or registration) issued by the department.

Licensee—any person who is licensed by the department in accordance with the act and regulations promulgated by the administrative authority (R.S. 30:2105).

Licenses—general licenses and specific licenses.

1. General License—a license effective pursuant to regulations promulgated by the administrative authority without the filing of an application to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, by-product, source or special nuclear materials, technologically enhanced natural radioactive material, or other radioactive material occurring naturally or produced artificially.

2. Specific License—a license issued after application to the department to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing by-product, source, or special nuclear materials, technologically enhanced natural radioactive material, or other radioactive material occurring naturally or produced artificially (R.S. 30:2105).

* * *

[See Prior Text]

Occupational Dose—the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation and/or radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with LAC 33:XV.725, from voluntary participation in medical research programs, or as a member of the public.

Ore Refineries—all processors of ore containing natural radioactivity.

* * *

[See Prior Text]

Qualified Expert—an individual who has demonstrated to the satisfaction of the department that he or she possesses the knowledge and training to measure ionizing radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs.

* * *

[See Prior Text]

Registrant—any person who owns or possesses any radioactive material or device capable of emitting radiation and who is legally obligated to register with the department pursuant to these regulations and the act.

* * *

[See Prior Text]

Worker—an individual engaged in work under a license or registration issued by the department and controlled by a licensee or registrant, but not including the licensee or registrant.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§105. Inspections

A. Each licensee and registrant shall afford the department, at all reasonable times, opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

B. Each licensee and registrant shall make available to the department for inspection, upon reasonable notice, records maintained pursuant to these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§106. Tests

A. Each licensee and registrant shall perform, upon instructions from the department, or shall permit the department to perform, such reasonable tests as the department deems appropriate or necessary including, but not limited to, tests of:

* * *

[See Prior Text A.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§110. Prohibited Uses

* * *

[See Prior Text in A-C]

D. Sources of radiation shall not be used for the purpose of screening or inspecting individuals for concealed weapons, hazardous materials, stolen property, illegal goods, or contraband without prior written approval from the department.

* * *

[See Prior Text in E-Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division,

LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§111. Interpretations

Except as specifically authorized by the department in writing, no interpretation of the meaning of these regulations by any officer or employee of the department will be recognized to be legally binding upon the department in any manner whatsoever.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§113. Appeal Procedure, Administrative Review

A. Any person affected by the regulatory actions of the department or administrative authority shall comply with R.S. 30:2024.

* * *

[See Prior Text in B]

1. Any person who alleges that he or she has been aggrieved by the final actions or decision of the department or administrative authority may make application to the administrative authority, in writing, within 20 days after the occurrence of the alleged grievance or 20 days after the promulgation of any directive, order, decision or other written decision or declaration of the administrative authority.

* * *

[See Prior Text in B.2-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§115. Communications

All communications and reports concerning these regulations, and applications filed thereunder, should be addressed to the department at its offices located in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§116. Public Participation in Licensing Actions

* * *

[See Prior Text in A-A.1]

a. A complete application as specified by the department and/or the administrative authority must be filed with appropriate fees, if required. Applications that lack necessary information for proper evaluation will be returned to the applicant within 60 days of receipt of application with a list of additional data required.

b. Applications that are deemed by the department to be complete will be accepted for review. The applicant

will be notified of such acceptance for review within 60 days of receipt of the application.

* * *

[See Prior Text in A.2-4.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR:

§204. Application for Registration of Radiation Machines and Facilities

A. Each person having a radiation machine or facility not presently registered shall do the following:

1. apply for registration of such facility and each radiation machine with the Office of Environmental Services, Permits Division prior to the operation of a radiation machine facility. Application for registration shall be completed on Form DRC-6 furnished by the department upon request in writing and shall contain all the information required by the form and accompanying instructions. The registration of the first radiation producing machine at a facility constitutes registration of the facility itself;

* * *

[See Prior Text in A.2]

3. each registrant shall prohibit any person from furnishing radiation machine servicing or services as described in LAC 33:XV.205.A to his or her radiation machine facility until such person provides satisfactory evidence that he or she has been registered with the department as a provider of services in accordance with LAC 33:XV.205.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§205. Application for Registration of Servicing and Services

A. Each person who is engaged in the business of installing or offering to install radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this state shall apply for registration of such services with the Office of Environmental Services, Permits Division within 30 days after the effective date of this Chapter or thereafter prior to furnishing or offering to furnish any such services.

B. Application for registration shall be completed on Form DRC-22 furnished by the Office of Environmental Services, Permits Division upon request in writing and shall contain all information required by the form and accompanying instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November

1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§206. Issuance of Registration Certificate

* * *

[See Prior Text in A]

B. The department may incorporate in the registration certificate, at the time of the issuance or thereafter by appropriate rule, regulation, or order, such additional requirements, affirmative obligations, and conditions with respect to the registrant's receipt, possession, use, and transfer of sources of radiation as it deems appropriate or necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§207. Expiration of Registration Certificate

Except as provided by LAC 33:XV.208.B, each registration certificate shall expire at the end of 60 days after notification of expiration by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§208. Renewal of Registration Certificate

* * *

[See Prior Text in A]

B. In any case in which a registrant, not less than 30 days prior to the expiration of his or her existing registration certificate, has filed Form DRC-6 application in proper form for renewal, such existing registration certificate shall not expire until the application status has been finally determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§209. Report of Changes

The registrant shall notify the Office of Environmental Services, Permits Division in writing before making any change that would render the information contained in the application for registration and/or registration certificate no longer accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§210. Approval Not Implied

No person, in any advertisement, shall refer to the fact that a facility or machine is registered with the department pursuant to the provisions of LAC 33:XV.204, and no person shall state or imply that any activity under such registration has been approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§211. Assembler and/or Transferor Obligation

A. Any person who sells, leases, transfers, lends, disposes, assembles, or installs radiation machines in this state shall notify the Office of Environmental Services, Permits Division at 15-day intervals of:

* * *

[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§212. Out-of-State Radiation Machines

* * *

[See Prior Text in A]

1. the person proposing to bring such machine into the state shall give written notice to the Office of Environmental Services, Permits Division at least three working days before such machine is to be used in the state. Additional requirements for work involving industrial radiography at temporary job sites may be found in LAC 33:XV.Chapter 5. The notice shall include:

* * *

[See Prior Text in A.1.a-c]

2. if, for a specific case, the three-working-day period would impose an undue hardship on the person, upon written application to the Office of Environmental Services, Permits Division, permission to proceed sooner may be granted.

* * *

[See Prior Text in B-B.1]

2. supply the department with such other information as the department may reasonably request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§213. Modification, Revocation, and Termination of Registration Certificate

* * *

[See Prior Text in A-C]

D. The department will terminate a registration certificate upon written request by the registrant, provided the registrant no longer possesses the registered device or provided the registrant has rendered the unit permanently incapable of producing radiation. The registrant shall notify the Office of Environmental Services, Permits Division within 60 days of the final disposition of the X-ray machine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 3. Licensing of Radioactive Material

Subchapter B. Licenses

§320. Types of Licenses

A. Licenses for radioactive materials are of two types: general and specific.

1. General licenses provided in this Chapter are effective without the filing of application with the Office of Environmental Services, Permits Division or the issuance of licensing documents to the particular persons, although the filing of certain information with the Office of Environmental Services, Permits Division may be required by the particular general license. The general licensee is subject to all other applicable portions of these regulations and to any limitations of the general license.

2. Specific licenses require the submission of an application to the Office of Environmental Services, Permits Division and the issuance of a licensing document by the administrative authority. The licensee is subject to all applicable portions of these regulations as well as to any limitations specified in the licensing document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. General Licenses

§321. General Licenses: Source Material

* * *

[See Prior Text in A-B]

C. Persons who receive, possess, use, or transfer source material pursuant to the general license in LAC 33:XV.321.A.1 are prohibited from administering source material or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the department in a specific license.

* * *

[See Prior Text in D-E.3]

a. Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by LAC 33:XV.321.E.1 shall file Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License," with the Office of Environmental Services, Permits Division. Form DRC-21 will be furnished by the Office of Environmental Services, Permits Division upon written request. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The general licensee shall furnish on Form DRC-21

the following information and such other information as may be required by that form:

* * *

[See Prior Text in E.3.a.i-iii]

b. The licensee possessing or using depleted uranium under the general license established by LAC 33:XV.321.E.1 shall report in writing to the Office of Environmental Services, Permits Division any changes in information furnished by him in Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of such change.

* * *

[See Prior Text in E.4-4.c]

d. within 30 days of any transfer, shall report in writing to the Office of Environmental Services, Permits Division, the name and address of the person receiving the depleted uranium pursuant to such transfer; and

* * *

[See Prior Text in E.4.e-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§322. General Licenses: Radioactive Material Other Than Source Material

* * *

[See Prior Text in A-D.3.d]

e. upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie or more of removable radioactive material, immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the administrative authority, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state to repair such devices, or disposed of by transfer to a person authorized by an applicable specific license to receive the radioactive material contained in the device and, within 30 days, furnish to the Office of Environmental Compliance, Surveillance Division a report containing a brief description of the event and the remedial action taken;

* * *

[See Prior Text in D.3.f]

g. except as provided in LAC 33:XV.322.D.3.h, transfer or dispose of the device containing radioactive material only by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and within 30 days after transfer of a device to a specific licensee shall furnish to the Office of Environmental Services, Permits Division a report containing identification of the device by manufacturer's name and model number and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

* * *

[See Prior Text in D.3.h]

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Office of Environmental Services, Permits Division the manufacturer's name and model number of device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

* * *

[See Prior Text in D.3.h.ii-J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Specific Licenses

§324. Filing Application for Specific Licenses

A. Applications for specific licenses shall be filed on a form prescribed by the Office of Environmental Services, Permits Division or in any other manner specified by the department.

B. The department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the department to determine whether the application should be granted or denied or whether a license should be modified or revoked.

* * *

[See Prior Text in C-D]

E. In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the department, provided such references are clear and specific.

F. Applications and documents submitted to the department shall be available for public inspection unless the administrative authority makes a written determination of confidentiality in accordance with LAC 33:I.Chapter 5.

G. If the department determines that any material should not be afforded confidentiality, a written denial of the request will be issued to the requestor in accordance with LAC 33:I.Chapter 5.

* * *

[See Prior Text in H-J.6]

7. Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying off-site response organizations and the department. Also, responsibilities for developing, maintaining, and updating the plan will be included;

8. Notification and Coordination. A commitment to and a brief description of the means to promptly notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not

prevent the notification and coordination. The licensee shall also commit to notify the Office of Environmental Compliance by telephone at (225) 765-0160 immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency¹;

9. Information to be Communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the department;

* * *

[See Prior Text in J.10-13]

K. The licensee shall allow the off-site response organizations expected to respond in case of accident 60 days to comment on the licensee's emergency plan before submitting it to the Office of Environmental Services, Permits Division. The licensee shall provide any comments received within the 60 days to the Office of Environmental Services, Permits Division with the emergency plan.

¹These reporting requirements do not supersede or release licensees of complying with requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§325. General Requirements for the Issuance of Specific Licenses

A. A license application will be approved if the department determines that:

* * *

[See Prior Text in A.1-4]

B. Environmental Report, Commencement of Construction. In the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, or for the conduct of any other activity that the department determines will significantly affect the quality of the environment, construction of the plant or facility in which the activity will be conducted shall not commence until the department has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess radioactive material in such plant or facility. As used in this Section the term *commencement of construction* means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish

background information related to the suitability of the site or the protection of environmental values.

* * *

[See Prior Text in C-C.1]

a. The amount of funds to be ensured by such financial assurance arrangements shall be based on department-approved cost estimates.

* * *

[See Prior Text in C.1.b.-D.2.a]

b. submit a certification that financial assurance arrangement for decommissioning has been provided in the amount prescribed by Subsection D.4 of this Section using one of the methods described in Subsection D.6 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section shall be submitted to the Office of Environmental Services, Permits Division before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Office of Environmental Services, Permits Division, as part of the certification, a copy of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section .

* * *

[See Prior Text in D.3-6.b]

i. The financial assurance method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Office of Environmental Services, Permits Division, the beneficiary, and the licensee of its intention not to renew. The financial assurance method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within 30 days after receipt of notification of cancellation.

ii. The financial assurance method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

iii. The financial assurance method or insurance must remain in effect until the department has terminated the license.

* * *

[See Prior Text in D.6.c-d]

7. Each person licensed under this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important

to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the department considers important to decommissioning consists of the following:

[See Prior Text in D.7.a-d.iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

A. Specific Licenses for Irradiators. The department shall approve an application for a specific license for the use of licensed material in an irradiator in accordance with LAC 33:XV.Chapter 17, if the applicant meets the following requirements:

[See Prior Text in A.1-2.c]

d. means employed by the applicant to test each operator's understanding of the department's regulations and licensing requirements and the irradiator operating, safety, and emergency procedures; and

[See Prior Text in A.2.e-5]

6. if the applicant intends to perform leak testing, the applicant shall establish procedures for performing leak testing of dry-source-storage sealed sources and submit a description of these procedures to the department. The description shall include:

[See Prior Text in A.6.a-d]

7. if licensee personnel are to load or unload sources, the applicant shall describe the qualifications and training of the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facility, the loading or unloading shall be done by a person specifically authorized by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state to load or unload irradiator sources; and

[See Prior Text in A.8-E.1]

a. The applicant will have an adequate program for training radiographers and submits to the Office of Environmental Services, Permits Division a schedule or description of such program that specifies the:

[See Prior Text in E.1.a.i-iv]

b. The applicant has established and submits to the Office of Environmental Services, Permits Division satisfactory written operating and emergency procedures as described in LAC 33:XV.576.

[See Prior Text in E.1.c]

d. The applicant submits to the Office of Environmental Services, Permits Division a description of

his or her overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program.

e. The applicant who desires to conduct his or her own leak tests has established adequate procedures to be followed in leak testing sealed sources for possible leakage and contamination and submits to the Office of Environmental Services, Permits Division a description of such procedures including:

[See Prior Text in E.1.e.i-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

[See Prior Text in A-A.1]

a. the applicant submits to the Office of Environmental Services, Permits Division a description of the product or material into which the radioactive material will be introduced, the intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer.

[See Prior Text in A.1.b]

2. Each person licensed under LAC 33:XV.328.A shall file an annual report with the Office of Environmental Services, Permits Division that shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to LAC 33:XV.328.A during the reporting period, the report shall so indicate. The report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter.

[See Prior Text in B-B.1.a.ii]

iii. the applicant submits copies of prototype labels and brochures, and the Office of Environmental Services, Permits Division approves such labels and brochures.

* * *

[See Prior Text in B.1.b-iv.(c)]

c. Each person licensed under LAC 33:XV.328.B shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under LAC 33:XV.304.B or the equivalent regulations of the licensing state and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the Office of Environmental Services, Permits Division. Each report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter. If no transfers of radioactive material have been made pursuant to LAC 33:XV.328.B during the reporting period, the report shall so indicate.

* * *

[See Prior Text in C-D.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance of the following:

* * *

[See Prior Text in D.1.b.i-iii.(c)]

c. Each device bears a durable, legible, clearly visible label or labels approved by the department that contain in a clearly identified and separate statement:

* * *

[See Prior Text in D.1.c.i-iii.(b)]

2. In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material, or for both, the applicant shall include in his or her application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information that includes, but is not limited to:

* * *

[See Prior Text in D.2.a-4.b]

c. report to the Office of Environmental Services, Permits Division all transfers of such devices to persons for use under the general license in LAC 33:XV.322.D. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under LAC 33:XV.322.D during the reporting period, the

report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter.

* * *

[See Prior Text in D.4.d-J.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division evidence that the applicant is at least one of the following:

* * *

[See Prior Text in J.1.b.i-iv]

c. the applicant submits to the Office of Environmental Services, Permits Division information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

* * *

[See Prior Text in J.1.d-2.c]

d. may designate a pharmacist (as defined in LAC 33:XV.102) as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an *authorized user* on a nuclear pharmacy license issued by the department under these regulations; and

e. shall provide to the Office of Environmental Services, Permits Division a copy of each individual's certification by the Board Of Pharmaceutical Specialties and the department, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Subsection J.2.b.i and iii of this Section.

* * *

[See Prior Text in J.3-K.1.e.ii]

(a). states that the contents are exempt from department licensing requirements; and

* * *

[See Prior Text in K.1.e.ii.(b)]

f. the applicant submits copies of prototype labels and brochures and the department approves these labels and brochures.

* * *

[See Prior Text in K.2-L.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

* * *

[See Prior Text in L.1.b.i-2.a]

b. In determining the acceptance interval for tests of leakage of radioactive material, the department will consider information that includes, but is not limited to:

* * *

[See Prior Text in L.2.b.i-M.1.a]

b. the applicant submits to the Office of Environmental Services, Permits Division sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the

product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in LAC 33:XV.410.A; and

c. the applicant submits to the Office of Environmental Services, Permits Division sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device;

[See Prior Text in M.2-4.d.ii]

e. report to the Office of Environmental Services, Permits Division all transfers of industrial products or devices to persons for use under the general license in LAC 33:XV.321.E. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under LAC 33:XV.321.E during the reporting period, the report shall so indicate;

[See Prior Text in M.4.f-g]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§331. Specific Terms and Conditions of Licenses

[See Prior Text in A]

B. No license issued or granted under this Chapter and no right to possess or utilize radioactive material granted by any license issued pursuant to this Chapter shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the department shall, after securing full information, find that the transfer is in accordance with the provisions of the act, now or hereafter in effect, and with all valid rules, regulations, and orders of the department, and shall give its consent in writing.

[See Prior Text in C]

D. Each licensee shall notify the Office of Environmental Services, Permits Division in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under Chapter 3 of these regulations.

E. Each licensee shall notify the Office of Environmental Services, Permits Division, in writing, immediately following the filing of a voluntary or

involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the *United States Code* by or against:

[See Prior Text in E.1-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

[See Prior Text in A]

B. Each licensee shall notify the Office of Environmental Services, Permits Division immediately, in writing, and request termination of the license when the licensee decides to terminate all activities involving radioactive material authorized under the license. This notification and request for termination of the license must include the reports and information specified in LAC 33:XV.332.D.1.e.

[See Prior Text in C-C.1]

2. notify the Office of Environmental Services, Permits Division, in writing, if the licensee decides not to renew the license.

[See Prior Text in D-D.1.c]

d. submit a completed form to the Office of Environmental Services, Permits Division that certifies information concerning the disposition of materials; and

e. submit a radiation survey report to the Office of Environmental Services, Permits Division to confirm the absence of radioactive material or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate:

[See Prior Text in D.1.e.i-2]

a. In addition to the information required under Subsection D.1.d and e of this Section, the licensee shall submit a plan for completion of decommissioning, if required by the license condition or if the procedures necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and could increase potential health and safety impacts to workers or to the public such as in any of the following cases:

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

d. The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as is reasonable and that the health and safety of workers and the public will be adequately protected.

3. Upon approval of the decommissioning plan by the department, the licensee shall complete decommissioning in

accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in LAC 33:XV.332.D.1.e and shall certify the disposition of accumulated wastes from decommissioning.

4. If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. The department will notify the licensee, in writing, of the termination of the license.

[See Prior Text in D.5]

a. If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination until the department notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of LAC 33:XV.332.E.

[See Prior Text in D.5.b]

c. Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

[See Prior Text in D.5.c.i-6]

a. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the Office of Environmental Services, Permits Division in writing of such occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by Subsection D.2 of this Section, and begin decommissioning upon approval of that plan if:

[See Prior Text in D.6.a.i-b.i]

ii. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the department.

c. The department may grant a request to extend the time periods established in Subsection D.6.a of this Section if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request shall be submitted no later than 30 days before notification in accordance with Subsection D.6.a of this Section. The schedule for decommissioning set forth in Subsection D.6.a of this Section may not commence until the department has made a determination on the request.

d. The department may approve an alternative schedule for submittal of a decommissioning plan required in accordance with Subsection D.6.a of this Section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the

public health and safety and is otherwise in the public interest.

[See Prior Text in D.6.e.-e.ii]

iii. The department may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area and license termination, if appropriate, if the department determines that the alternative is warranted by consideration of the following:

[See Prior Text in D.6.e.iii.(a)-(d)]

(e). other site-specific factors that the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

[See Prior Text in E-E.1]

2. continue to control entry to restricted areas until they are suitable for release for unrestricted use and the department notifies the licensee in writing that the license is terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2094 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§333. Renewal of Licenses

[See Prior Text in A]

B. In any case in which a licensee, not less than 30 calendar days prior to expiration of his or her existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until the application has been finally determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§335. Department Action on Applications to Renew or Amend

In considering an application by a licensee to renew or amend his or her license, the department will apply the criteria set forth in LAC 33:XV.325, 326, 327, and 328 and in Chapters 5, 7, 13, and 20 of these regulations as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division,

§340. Transfer of Material

[See Prior Text in A-B]

1. to the department (a licensee may transfer radioactive material to the department only after receiving prior approval from the department);

[See Prior Text in B.2-4]

5. as otherwise authorized by the department in writing.

C. Before transferring radioactive material to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, another agreement state, or a licensing state, or to a general licensee who is required to register with the department, the U.S. Nuclear Regulatory Commission, any other agreement state, or a licensing state, prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

[See Prior Text in D-D.3]

4. the transferor may obtain other sources of information compiled by a reporting service from official records of the department, the U.S. Nuclear Regulatory Commission, or the licensing agency of any other agreement state, or licensing state as to the identity of licensees and the scope and expiration dates of licenses and registration;

5. when none of the methods of verification described in LAC 33:XV.340.D.1-4 are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the department, the U.S. Nuclear Regulatory Commission, or the licensing agency of any other agreement state or licensing state that the transferee is licensed to receive the radioactive material.

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§341. Reporting Requirements for General and Specific Licenses

A. Immediate Report. Each licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

B. Twenty-four Hour Report. Each licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 within 24 hours after the discovery of any of the following events involving licensed material:

[See Prior Text in B.1-C]

1. licensees shall make reports required by LAC 33:XV.341.A and B by telephone to the Office of Environmental Compliance at (225) 765-0160. To the extent that the information is available at the time of notification, the information provided in these reports must include:

[See Prior Text in C.1.a-e]

2. each licensee who makes a report required by LAC 33:XV.341.A or B shall submit a written follow-up report within 30 days of the initial report to the Office of Environmental Compliance. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the department. The reports must include the following:

[See Prior Text in C.2.a-f]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:554 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§351. Financial Assurance Arrangements

[See Prior Text in A-D.3]

4. any other licensee that the department determines to have the potential to default, abandon, or otherwise cause liabilities that would endanger public health and safety.

E. The department may reevaluate, at any time, the adequacy of an existing financial assurance arrangement and may require an adjustment by either increasing or decreasing the amount of the financial assurance arrangement required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Reciprocity

§390. Reciprocal Recognition of Licenses

A. Subject to these regulations, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, any other agreement state, or any licensing state and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for any period of time deemed appropriate by the department provided that the following conditions are met:

[See Prior Text in A.1]

2. for each separate location in Louisiana, the out-of-state licensee notifies the Office of Environmental Services, Permits Division in writing at least three working or business days prior to engaging in such activity. Such

notification shall indicate the location, period, and type of proposed possession and use within the state and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three working or business day period would impose an undue hardship on the out-of-state licensee, he or she may, upon written application to the Office of Environmental Services, Permits Division, obtain permission to proceed sooner. The department may waive the requirement for filing additional written notifications following the receipt of the initial written notification from a person engaging in activities under the general license provided in LAC 33:XV.390.A;

* * *

[See Prior Text in A.3]

4. the out-of-state licensee maintains a current copy of the appropriate license and all amendments thereto with the department;

5. the out-of-state licensee supplies such other information as the department may request;

6. any out-of-state licensee who establishes a permanent office in Louisiana shall notify the Office of Environmental Services, Permits Division within 10 calendar days of establishing such office and shall, upon direction by the department and within 30 calendar days, make application for a radioactive material license in accordance with LAC 33:XV.326.E;

* * *

[See Prior Text in A.7-B]

1. such person shall file a report with the Office of Environmental Services, Permits Division within 30 calendar days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device.

* * *

[See Prior Text in B.2-4]

C. The department may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another regulatory agency, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public welfare and safety or property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix D

Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This appendix establishes criteria for passing the

financial test and for obtaining the parent company guarantee.

* * *

[See Prior Text in A-A.2.c]

B. The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform the Office of Management and Finance, Financial Services Division within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

* * *

[See Prior Text in C]

D. If the parent company no longer meets the requirements of Subsection A of this Appendix, the licensee must send notice to the Office of Management and Finance, Financial Services Division of intent to establish alternate financial assurance as specified in these regulations. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

* * *

[See Prior Text in E]

1. The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Office of Management and Finance, Financial Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the department, as evidenced by the return receipt.

2. If the licensee fails to provide alternate financial assurance as specified in these regulations within 90 days after receipt by the licensee and the department of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.

3. The parent company guarantee and financial test provisions must remain in effect until the department has terminated the license.

4. If a trust is established for decommissioning costs, the trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 4. Standards for Protection Against Radiation

Subchapter A. General Provisions

§401. Purpose

A. This Chapter establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses or registrations issued by the department. These regulations are issued in accordance with R.S. 30:2101 et seq.

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§402. Scope

Except as specifically provided in other chapters of these regulations, this Chapter applies to persons licensed or registered by the department to receive, possess, use, transfer, or dispose of sources of radiation or to operate a production or utilization facility under these regulations. The limits in this Chapter do not apply to doses due to background radiation, to exposure from any medical administration the individual has received, to exposure from individuals administered radioactive material and released in accordance with LAC 33:XV.725, or to exposure from voluntary participation in medical research programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 24:2095 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Radiation Protection Programs

§413. Determination of Internal Exposure

[See Prior Text in A-C.1]

2. upon prior approval of the department, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§414. Determination of Prior Occupational Dose

[See Prior Text in A-C.1]

2. accept, as the record of lifetime cumulative radiation dose, an up-to-date department Form DRC-4 or equivalent, signed by the individual and countersigned by an

appropriate official of the most recent employer for work involving radiation exposure or the individual's current employer, if the individual is not employed by the licensee or registrant; and

[See Prior Text in C.3]

D. The licensee or registrant shall record the exposure history, as required by LAC 33:XV.414.A, on department Form DRC-4, or other clear and legible record, of all the information required on that form. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing department Form DRC-4 or equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on department Form DRC-4 or equivalent indicating the periods of time for which data are not available.

E. Licensees or registrants are not required to partition the historical dose between external dose equivalent(s) and internal committed dose equivalent(s). Further, occupational exposure histories obtained and recorded on department Form DRC-4 or equivalent before January 1, 1994, may not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

[See Prior Text in F-F.2]

G. The licensee or registrant shall retain the records on department Form DRC-4 or equivalent until the department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing department Form DRC-4 or equivalent for three years after the record is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), LR 24:2095 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§421. Radiation Dose Limits for Individual Members of the Public

[See Prior Text in A-B]

C. A licensee, registrant, or an applicant for a license or registration may apply for prior department authorization to operate up to an annual dose limit for an individual member of the public of 5 mSv (0.5 rem). This application shall include the following information:

[See Prior Text in C.1-D]

E. The department may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), LR 24:2095 (November 1998), repromulgated LR 24:2243 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§422. Compliance with Dose Limits for Individual Members of the Public

[See Prior Text in A-B.2.b]

C. Upon approval from the department, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II, for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§426. Testing for Leakage or Contamination of Sealed Sources

[See Prior Text in A-A.1]

2. each sealed source that is designed not to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the department, after evaluation of information specified by LAC 33:XV.328.L.2, an agreement state, a licensing state, or the Nuclear Regulatory Commission;

3. each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the department, after evaluation of information specified by LAC 33:XV.328.L.2, an agreement state, a licensing state, or the Nuclear Regulatory Commission;

[See Prior Text in A.4-B.6]

C. Tests for leakage or contamination from sealed sources shall be performed by persons specifically authorized by the department, an agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission to perform such services.

D. Test results shall be kept in units of becquerel or microcurie and maintained for inspection by the department. Records of test results for sealed sources shall be made in accordance with LAC 33:XV.473.

[See Prior Text in E-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Control of Exposure From External Sources in Restricted Areas

§436. Control of Access to High Radiation Areas

[See Prior Text in A-B]

C. The licensee or registrant may apply to the Office of Environmental Services, Permits Division for approval of alternative methods for controlling access to high radiation areas.

[See Prior Text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§438. Control of Access to Very High Radiation Areas - Irradiators

[See Prior Text in A-B.9.b]

c. the licensee or registrant shall submit to the Office of Environmental Services, Permits Division and adhere to a schedule for periodic tests of the entry control and warning systems;

[See Prior Text in B.10-11]

C. Licensees, registrants, or applicants for licenses or registrations for sources of radiation within the purview of LAC 33:XV.438.B which will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of LAC 33:XV.438.B, such as those for the automatic control of radiation levels, may apply to the Office of Environmental Services, Permits Division for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in LAC 33:XV.438.B. At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas

§442. Use of Individual Respiratory Protection Equipment

[See Prior Text in A-A.1]

2. the licensee or registrant may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, provided the licensee or registrant has submitted to the Office of Environmental Services, Permits Division and the Office of Environmental Services, Permits Division has approved an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use;

* * *

[See Prior Text in A.3-B.1]

2. the licensee or registrant shall obtain authorization from the department before assigning respiratory protection factors in excess of those specified in Appendix A. The department may authorize a licensee or registrant to use higher protection factors on receipt of an application that:

* * *

[See Prior Text in B.2.a-C]

D. The licensee or registrant shall notify the Office of Environmental Services, Permits Division in writing at least 30 days before the date that respiratory protection equipment is first used pursuant to either LAC 33:XV.442.A or B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter G. Precautionary Procedures

§450. Caution Signs

A. Standard Radiation Symbol. Unless otherwise authorized by the department, the symbol prescribed by this Section shall use the colors magenta or purple or black on yellow background. The symbol prescribed is the three-bladed design as follows:

* * *

[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§455. Procedures for Receiving and Opening Packages

* * *

[See Prior Text in A-C]

D. The licensee or registrant shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the Office of Environmental Compliance at (225) 765-0160 when:

* * *

[See Prior Text in D.1-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter H. Waste Disposal

§461. Method for Obtaining Approval of Proposed Disposal Procedures

A. A licensee or registrant or applicant for a license or registration may apply to the Office of Environmental Services, Permits Division for approval of proposed procedures, not otherwise authorized in these regulations, to dispose of licensed or registered sources of radiation generated in the licensee's or registrant's operations. Each application shall include:

* * *

[See Prior Text in A.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§463. Treatment or Disposal by Incineration

A licensee or registrant may treat or dispose of licensed or registered sources of radiation by incineration only in the form and concentration specified in LAC 33:XV.464 or as specifically approved by the department in accordance with LAC 33:XV.461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter I. Records

§471. Records of Radiation Protection Programs

* * *

[See Prior Text in A-A.2]

B. The licensee or registrant shall retain the records required by LAC 33:XV.471.A.1 until the department terminates each pertinent license or registration requiring the record. The licensee or registrant shall retain the records required by LAC 33:XV.471.A.2 for three years after the record is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§472. Records of Surveys

* * *

[See Prior Text in A]

B. The licensee or registrant shall retain each of the following records until the department terminates each pertinent license or registration requiring the record:

* * *

[See Prior Text in B.1-4]

C. Upon termination of the license or registration, the licensee or registrant shall permanently store records or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§473. Records of Tests for Leakage or Contamination from Sealed Sources

Records of tests for leakage or contamination from sealed sources required by LAC 33:XV.426 shall be kept in units of becquerel or microcurie and maintained for inspection by the department for five years after the records are made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§474. Records of Prior Occupational Dose

A. The licensee or registrant shall retain the records of prior occupational dose and exposure history as specified in LAC 33:XV.414 on department Form DRC-4 or equivalent until the department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Form DRC-4 or equivalent for three years after the record is made.

B. Upon termination of the license or registration, the licensee or registrant shall permanently store records on department Form DRC-4 or equivalent or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§475. Records of Planned Special Exposures

[See Prior Text in A-A.7]

B. The licensee or registrant shall retain the records until the department terminates each pertinent license or registration requiring these records.

C. Upon termination of the license or registration, the licensee or registrant shall permanently store records or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§476. Records of Individual Monitoring Results

[See Prior Text in A-B]

C. Recordkeeping Format. The licensee or registrant shall maintain the records specified in LAC 33:XV.476.A on

department Form DRC-5, in accordance with the instructions for department Form DRC-5, or in clear and legible records containing all the information required by department Form DRC-5.

[See Prior Text in D]

E. The licensee or registrant shall retain each required form or record until the department terminates each pertinent license or registration requiring the record.

F. Upon termination of the license or registration, the licensee or registrant shall permanently store records on department Form DRC-4 or equivalent, or shall make provision with the department for transfer to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§477. Records of Dose to Individual Members of the Public

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.477.A until the department terminates each pertinent license or registration requiring the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§478. Records of Waste Disposal

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.478.A until the department terminates each pertinent license or registration requiring the record. Requirements for disposition of these records, prior to license termination, are located in LAC 33:XV.342.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), LR 26:

Subchapter J. Reports

§485. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

A. Telephone Reports. Each licensee or registrant shall report to the Office of Environmental Compliance by telephone at (225) 765-0160 as follows:

[See Prior Text in A.1-3]

B. Written Reports. Each licensee or registrant required to make a report pursuant to LAC 33:XV.485.A shall, within 30 days after making the telephone report, make a written report to the Office of Environmental Compliance setting forth the following information:

* * *

[See Prior Text in B.1-C]

D. The licensee or registrant shall prepare any report filed with the Office of Environmental Compliance pursuant to this Section so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§486. Notification of Incidents

A. Immediate Notification. Notwithstanding other requirements for notification, each licensee or registrant shall immediately report to the Office of Environmental Compliance by telephone at (225) 765-0160 each event involving a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause any of the following conditions:

* * *

[See Prior Text in A.1-2]

B. Twenty-four Hour Notification. Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Office of Environmental Compliance by telephone at (225) 765-0160 each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

* * *

[See Prior Text in B.1-2]

C. Licensees or registrants shall make the reports required by Subsections A and B of this Section through initial contact by telephone and shall confirm the initial contact by telegram, mailgram, or facsimile to the Office of Environmental Compliance, or e-mail at surveillance@deq.state.la.us.

D. The licensee or registrant shall prepare each report filed with the department in accordance with this Section so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

* * *

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits

A. Reportable Events. In addition to the notification required by LAC 33:XV.486, each licensee or registrant shall submit a written report to the Office of Environmental Compliance within 30 days after learning of any of the following occurrences:

* * *

[See Prior Text in A.1-B.2]

C. All licensees or registrants who make reports pursuant to LAC 33:XV.487.A shall submit the report in writing to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§488. Reports of Planned Special Exposures

The licensee or registrant shall submit a written report to the Office of Environmental Services, Permits Division within 30 days following any planned special exposure conducted in accordance with LAC 33:XV.415, informing the department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by LAC 33:XV.475.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§490. Reports of Individual Monitoring

A. This Section applies to each person licensed or registered by the department to:

* * *

[See Prior Text in A.1-3]

*The department may require as a license condition, or by rule or regulation, reports from licensees or registrants who are licensed or registered to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

B. Each licensee or registrant in a category listed in LAC 33:XV.490.A shall submit to the Office of Environmental Services, Permits Division an annual report of the results of individual monitoring carried out by the licensee or registrant for each individual for whom monitoring was required by LAC 33:XV.431 during that year. The licensee or registrant may include additional data for individuals for whom monitoring was provided but not required. The licensee or registrant shall use department Form DRC-5 or equivalent or electronic media containing all the information required by department Form DRC-5.

C. The licensee or registrant shall file the report required by LAC 33:XV.490.B, covering the preceding year, on or before April 30 of each year. The licensee or registrant shall submit the report to the Office of Environmental Services, Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§491. Notifications and Reports to Individuals

* * *

[See Prior Text in A]

B. When a licensee or registrant is required pursuant to LAC 33:XV.487 to report to the department any exposure of an individual to radiation or radioactive material, the

licensee or registrant shall also notify the individual. Such notice shall be transmitted at a time not later than the transmittal to the department and shall comply with the provisions of LAC 33:XV.1013.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§492. Reports of Leaking or Contamination From Sealed Sources

The licensee or registrant shall file a report within five days with the Office of Environmental Compliance, or e-mail at surveillance@deq.state.la.us, if the test for leakage or contamination required pursuant to LAC 33:XV.426 indicates a sealed source is leaking or a source of contamination. The report shall include the equipment involved, the test results, and the corrective action taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter K. Additional Requirements

§496. Vacating Premises

Each specific licensee or registrant shall, no less than 30 days before vacating or relinquishing possession or control of premises which may have been contaminated with radioactive material as a result of his activities, notify the Office of Environmental Services, Permits Division in writing of intent to vacate. When deemed necessary by the department, the licensee shall decontaminate the premises in such a manner as the department may specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix A

[See Prior Text in Appendix.A.Table.Protection

Factors for Respirators-Endnote 8.a]

^b The design of the supplied-air hood or helmet, with a minimum flow of six cubic feet per minute (0.17 m³/min) of air, may determine its overall efficiency and the protection it provides. For example, some hoods aspirate contaminated air into the breathing zone when the wearer works with hands-over-head. This aspiration may be overcome if a short cape-like extension to the hood is worn under a coat or overalls. Other limitations specified by the department shall be considered before using a hood in certain types of atmospheres. See endnote 9.

[See Prior Text in Endnote 9-Note.2]

Appendix D

Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests

[See Prior Text in A]

1. Licensees are not required by the department to comply with the manifesting requirements of this Appendix when they ship:

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

E. As used in this Appendix, the following definitions apply:

[See Prior Text]

Computer-Readable Medium—a medium from which the department’s computer can transfer the information from the medium into its memory. This medium shall be in an ASCII compatible format.

[See Prior Text]

Decontamination Facility—a facility operating under a department, Nuclear Regulatory Commission, or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives and, for purposes of this Appendix, is not considered to be a consignee for LLW shipments.

[See Prior Text]

Electronic Media—media from which the department’s computer can transfer the information from the media into its memory. This media shall be in an ASCII compatible format.

[See Prior Text]

Generator—a licensee operating under a department, Nuclear Regulatory Commission, or agreement state license who is a waste generator as defined in this Appendix, or is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

[See Prior Text]

Waste Collector—an entity, operating under a department, Nuclear Regulatory Commission, or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

[See Prior Text]

Waste Generator—an entity, operating under a department, Nuclear Regulatory Commission, or agreement state license, who possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use and transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal. A licensee performing processing or decontamination services may be a *waste generator* if the transfer of low-level radioactive waste from its facility is defined as *residual waste*.

Waste Processor—an entity, operating under a department, Nuclear Regulatory Commission, or agreement state license, whose principal purpose is to process, repackage, or

otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

Waste Type—a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description or a waste sorbed on or solidified in a specifically defined media).

[See Prior Text in F-F.5.b.v.]

G Certification. An authorized representative of the waste generator, processor, or collector shall certify, by signing and dating the shipment manifest, that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the U.S. Department of Transportation and the department. A collector, in signing the certification, is certifying that nothing has been done to the collected waste that would invalidate the waste generator's certification.

[See Prior Text in H-H.2.g]

h. notify the shipper and the Office of Environmental Services, Permits Division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

[See Prior Text in H.3-3.j]

k. notify the shipper and the Office of Environmental Services, Permits Division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

[See Prior Text in H.4-4.a]

b. maintain copies of all completed manifests and electronically store the information required by LAC 33:XV.1333.G until the department terminates the license; and

c. notify the shipper and the Office of Environmental Services, Permits Division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

[See Prior Text in H.5-5.a]

b. be traced and reported. The investigation shall include tracing the shipment and filing a report with the Office of Environmental Services, Permits Division. Each licensee who conducts a trace investigation shall file a written report with the Office of Environmental Services, Permits Division within two weeks of completion of the investigation.

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

§503. Definitions

As used in this Chapter, the following definitions apply:

[See Prior Text]

Instructor—any individual who has been authorized by the department to provide instruction to radiographer trainees in accordance with LAC 33:XV.575.A.

[See Prior Text]

Radiographer Assistant—any individual who:

a. has five years of documented experience as a radiographer who previously qualified under these regulations prior to January 1, 1995;

b. has a documented record of safely performing industrial radiography; and

c. has received confirmation from the department that such individual is acceptable to be a radiographers assistant.

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter A. Equipment Control **§543. Radiation Survey Instruments**

[See Prior Text in A-B.3]

C. Records of these calibrations shall be maintained for two years after the calibration date for inspection by the department.

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§544. Leak Testing, Repair, Tagging, Opening, Modification, and Replacement of Sealed Sources

[See Prior Text in A-B]

C. The leak test shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point, by a procedure which has been approved pursuant to LAC 33:XV.326.E.1.e. Records of leak test results shall be kept in units of microcuries (becquerels) and maintained for inspection by the department for two years.

D. Any test conducted pursuant to LAC 33:XV.544.B and C that reveals the presence of 0.005 microcurie (185 Bq) or more of removable radioactive material shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with LAC 33:XV. Within five calendar days after obtaining results of

the test, the licensee shall file a written report with the Office of Environmental Compliance describing the equipment involved, the test results, and the corrective action taken.

* * *

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§545. Quarterly Inventory

Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and licensed devices received or possessed under his or her license. The records of the inventories shall be maintained for inspection by the department for at least two consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§546. Utilization Logs

A. Each licensee or registrant shall maintain current logs, which shall be kept available for inspection by the department for two consecutive years from the date of the recorded event, showing for each source of radiation the following information:

* * *

[See Prior Text in A.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§547. Inspection and Maintenance of Radiographic Exposure Devices and Storage Containers

* * *

[See Prior Text in A]

B. Each licensee or registrant shall conduct a program of at least quarterly inspection and maintenance of radiation machines, radiographic exposure devices, source changers, storage containers, and associated equipment to assure proper functioning of components important to safety. All appropriate parts shall be maintained in accordance with manufacturer's specifications. Records of inspection and maintenance shall be maintained for inspection by the department for two consecutive years from the date of the recorded event.

* * *

[See Prior Text in C]

D. Each licensee or registrant shall provide a written report to the Office of Environmental Compliance within 30 days of the occurrence of any of the following incidents involving radiographic equipment.

* * *

[See Prior Text in D.1-E.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§548. Permanent Radiographic Installations

A. Permanent radiographic installations having high-radiation area entrance controls of the type described in LAC 33:XV.436.A and B shall also meet the following requirements:

* * *

[See Prior Text in A.1]

2. the control device or alarm system as described in LAC 33:XV.436.A and B shall be tested for proper operation at the beginning of each day of equipment use. If a control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed. Records of these tests shall be maintained for inspection by the department for two consecutive years from the date of the event or until disposition is authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§550. Performance Requirements for Radiography Equipment

A. Equipment serviced, maintained, or repaired by a licensee or registrant or used in industrial operations must meet the following minimum criteria:

1. each radiographic exposure device and all associated equipment shall meet the requirements specified in American National Standard (ANSI) N432-1980 *Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography*, (published as NBS Handbook 136, issued January 1981). Engineering analyses may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the department may find this an acceptable alternative to actual testing of the component in accordance with the referenced standard;

* * *

[See Prior Text in A.2-3.i]

j. malfunction of any exposure device or associated equipment shall be reported to the Office of Environmental Compliance by telephone at (225) 765-0160 in accordance with the requirements of LAC 33:XV.341; and

* * *

[See Prior Text in A.3.k-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 21:554 (June 1995), LR 23:1138 (September 1997), LR 24:2100 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

* * *

[See Prior Text in A]

1. has been instructed for at least 40 hours in the subjects outlined in I, II, and III, Appendix A of this Chapter, and has demonstrated understanding thereof pursuant to LAC 33:XV.575.A.6. Both the instructor and the course of instruction must be approved by the department prior to the time of instruction;

* * *

[See Prior Text in A.2-2.c]

d. the form DRC-20, available from the department, or the equivalent, must be submitted to the Office of Environmental Services, Permits Division documenting the on-the-job training;

* * *

[See Prior Text in A.3-5]

6. has successfully completed within the last five years a radiation safety examination administered by the department or its agent. The examination must be successfully completed at least once every five years.

B. Each licensee or registrant shall maintain, for inspection by the department, until disposition is authorized by the department, records of the above training and certification, including copies of written tests and dates and results of oral tests and field examinations.

C. Each licensee or registrant shall conduct a program of internal audits to ensure that the Radiation Protection Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer. These internal audits shall be performed at least quarterly, and each radiographer shall be audited at least quarterly. Records of internal audits shall be maintained for review by the department for two consecutive years from the date of the audit.

* * *

[See Prior Text in D-E.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§577. Personnel Monitoring Control

* * *

[See Prior Text in A]

B. Pocket dosimeters shall have a range of zero to at least 200 milliroentgens (5.16×10^{-5} C/kg) and shall be recharged at least daily or at the start of each shift. Pocket

dosimeters shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within ± 30 percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for two years by the licensee or registrant for department inspection.

* * *

[See Prior Text in C-E]

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for two consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the department authorizes their disposition.

* * *

[See Prior Text in G-H.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§578. Reciprocity

A. Reciprocal recognition by the department of an individual radiographer certification will be granted provided that:

* * *

[See Prior Text in A.1-2]

3. the applicant presents the certification to the Office of Environmental Services, Permits Division prior to entry into Louisiana.

B. Certified individuals who are granted reciprocity by the department shall maintain the certification upon which the reciprocal recognition was granted or prior to the expiration of such certification, shall meet the requirements of LAC 33:XV.575.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§579. Identification Cards

* * *

[See Prior Text in A-A.1]

2. Each person's I.D. card shall contain his/her photograph. The department will take the photograph at the time the examination is administered.

* * *

[See Prior Text in A.3]

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services, Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. Card is needed. A non-refundable fee of \$20 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic

operations until a replacement I.D. card is received from the department.

* * *

[See Prior Text in B-D.1]

2. When a department order has been issued for an industrial radiographer to cease and desist from the use of sources of radiation or the department revokes or suspends his/her I.D. card, the industrial radiographer shall surrender the I.D. card to the department until the order is changed or the suspension expires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Precautionary Procedures in Radiographic Operations

§587. Radiation Surveys and Survey Records

* * *

[See Prior Text in A-D]

E. Records shall be kept of the surveys required by LAC 33:XV.587.C and D. Such records shall be maintained for inspection by the department for two consecutive years after completion of the survey. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the department authorizes their disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§589. Special Requirements and Exemptions for Enclosed Radiography

* * *

[See Prior Text in A-A.1]

2. be evaluated at intervals not to exceed one year to assure compliance with the applicable requirements as specified in LAC 33:XV.589.A.1. Records of these evaluations shall be maintained for inspection by the department for a period of two consecutive years after the evaluation.

* * *

[See Prior Text in B]

1. operating personnel must be provided with either a film badge or a thermoluminescent dosimeter, and reports of the results must be maintained for inspection by the department;

2. no registrant shall permit any individual to operate an enclosed X-ray system until such individual has received a copy of and instructions in the operating procedures for the unit and has demonstrated competence in its use. Records that demonstrate compliance with this Section shall be maintained for inspection by the department until disposition is authorized by the department;

* * *

[See Prior Text in B.3]

4. the registrant shall perform an evaluation, at intervals not to exceed one year, to determine conformance with LAC 33:XV.421. If such system is a certified X-ray system, it shall be evaluated at intervals not to exceed one year to determine conformance with 21 CFR 1020.40. Records of these evaluations shall be maintained for inspection by the department for a period of two consecutive years after the evaluation.

* * *

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

* * *

[See Prior Text in A-E.2]

3. has been named as a radiographer instructor on the license or registration certificate issued by the department.

F. During an inspection by the department, the department inspector may terminate an operation if any of the items of LAC 33:XV.590.A are not available and operable or if at least two radiographers are not present. Operations shall not be resumed until such conditions are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§591. Prohibitions

A. Industrial radiography performed with a sealed source which is not fastened to or contained in a radiographic exposure device, known as fishpole radiography, is prohibited unless specifically authorized in a license issued by the department.

* * *

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 6. X-rays in the Healing Arts

§602. Definitions

As used in this Chapter, the following definitions apply. Other definitions applicable to this Chapter may be found in LAC 33:XV.Chapters 1 and 2.

* * *

[See Prior Text]

Mammography Physicist—an individual who has submitted credentials to the department and who satisfies one or more of the following criteria:

* * *

[See Prior Text in 1-3]

4. has been approved by the department.

[See Prior Text]

Qualified Expert—an individual who has demonstrated to the satisfaction of the department that such individual possesses the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs.

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§603. General and Administrative Requirements

[See Prior Text in A]

1. An x-ray system that does not meet the provisions of LAC 33:XV shall not be operated for diagnostic or therapeutic purposes if so directed by the department.

[See Prior Text in A.2-3.e]

4. At the request of the department, the registrant or licensee of a facility shall create and make available written safety procedures to each individual operating x-ray equipment, including any restrictions of the operating technique required for the safe operation of the particular x-ray system. The operator shall be able to demonstrate familiarity with these procedures.

[See Prior Text in A.5-7.a]

- b. exposure of an individual for the purpose of healing arts screening without prior written approval of the department.

[See Prior Text in A.8-9.d]

- e. each registrant or licensee, except for veterinarians, covered under this Chapter shall establish written standards for the proper performance of each diagnostic X-ray imaging system under the control of the registrant or licensee, and shall document by routine test record that the system is performing in accordance with these standards (quality control). Copies of this documentation shall be retained for at least six months and be available for inspection by the department. If a test interval is greater than six months, then a copy of the most recent test record shall be retained;

[See Prior Text in A.9.f-10.c]

11. Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the department. When requesting such approval, that person shall submit the information outlined in Appendix C of this Chapter to the Office of Environmental Services, Permits Division. If any information submitted to the department becomes invalid or outdated, the Office of Environmental Services, Permits

Division shall be immediately notified. See the definition of *Healing Arts Screening* as defined in LAC 33:XV.602.

[See Prior Text in A.12-C]

1. Except for dedicated mammography radiographic systems, podiatric radiographic systems, panoramic dental radiographic systems, and intraoral dental radiographic systems, prior to construction, the floor plans and equipment arrangement of all new installations, or modifications of existing installations, utilizing X-rays for diagnostic or therapeutic purposes shall be submitted to the Office of Environmental Services, Permits Division for review and approval. The required information is specified in Appendices A and B of this Chapter.

2. The floor plans and equipment arrangement for all new, or modifications of existing, installations for veterinary X-ray systems shall be reviewed for adequacy by the department on a case-by-case basis.

3. The department may require the applicant to utilize the services of a qualified expert to determine the shielding requirements prior to the plans review and approval.

[See Prior Text in C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§605. Fluoroscopic X-ray Systems

- A. All fluoroscopic x-ray systems shall be image intensified and meet the following requirements:

[See Prior Text in A.1-8.b.ii]

- c. upon application to the administrative authority with adequate justification, exemptions to LAC 33:XV.605.A.8.b may be made in some special procedures where a sterile field will not permit the use of the normal protective barriers. Where the use of prefitted sterilized covers for the barriers is practical, the department shall not permit such exemption.

[See Prior Text in A.9-10.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§606. Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Computed Tomography X-ray Systems

[See Prior Text in A-A.1.b]

- c. the department may grant an exemption on noncertified xray systems to LAC 33:XV.606.A.1.a and b provided the registrant or licensee makes a written application for such exemption and in that application:

* * *

[See Prior Text in A.1.c.i-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§608. Therapeutic X-ray Systems of Less Than 1 MeV

* * *

[See Prior Text in A-C.1.a]

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Services, Permits Division within 30 calendar days of receipt of the report; and

* * *

[See Prior Text in C.1.c-3]

a. the spot-check procedures shall be in writing and shall have been developed by a qualified expert. A copy of the procedures shall be submitted to the Office of Environmental Services, Permits Division prior to their implementation;

* * *

[See Prior Text in C.3.b-4.e]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§609. X-ray and Electron Therapy Systems with Energies of 1 MeV and Above

* * *

[See Prior Text in A-C.1.a.i]

ii. for each system, the registrant or licensee shall determine or obtain from the manufacturer the leakage radiation existing at the positions specified in LAC 33:XV.609.C.1.a.i for the specified operating conditions. Records on leakage radiation measurements shall be maintained for inspection by the department; and

* * *

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

ii. for each system, the registrant or licensee shall determine or obtain from the manufacturer the leakage radiation existing at the positions specified in LAC 33:XV.609.C.1.b.i for the specified operating conditions. Records on radiation leakage shall be maintained for inspection by the department.

* * *

[See Prior Text in C.2-E.1.a]

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Services, Permits Division within 30 days of receipt of the report; and

* * *

[See Prior Text in E.1.c-2]

a. the calibration of systems subject to LAC 33:XV.609 shall be performed in accordance with an established calibration protocol acceptable to the department before the system is first used for irradiation of a patient and thereafter at intervals that do not exceed 12 months, and after any change that might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user shall submit that protocol to the Office of Environmental Services, Permits Division for written concurrence that the protocol is acceptable;

* * *

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

a. the spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Office of Environmental Services, Permits Division prior to its implementation;

* * *

[See Prior Text in E.3.b-4.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§610. Computed Tomography X-ray Systems

* * *

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

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be made available to the department upon request.

* * *

[See Prior Text in D.2-2.f.ii]

g. calibration procedures shall be in writing. Records of calibrations performed shall be maintained for inspection by the department.

* * *

[See Prior Text in D.3-3.d.ii]

e. written records of the spot checks performed shall be maintained for inspection by the department.

* * *

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**Appendix A
Information on Radiation Shielding Required
for Plan Reviews**

In order for the department to provide an evaluation, technical advice, and official approval of shielding requirements for a radiation installation, the following information shall be submitted:

* * *

[See Prior Text in A-C]

Appendix C

Information to be Submitted by Persons Proposing to Conduct Healing Arts Screening

Persons requesting that the department approve a healing arts screening program shall submit the following information and evaluation:

* * *

[See Prior Text in A-O]

P. Any other information requested by the department that may be necessary to evaluate the justification or possible effects of an X-ray screening proposal.

Chapter 7. Use of Radionuclides in the Healing Arts

§702. License Required and Exemptions

A. No person shall manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for medical use except in accordance with a specific license issued by the department, the Nuclear Regulatory Commission, or an agreement state or as allowed in Subsection B and C of this Section.

* * *

[See Prior Text in B-D.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§703. License Amendments and Provisions for Research Involving Human Subjects

* * *

[See Prior Text in A-A.2.b]

c. identified as an authorized user or an authorized nuclear pharmacist on a department, Nuclear Regulatory Commission, licensing state, or agreement state license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively; or

d. identified as an authorized user or an authorized nuclear pharmacist on a permit issued by a department, Nuclear Regulatory Commission, licensing state, or agreement state specific licensee of broad scope that is authorized to permit the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively.

* * *

[See Prior Text in A.3-6]

B. Provisions for Research Involving Human Subjects. A licensee may conduct research involving human subjects using radioactive material, provided that the research is conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects. Otherwise, a licensee shall apply for and receive approval of a specific amendment to its department license before conducting such research. Both types of licensees shall, at a minimum, obtain informed consent from the human subjects and obtain prior review and approval of the research activities by an "Institutional Review Board" in accordance with the meaning of these

terms as defined and described in the Federal Policy for the Protection of Human Subjects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§704. Notifications

A. A licensee shall provide to the Office of Environmental Services, Permits Division a copy of the board certification, the Nuclear Regulatory Commission, or agreement state license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user or an authorized nuclear pharmacist in accordance with LAC 33:XV.703.A.2.

B. A licensee shall notify the Office of Environmental Services, Permits Division by letter no later than 30 days after:

* * *

[See Prior Text in B.1-2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§706. Radiation Safety Officer

* * *

[See Prior Text in A-B.2.j]

k. keeping a copy of all records and reports required by the department regulations (LAC 33:XV), a copy of these regulations, a copy of each licensing request and license and amendments, and the written policy and procedures required by these regulations.

3. For medical use not sited at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management prior to submittal to the department for licensing action.

* * *

[See Prior Text in B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§707. Radiation Safety Committee

* * *

[See Prior Text in A-A.1.d.vi]

e. The committee shall provide each member with a copy of the meeting minutes and retain one copy until the department authorizes its disposition.

* * *

[See Prior Text in A.2-2.c]

d. review on the basis of safety, and approve with the advice and consent of the radiation safety officer and the management representative, or disapprove, procedures and radiation safety program changes prior to submittal to the department for licensing action;

[See Prior Text in A.2.e-h]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§711. Mobile Nuclear Medicine Service Administrative Requirements

A. The department will only license mobile nuclear medicine services in accordance with this Chapter and other applicable requirements of these regulations to serve clients who do not have a department license.

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§712. Notifications, Reports, and Records of Misadministrations

A. For a misadministration:

1. the licensee shall notify by telephone the Office of Environmental Compliance at (225) 765-0160 no later than the next calendar day after discovery of the misadministration;

2. the licensee shall submit a written report to the Office of Environmental Compliance within 15 days after discovery of the misadministration. The written report shall include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the individual who received the administration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the individual, or the individual's responsible relative or guardian (this person will be subsequently referred to as "the individual" in this Section), and if not, why not, and if the individual was notified, what information was provided to the individual. The report shall not include the individual's name or other information that could lead to identification of the individual. To meet the requirements of this Section, the notification of the individual receiving the misadministration may be made instead to that individual's responsible relative or guardian, when appropriate;

[See Prior Text in A.3-4]

a. a copy of the report that was submitted to the department; or

b. a brief description of both the event and the consequences as they may affect the individual, provided a

statement is included that the report submitted to the department can be obtained from the licensee.

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§714. Quality Control of Imaging Equipment

Each licensee shall establish written quality control procedures for all equipment used to obtain images from radionuclide studies. As a minimum, the procedures shall include quality control procedures recommended by equipment manufacturers or procedures that have been approved by the department. The licensee shall conduct quality control procedures in accordance with written procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§716. Calibration and Check of Survey Instruments

[See Prior Text in A-E.2]

F. To meet the requirements of LAC 33:XV.716.A, B, and C, the licensee may obtain the services of individuals licensed by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state to perform calibrations of survey instruments. Records of calibrations that contain information required by LAC 33:XV.716.E shall be maintained by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§719. Requirements for Possession of Sealed Sources and Brachytherapy Sources

[See Prior Text in A]

1. Follow radiation safety and handling instructions approved by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state, and furnished by the manufacturer on the label attached to the source, device, or permanent container thereof, or in the leaflet or brochure that accompanies the source or device, and maintain such instruction in a legible and conveniently available form.

2. Assure that needles or standard medical applicator cells containing cobalt-60 as wire, radium-226, or cesium-137 are not opened while in the licensee's possession unless specifically authorized by the department.

* * *

[See Prior Text in B-B.1]

2. the source is tested for leakage at intervals not to exceed six months or at intervals approved by the department, another agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission.

* * *

[See Prior Text in C-E.1]

2. file a written report with the Office of Environmental Compliance, Surveillance Division within five days of receiving the leak test results describing the equipment involved, the test results, and the action taken.

* * *

[See Prior Text in F-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits or Imaging and Localization Studies

* * *

[See Prior Text in A-D]

E. Provided the conditions of LAC 33:XV.733 are met, a licensee shall use radioactive aerosols or gases only if specific application is made to and approved by the department.

* * *

[See Prior Text in F-F.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§732. Permissible Molybdenum-99 Concentration

* * *

[See Prior Text in A-C]

D. A licensee shall report immediately each occurrence of molybdenum-99 concentration exceeding the limits specified in LAC 33:XV.732.A to the Office of Environmental Compliance by telephone at (225) 765-0160.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§736. Safety Instruction

* * *

[See Prior Text in A-B.6]

C. A licensee shall keep a record of individuals receiving instruction required by LAC 33:XV.736.A, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction. Such record

shall be maintained for inspection by the department for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§737. Safety Precautions

* * *

[See Prior Text in A-A.6]

7. submit to the Office of Environmental Services, Permits Division an acceptable procedure to measure the thyroid burden of each individual who helps prepare or administer a dosage of iodine-131. Measurements shall be performed within three days after administering the dosage, and records shall include each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements. The records shall be retained for the period required by LAC 33:XV.472.B.

* * *

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§748. Maintenance and Repair Restrictions

Only a person specifically licensed by the department, the U.S. Nuclear Regulatory Commission, or an agreement state to perform teletherapy unit maintenance and repair shall install, relocate, or remove a teletherapy sealed source, or a teletherapy unit that contains a sealed source, or maintain, adjust, or repair the source drawer, the shutter, or other mechanism of a teletherapy unit that could expose the source, reduce the shielding around the source, or result in increased radiation levels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§757. Periodic Spot-checks

* * *

[See Prior Text in A-G.6]

H. A licensee shall lock the control console in the "off" position if any door interlock malfunctions. No licensee shall use the unit until the interlock system is repaired unless specifically authorized to do so in writing by the department.

* * *

[See Prior Text in I-J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§758. Radiation Surveys for Teletherapy Facilities

[See Prior Text in A-B.1]

2. until the licensee has received a specific exemption from the department.

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§761. Reports of Teletherapy Surveys, Checks, Tests, and Measurements

A licensee shall furnish a copy of the records required in LAC 33:XV.758, 759, and 760, and the output from the teletherapy source expressed as rems (sieverts) per hour at 1 meter from the source as determined during the full calibration required in LAC 33:XV.756 to the Office of Environmental Services, Permits Division within 30 days following completion of the action that initiated the record requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§762. Five-Year Inspection

[See Prior Text in A]

B. This inspection and servicing shall be performed only by persons specifically licensed to do so by the department, an agreement state, or the U.S. Nuclear Regulatory Commission.

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§763. Training

[See Prior Text in A-A.2.e]

f. one year of full-time experience in radiation safety at a medical institution under the supervision of the individual identified as the radiation safety officer on a department, agreement state, licensing state, or Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

[See Prior Text in A.3]

B. Experienced Radiation Safety Officer. An individual identified as a radiation safety officer on a department, agreement state, licensing state, or Nuclear Regulatory Commission license on February 20, 1991, who oversees only the use of radioactive material for which the licensee was authorized on that date need not comply with the training requirements of Subsection A of this Section.

[See Prior Text in C-L]

M. Experienced Authorized Users. Practitioners of the healing arts identified as authorized users for the human use of radioactive material on a department license on February 20, 1991, who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of this Section.

[See Prior Text in N-O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§776. Medical Advisory Committee

A medical advisory committee will evaluate applications for all nonroutine uses of radioactive materials in humans and may evaluate the clinical training and experience of physicians seeking licensure by the department. In the event of disapproval by the department, the preceptor and physician seeking licensure shall be given the opportunity to address the department's concerns prior to any proposed disapproval becoming final. This committee contains licensed physicians with medical experience in the use of radioisotopes and radiation. The medical advisory committee will have representatives of diagnostic radiology, therapeutic radiology, internal medicine, pathology, pharmacology, cardiology, nuclear medicine, and medical physics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§777. Quality Management Program

[See Prior Text in A-D.2]

E. The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Office of Environmental Services, Permits Division within 30 days after the modification has been made.

F. Each applicant for a new license, as applicable, shall submit to the Office of Environmental Services, Permits Division a quality management program as part of the application for a license and implement the program upon issuance of the license by the department.

G Each existing licensee, as applicable, shall submit to the Office of Environmental Services, Permits Division by July 1, 1992 a written certification that the quality management program has been implemented along with a copy of the program.

* * *

[See Prior Text in H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:554 (June 1995), amended LR 24:2110 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 8. Radiation Safety Requirements for Analytical X-Ray Equipment

§803. Equipment Requirements

A. Safety Device. A device which prevents the entry of any portion of an individual's body into the primary X-ray beam path or which causes the beam to be shut off upon entry into its path shall be provided on all open-beam configurations. A registrant or licensee may apply to the Office of Environmental Services, Permits Division for an exemption from the requirement of a safety device. Such application shall include:

* * *

[See Prior Text in A.1-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§804. Area Requirements

* * *

[See Prior Text in A-B.1.f]

2. Radiation survey measurements shall not be required if a registrant or licensee can demonstrate compliance with LAC 33:XV.804.A to the satisfaction of the department in some other manner.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§806. Personnel Requirements

* * *

[See Prior Text in A-A.1.e]

2. Each licensee or registrant shall maintain, for inspection by the department, records of training which demonstrate that the requirements of this Section have been met.

* * *

[See Prior Text in B-B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 9. Radiation Safety Requirements for Particle Accelerators

Subchapter A. Registration and Licensing Procedures

§903. General Requirements for the Issuance of a Registration or License for Particle Accelerators

A. In addition to the requirements of LAC 33:XV.Chapters 2 and 3, a registration and/or license application for use of a particle accelerator will be approved only if the department determines that:

* * *

[See Prior Text in A.1-7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Radiation Safety Requirements for the Use of Particle Accelerators

§906. Limitations

* * *

[See Prior Text in A-A.3]

B. Either the radiation safety committee or the radiation safety officer, in addition to duly authorized representatives of the department, shall have the authority to terminate the operations at a particle accelerator facility if such action is deemed necessary to minimize danger to public welfare and safety or property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§907. Shielding and Safety Design Requirements

A. A qualified expert, specifically accepted in writing by the department, shall be consulted in the design of a particle accelerator installation and shall be called upon to perform a radiation survey when the accelerator is first capable of producing radiation. A copy of the survey shall be submitted to the Office of Environmental Services, Permits Division.

B. Plans for construction of new accelerator installations shall be submitted to the Office of Environmental Services, Permits Division for approval prior to commencement of construction.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§910. Operating Procedures

* * *

[See Prior Text in A-B]

C. All safety and warning devices, including interlocks, shall be checked for proper operability at intervals not to exceed three months. Results of such tests shall be maintained for two years for inspection by the department at the accelerator facility.

D. Electrical circuit diagrams of the accelerator and the associated interlock systems shall be kept current and maintained for inspection by the department and shall be available to the operator at each accelerator facility.

[See Prior Text in E-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§911. Radiation Monitoring Requirements

[See Prior Text in A]

B. A radiation protection survey shall be performed, documented, and submitted to the Office of Environmental Services, Permits Division by a qualified expert specifically approved in writing by the department when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas.

[See Prior Text in C-G]

H. Records of all radiation protection surveys, calibrations, and instrumentation tests shall be maintained at each accelerator facility for inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§912. Ventilation Systems

[See Prior Text in A]

B. A registrant and/or licensee, as required by LAC 33:XV.416, shall not vent, release, or otherwise discharge airborne radioactive material to an unrestricted area in concentrations that exceed the limits specified in LAC 33:XV.Chapter 4, Appendix B, Table II, except as authorized pursuant to LAC 33:XV.422.B or 461. For purposes of this Subsection, concentrations may be averaged over a period not greater than one year. Every reasonable effort should be made to maintain releases of radioactive material to unrestricted areas as far below these limits as is reasonably achievable. Records of intentional releases shall be maintained for two years for inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421

(November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 10. Notices, Instructions, and Reports to Workers; Inspections

§1001. Purpose and Scope

This Chapter establishes requirements for notices, instructions, and reports by licensees or registrants to individuals engaged in work under a license or registration and options available to such individuals in connection with department inspections of licensees or registrants to ascertain compliance with the provisions of the act and regulations, orders, and licenses issued thereunder regarding radiological working conditions. The regulations in this Chapter apply to all persons who receive, possess, use, own, or transfer sources of radiation licensed or registered pursuant to LAC 33:XV.Chapters 2 and 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1011. Posting of Notices to Workers

[See Prior Text in A-B]

C. Form DRC-3, "Notice to Employees, " shall be posted by each licensee or registrant as required by LAC 33:XV. Form DRC-3 will be furnished by the department on request.

[See Prior Text in D-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1013. Notifications and Reports to Individuals

[See Prior Text in A-C]

D. When a licensee or registrant is required, in accordance with LAC 33:XV.486, 487, or 488, to report to the department any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee or the registrant shall also provide the individual a written report on his or her exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the department.

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1014. Presence of Representatives of Licensees or Registrants and of Workers During Inspection

A. Each licensee or registrant shall afford to the department, at all reasonable times, opportunity to inspect materials, machines, activities, facilities, premises, and records pursuant to LAC 33:XV.

B. During an inspection, department inspectors may consult privately with workers as specified in LAC 33:XV.1015. The licensee or registrant, or his or her representative, may accompany department inspectors during other phases of an inspection.

C. If, at the time of inspection, an individual has been authorized by the workers to represent them during department inspections, the licensee or registrant shall notify the inspectors of such authorization and shall give the workers= representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

* * *

[See Prior Text in D-E]

F. With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany department inspectors during the inspection of physical working conditions.

G. Notwithstanding the other provisions of this Section, department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1015. Consultation With Workers During Inspections

A. Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of the Louisiana Radiation Protection Regulations (LAC 33:XV) and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

* * *

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1016. Requests by Workers for Inspections

A. Any worker or representative of workers believing that a violation of the act, LAC 33:XV, or license conditions exists or has occurred in work under a license or registration

with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the Office of Environmental Compliance, Surveillance Division. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving such notice, such worker's name and the names of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the department, except for good cause shown.

B. If, upon receipt of such notice, the department determines that the complaint meets the requirements set forth in LAC 33:XV.1016.A and that there are reasonable grounds to believe that the alleged violation exists or has occurred, the department shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections performed pursuant to this Section need not be limited to matters referred to in the complaint.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1017. Inspections Not Warranted: Informal Review

* * *

[See Prior Text in A]

1. If the department determines, with respect to a complaint filed under LAC 33:XV.1016, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists, is occurring, or has occurred, the department shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the administrative authority, who will provide the licensee or registrant with a copy of such statement by certified mail, return receipt requested, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Office of Environmental Compliance, Surveillance Division that will provide the complainant with a copy of such statement by certified mail, return receipt requested.

2. Upon the request of the complainant, the administrative authority may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the administrative authority shall affirm, modify, or reverse the determination of the department and furnish the complainant and the licensee or registrant a written notification of his or her decision and the reason therefore.

B. Requirements of LAC 33:XV.1016.A Not Met. If the department determines that an inspection is not warranted because the requirements of LAC 33:XV.1016.A have not been met, it shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of LAC 33:XV.1016.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 11. Radiation Safety Requirements for Radioactive Mineral Tailings and Industrial By-Product Piles

§1102. Specific Requirements for Tailings, Piles and Ponds

Unless specifically provided otherwise by the secretary, the following requirements for tailing, pile and pond areas shall be fulfilled:

A. Access to such areas shall be controlled and posted as specified by the department.

* * *

[See Prior Text in B-C]

D. With the exception of reprocessing at the site, approval by the department must be obtained prior to removal of any material from these areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1103. Sale or Transfer of the Site

The Office of Environmental Services, Permits Division shall be given written notice 30 days in advance of any contemplated transfer of right, title or interest in the site by deed, lease or other conveyance. The written notice shall contain the name and address of the proposed purchaser or transferee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1104. Abandonment of the Site

Prior to abandonment of the site, the requirements of this Section shall be fulfilled.

* * *

[See Prior Text in A-C]

D. Detailed plans for compliance with LAC 33:XV.1104.A, B and C shall be submitted to the Office of Environmental Services, Permits Division for review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1105. Waiver

Upon application to the administrative authority, certain requirements of this Chapter may be waived or modified if it can be shown that the requirements are unnecessary or impractical in specific cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter A. General Provisions

§1301. Purpose and Scope

A. The regulations in this Chapter establish procedures, criteria, and terms and conditions upon which the department issues licenses for the land disposal of wastes received from other persons. [Applicability of the requirements in this Chapter to department licenses for waste disposal facilities in effect on the effective date of this regulation will be determined on a case-by-case basis and implemented through terms and conditions of this Chapter are in addition to, and not in substitution for, other applicable requirements of these regulations].

* * *

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1303. License Required

A. No person may receive, possess, and dispose of radioactive waste containing source, special nuclear or byproduct material at a land disposal facility unless authorized by a license issued by the department pursuant to this Chapter, and Chapter 3 of these regulations.

B. Each person shall file an application with the Office of Environmental Services, Permits Division pursuant to LAC 33:XV.324 of these regulations and obtain a license as provided in this Chapter before commencement of construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1309. Institutional Information

The institutional information submitted to the Office of Environmental Services, Permits Division by the applicant shall include:

* * *

[See Prior Text in A-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1311. Requirements for Issuance of a License

A license for the receipt, possession, and disposal of waste containing or contaminated with radioactive material will be issued by the department upon finding that:

* * *

[See Prior Text in A-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1312. Conditions of Licenses

A. A license issued under this Chapter, or any right thereunder, may be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, only if the department finds, after securing full information, that the transfer is in accordance with the provisions of the Act and gives its consent in writing in the form of a license amendment.

B. The licensee shall submit written statements under oath upon request of the department, at any time before termination of the license, to enable the department to determine whether the license should be modified, suspended, or revoked.

C. The license will be transferred to the site owner only on the full implementation of the final closure plan as approved by the department, including post-closure observation and maintenance.

D. The licensee shall be subject to the provisions of the Act now or hereafter in effect, and to all rules, regulations, and orders of the department. The terms and conditions of the license are subject to amendment, revision, or modification, by reason of amendments to, or by reason of rules, regulations, and orders issued in accordance with the terms of the Act.

E. Each person licensed by the department pursuant to the regulations in this Chapter shall confine possession and use of materials to the locations and purposes authorized in the license.

F. The licensee shall not dispose of waste until the department has inspected the land disposal facility and has found it to be in conformance with the description, design, and construction described in the application for a license.

G. The department may incorporate in any license at the time of issuance, or thereafter, by appropriate rule, regulation or order, additional requirements and conditions with respect to the licensee's receipt, possession, and disposal of waste as it deems appropriate or necessary in order to:

* * *

[See Prior Text in G.1-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1313. Application for Renewal or Closure

* * *

[See Prior Text in A]

B. Applications for renewal of a license must be filed in accordance with LAC 33:XV.1305-1310. Applications for closure must be filed in accordance with LAC 33:XV.1314. Information contained in previous applications, statements, or reports filed with the department under the license may be incorporated by reference if the references are clear and specific.

C. In any case in which a licensee has filed an application in proper form for renewal of a license, the license does not expire until the department has taken final action on the application for renewal.

D. In determining whether a license will be renewed, the department will apply the criteria set forth in LAC 33:XV.1311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1314. Contents of Application for Site Closure and Stabilization

A. Prior to final closure of the disposal site, or as otherwise directed by the department, the applicant shall submit an application to the Office of Environmental Services, Permits Division to amend the license for closure. This closure application shall include a final revision and specific details of the disposal site closure plan included as part of the license application submitted under LAC 33:XV.1307.G that includes each of the following:

* * *

[See Prior Text in A.1-4]

B. Upon review and consideration of an application to amend the license for closure submitted in accordance with LAC 33:XV.1314.A., the department shall issue an amendment authorizing closure if there is reasonable assurance that the long-term performance objectives of this Chapter will be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1315. Postclosure Observation and Maintenance

The licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal site until the site closure is complete and the license is transferred by the department in accordance with LAC 33:XV.1316. Responsibility for the disposal site must be maintained by the licensee for five years. A shorter or longer time period for postclosure observation and maintenance may be established and approved as part of the site closure plan, based on site-specific conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1316. Transfer of License

Following closure and the period of postclosure observation and maintenance, the licensee may apply for an

amendment to transfer the license to the disposal site owner. The license shall be transferred when the department finds:

[See Prior Text in A-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1317. Termination of License

[See Prior Text in A-B]

C. A license shall be terminated only when the department finds:

[See Prior Text in C.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Technical Requirements for Land Disposal Facilities

§1323. Disposal Site Suitability Requirements for Land Disposal

A. Disposal Site Suitability for Near-Surface Disposal. The primary emphasis in disposal site suitability is given to isolation of wastes and to disposal site features that ensure that the long-term performance objectives are met.

[See Prior Text in A.1-5]

6. This disposal site shall provide sufficient depth to the water table that ground water intrusion, perennial or otherwise, into the waste will not occur. The department will consider an exception to this requirement to allow disposal below the water table if it can be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives being met. In no case will waste disposal be permitted in the zone of fluctuation of the water table.

[See Prior Text in A.7-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1325. Land Disposal Facility Operation and Disposal Site Closure

A. Near-Surface Disposal Facility Operation and Disposal Site Closure

[See Prior Text in A.1-11]

12. Proposals for disposal of waste that is not generally acceptable for near-surface disposal because the waste form and disposal methods must be different and, in general, more stringent than those specified for Class C waste, may be submitted to the Office of Environmental Services, Permits Division for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1327. Alternative Requirements for Design and Operations

The department may, upon request or on its own initiative, authorize provisions other than those set forth in LAC 33:XV.1324 - 1326 for the segregation and disposal of waste and for the design and operation of a land disposal facility on a specific basis, if it finds reasonable assurance of compliance with the performance objectives of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1328. Institutional Requirements

[See Prior Text in A]

B. Institutional Control. The land owner or custodial agency shall conduct an institutional control program to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program shall also include, but not be limited to, conducting an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, and other requirements as determined by the department, and administration of funds to cover the costs for these activities. The period of institutional controls will be determined by the department, but institutional controls may not be relied upon for more than 100 years following transfer of control of the disposal site to the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Financial Assurances

§1331. Funding for Disposal Site Closure and Stabilization

[See Prior Text in A-A.1]

2. closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance, and monitoring are required.

These assurances shall be based on department approved cost estimates reflecting the department approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

B. In order to avoid unnecessary duplication and expense, the department will accept financial sureties that have been consolidated with earmarked financial or surety arrangements established to meet requirements of federal or other state agencies [and/or local governmental bodies] for

such decontamination, closure, and stabilization. The department will accept these arrangements only if they are considered adequate to satisfy the requirements of LAC 33:XV.1331 and that the portion of the surety which covers the closure of the disposal site is clearly identified and committed for use in accomplishing these activities.

C. The licensee's financial or surety arrangement shall be submitted annually for review by the Office of Management and Finance, Financial Services Division to assure that sufficient funds will be available for completion of the closure plan.

* * *

[See Prior Text in D]

E. The financial or surety arrangement shall be written for a specified period of time and shall be automatically renewed unless the person who issues the surety notified the Office of Management and Finance, Financial Services Division, the beneficiary [the site owner], and the principal [the licensee] not less than 90 days prior to the renewal date of its intention not to renew. In such a situation, the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the department, the beneficiary may collect on the original surety.

* * *

[See Prior Text in F]

G. Financial or surety arrangements generally acceptable to the department include surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and combinations of the above or such other types of arrangements as may be approved by the department. Self-insurance, or any arrangement which essentially constitutes self-insurance, will not satisfy the surety requirement for private sector applicants.

H. The licensee's financial or surety arrangement shall remain in effect until the closure and stabilization program has been completed and approved by the department, and the license has been transferred to the site owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1332. Financial Assurances for Institutional Controls

A. Prior to the issuance of the license, the applicant shall provide for Office of Management and Finance, Financial Services Division approval, a binding arrangement, between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. The binding arrangement shall be reviewed annually by the department to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements.

B. Subsequent changes to the binding arrangement specified in Subsection A of this Section relevant to institutional control shall be submitted to the Office of Management and Finance, Financial Services Division for prior approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Records, Reports, Tests and Inspections §1333. Maintenance of Records, Reports and Transfers

A. Each licensee shall maintain any records and make any reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regulations, and orders of the department.

B. Records which are required by these regulations or by license conditions shall be maintained for a period specified by the appropriate regulations or by license condition. If a retention period is not otherwise specified, these records must be maintained and transferred to the officials specified in LAC 33:XV.1333.D as a condition of license termination unless the department otherwise authorizes their disposition.

* * *

[See Prior Text in C]

D. Notwithstanding Subsections A-C of this Section, copies of records of the location and the quantity of radioactive wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the state governor, and other state, local, and federal governmental agencies as designated by the department at the time of license termination.

E. Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the date that the shipment is received at the disposal facility, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste packages as received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or on-site generated materials that are contaminated and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in U.S. Department of Transportation and department regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the department as a license condition. The licensee shall retain these records until the department transfers or terminates the license that authorizes the activities described in this Section.

F. Each licensee authorized to dispose of waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Office of Management and Finance, Financial Services Division in order to update the information base for determining financial qualifications.

G. Each licensee authorized to dispose of waste received from other persons, in accordance with this Chapter, shall submit annual reports to the Office of Environmental Compliance, Surveillance Division. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

* * *

[See Prior Text in G.1-1.e]

f. any other information the department may require.

* * *

[See Prior Text in G.2]

H. If there is a conflict between the department's regulations in this Chapter, license condition, or other written department approval or authorization pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

* * *

[See Prior Text in I-J.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1334. Tests on Land Disposal Facilities

Each licensee shall perform, or permit the department to perform, any tests the department deems appropriate or necessary for the administration of the regulations in this Chapter, including, but not limited to, tests of:

* * *

[See Prior Text in A-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1335. Department Inspections of Land Disposal Facilities

A. Each licensee shall afford to the department at all reasonable times opportunity to inspect waste not yet disposed of, and the premises, equipment, operations, and facilities in which wastes are received, possessed, handled, treated, stored, or disposed of.

B. Each licensee shall make available to the department for inspection, upon reasonable notice, records kept by it pursuant to these regulations. Authorized representatives of the department may copy and take away copies of, for the division's use, any record required to be kept pursuant to these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

§1404. Exemptions

* * *

[See Prior Text in A-C.2]

D. The department may on a case by case basis approve alternate limits or measurement procedures for an exemption under LAC 33:XV:1404.A, B, or C.

E. Persons who receive source material, as authorized under the general license in LAC 33:XV.321.A, and products or materials containing NORM, distributed in accordance with a specific license issued by the department or an equivalent license issued by another licensing state, are exempt from these regulations.

* * *

[See Prior Text in F-J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 21:25 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1407. Surveys

* * *

[See Prior Text in A-B]

C. Upon completion of survey(s) of equipment and facilities that verify that NORM regulated by this Chapter is not present, an individual may submit documentation to the Office of Environmental Services, Permits Division indicating that the equipment and facilities are exempt from the requirements of this Chapter pursuant to LAC 33:XV.1404.

D. Any survey submitted to the department must include the qualifications of the individual performing the survey. Individuals performing and documenting the surveys shall demonstrate understanding of the subjects outlined in Appendix A of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1408. General License

* * *

[See Prior Text in A]

1. Persons subject to the general license shall notify the Office of Environmental Services, Permits Division by filing the Notification of NORM Form (Form RPD-36) with the department.

2. A confirmatory survey showing the presence of NORM in excess of exempt levels provided in LAC 33:XV.1404 shall be submitted to the Office of Environmental Services, Permits Division.

3. Each general licensee performing on-site maintenance on contaminated facilities, sites, or equipment or the excavation of land shall establish and submit to the Office of Environmental Services, Permits Division for approval written procedures as outlined in Appendix B of this chapter to ensure worker protection and for the survey (or screening) of sites and equipment.

* * *

[See Prior Text in A.4]

5. Each general licensee shall establish and submit to the Office of Environmental Services, Permits Division for approval written procedures for the survey (or screening) of sites and equipment to ensure that NORM is not released for

unrestricted use except under the provisions of LAC 33:XV.1417.

* * *

[See Prior Text in A.6-6.a]

b. To store NORM waste in a container for up to 365 days from generation, a general licensee must first submit a written NORM waste management plan to the Office of Environmental Services, Permits Division and receive authorization from the department. The general licensee may store NORM waste in containers up to 365 days from generation under the written NORM waste management plan while waiting for department determination.

* * *

[See Prior Text in A.7-B]

C. The decontamination for release for unrestricted use of contaminated facilities, sites, or equipment shall only be performed by persons specifically licensed by the department, the U.S. Nuclear Regulatory Commission, another agreement state, or another licensing state to conduct such work or as otherwise authorized by the department.

* * *

[See Prior Text in D-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1410. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards

* * *

[See Prior Text in A-A.1]

2. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to screen incoming shipments to ensure that the 50-microrentgens-per-hour limit is not exceeded for individual pieces of tubular goods or equipment;

3. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to ensure worker protection, as outlined in Appendix B of this Chapter;

4. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to control soil contamination;

5. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval to prevent release of NORM contamination beyond the site boundary;

6. a program is developed and submitted to the Office of Environmental Services, Permits Division for approval for surveying and decontamination to ensure that soil contamination is not allowed to exceed 200 picocuries per gram of radium-226 or radium-228 or an exposure rate of 50 microrentgens per hour at one meter from the soil at any time;

7. a plan for cleanup is submitted to the Office of Environmental Services, Permits Division within 180 days of the effective date of these regulations for existing facilities that have NORM contaminated soil in excess of the limit in LAC 33:XV.1410.A.6. The plan shall include a schedule for cleanup that is to be approved by the

department. The general licensee may include in this plan an application to the department for a one time authorization to perform this cleanup or use a specific licensee; and

* * *

[See Prior Text in A.8-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1412. Treatment, Transfer, and Disposal

* * *

[See Prior Text in A-B]

1. by transfer of the wastes to a land disposal facility licensed by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state;

2. by alternate methods authorized by the department in writing upon application or upon the department's initiative. The application for alternative methods of disposal shall be submitted to the department for approval;

* * *

[See Prior Text in B.3-3.c]

4. for nonhazardous oilfield waste containing concentrations of NORM in excess of the limits in LAC 33:XV.1404.A.1, but not exceeding 200 picocuries per gram of radium-226 or radium-228 and daughter products, by treatment at nonhazardous oilfield waste commercial facilities specifically licensed by the department for such purposes. Regulation of such sites is set forth in a memorandum of understanding between the department and DNR and contained in Appendix C of this Chapter.

C. Intrastate transfers of waste containing NORM for disposal shall be made only to persons authorized by the department in writing to receive such waste. It is the responsibility of the transferor to ascertain that the recipient possesses specific authorization prior to transfer.

* * *

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), amended LR 21:27 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1414. Containers

* * *

[See Prior Text in A-F]

G Records of inspections pursuant to LAC 33:XV.1414.E shall be maintained by the licensee for inspection by the department for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:27 (January 1995), amended by the Office of

§1417. Release for Unrestricted Use

[See Prior Text in A-A.3]

B. If closure activities involve construction with a subsurface impact to a depth greater than three feet, prior approval by the Office of Environmental Assessment, Technology Division must be attached as part of the application addressing the certification of the groundwater quality. All pits, ponds, and lagoons must comply with departmental regulations and/or policies dealing with groundwater quality.

C. Unless otherwise directed in writing by the department, in order to release property for unrestricted use, a licensee shall submit a plan for the decontamination to the Office of Environmental Services, Permits Division for approval. Upon approval, the licensee shall implement the plan in accordance with such approval.

1. Information contained in previous applications, statements, or reports filed with the department under the license may be incorporated by reference if the references are clear and specific.

2. The plan shall provide for a confirmatory survey submitted to the department for review.

3. The licensee shall provide notice to the department of completion of decontamination. Upon proper completion of the plan and notice to the department, the department shall acknowledge such completion.

[See Prior Text in C.4-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1418. NORM Manifests

[See Prior Text in A]

B. The manifest form must be obtained from the department and must consist of, at a minimum, the number of copies that will provide the licensee, each transporter, and the operator of the designated facility with one copy each for their records with the remaining copies to be returned to the licensee and the other appropriate parties.

[See Prior Text in C-C.6]

7. The licensee receiving a shipment is required to report to the Office of Environmental Services, Permits Division and to the licensee initiating the shipment any irregularities between the NORM actually received by the designated facility and the NORM described on the manifest, or any other irregularities, within 15 days. If the designated facility or receiving licensee is outside the state of Louisiana, the generating or originating licensee must report the irregularities to the department.

[See Prior Text in D-D.1]

a. a state manifest document which shall be obtained from the department;

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

a. notify the Office of Environmental Compliance, Surveillance Division in writing within seven days;

[See Prior Text in E.3.b]

c. report the results of the investigation to the Office of Environmental Compliance, Surveillance Division.

[See Prior Text in F-F.3.c]

G Designated Facility. The designated facility should fill out his portion, retain a copy for his files, submit the original to the department, and send all remaining copies to the licensee no later than 15 days after delivery of the NORM waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:608 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1420. Financial Security Requirements for NORM Treaters or Storer

A. Each general licensee that stores NORM or NORM waste for greater than 90 days, and each specific licensee that leases or owns a physical location and that physically or chemically treats or stores NORM or NORM waste shall post with the department financial security to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness of the licensee to meet the requirements of the Act and these rules. Financial security shall:

1. name the department as beneficiary with a bond issued by a fidelity or surety company authorized to do business in Louisiana, a personal bond secured by such collateral as the department deems satisfactory, a cash bond, a liability endorsement, or a letter of credit. The amount of the bond, liability endorsement, or letter of credit shall be equal to or greater than the amount of the security required. Any security must be available in Louisiana and subject to judicial process and execution in the event required for the purposes set forth in this Section, and be continuous for the term of the license;

2. be in an amount based upon a department-approved cost estimates plan for decontamination, decommissioning, restoration, and reclamation of buildings, equipment, and the site to levels that would allow unrestricted use;

[See Prior Text in A.3-B]

C. On the effective date of these rules, current licenses in effect may continue, provided that the required security arrangements are submitted to the Office of Management and Finance, Financial Services Division within 120 days.

D. No later than 90 days after the licensee notifies the department that decontamination and decommissioning have been completed, the department shall determine if these have been conducted in accordance with these rules. If the department finds that the requirements have been met, the secretary or his designee shall direct the return or release of

the licensee's security in full plus any accumulated interest within 14 days. If the department finds that the requirements have not been met, the department will notify the licensee of the steps necessary for compliance.

* * *

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix B

Detailed development of the following must be included in the required worker protection plan:

* * *

[See Prior Text in I-VII]

For operations that have the potential to produce NORM contaminated dusts (i.e., cutting, grinding, sand-blasting, welding, drilling, polishing, or handling soil) or when loose contamination is suspected, the following additional precautions shall be taken:

* * *

[See Prior Text in I-V]

In addition to the general guidance given above, there may be industrial operations such as vessel entry, dismantling of equipment, refurbishing of equipment, or transportation, which may require additional precautionary procedures which should be included in the worker protection procedures submitted to the department.

Appendix C

Memorandum Of Understanding
Between Louisiana Department Of Natural Resources
Office Of Conservation

And

Louisiana Department Of Environmental Quality
Regarding
The Regulation Of Naturally Occurring Radioactive
Material

At Commercial Oilfield Waste Treatment Facilities

WHEREAS, the Louisiana Department of Natural Resources, Office of Conservation (DNR/OC), is authorized by State law and regulations to control the permitting, operation, and closure of commercial nonhazardous oilfield waste (NOW) disposal facilities in Louisiana, and,

WHEREAS, the Louisiana Department of Environmental Quality (DEQ) is authorized by state law and regulations to control the management and disposal of naturally occurring radioactive material (NORM), and,

WHEREAS, certain types of NOW have been recognized as occasionally containing levels of NORM that may warrant protection of public health and the environment, and,

WHEREAS, it is in the public interest for both agencies to coordinate their resources in order to provide adequate protection of public health and the environment and to avoid duplicative regulatory efforts and unnecessary expenses to DNR/OC and DEQ, the regulated community and the citizens of this state.

* * * * *

THEREFORE, the following memorandum of understanding is hereby adopted to outline the specific responsibilities of each agency regarding the regulation of NORM treatment at commercial NOW facilities which are permitted and regulated under the jurisdiction of the Office of Conservation:

* * *

[See Prior Text in I-8]

This Memorandum Of Understanding is subject to revision or cancellation upon agreement of both parties.

**Chapter 15. Transportation of Radioactive Material
§1504. Requirement for License**

No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the department or as exempted in LAC 33:XV.1505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1507. General Licenses for Carriers

A. A general license is hereby issued to any common or contract carrier not exempt under LAC 33:XV.1505 to receive, possess, transport, and store radioactive material in the regular course of their carriage for another or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Any notification of incidents referred to in those U.S. Department of Transportation requirements shall be filed with, or made to, the:

Office of Environmental Compliance
by telephone at (225) 765-0160.

B. A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Any notification of incidents referred to in those U.S. Department of Transportation requirements shall be filed with, or made to, the:

Office of Environmental Compliance,
by telephone at (225) 765-0160.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1515. Reports

A. The licensee shall report to the Office of Environmental Compliance, Surveillance Division within 30 days:

* * *

[See Prior Text in A.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:

§1516. Advance Notification of Transport of Nuclear Waste

* * *

[See Prior Text in A-C.6]

D. The notification required by LAC 33:XV.1516.A shall be made in writing to the office of each appropriate governor or governor's designee and to the Office of Environmental Compliance, Surveillance Division. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

E. The licensee shall notify each appropriate governor, or governor's designee, and the Office of Environmental Compliance, Surveillance Division of any changes to schedule information provided in accordance with Subsection A of this Section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Office of Environmental Compliance, Surveillance Division. A copy of the notice shall be retained by the licensee for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 26:

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1705. License Required

No person shall manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for use in an irradiator, except in accordance with a specific license issued by the department, the Nuclear Regulatory Commission, or an agreement state. Specific license application procedures and requirements may be found in LAC 33:XV.Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1707. Start of Construction

An applicant for a license shall not begin construction of a new irradiator prior to the submission to the Office of Environmental Services, Permits Division of both an application for a license for the irradiator and any fee required by the applicable state requirement or statute. As used in this Chapter, the term *construction* includes the construction of any portion of the permanent irradiator structure on the site but does not include engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures, and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of the appropriate state statute, rules, regulations, and orders issued under the appropriate state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1709. Applications for Exemptions

Any application for a license or for amendment of a license authorizing use of a teletherapy-type unit for irradiation of materials or objects may include proposed alternatives for the requirements of this Chapter. The department shall approve the proposed alternatives if the applicant provides adequate rationale for the proposed alternatives and demonstrates that they are likely to provide an adequate level of safety for workers and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1711. Request for Written Statements

Each license is issued with the condition that the licensee shall, at any time before expiration of the license and upon the department's request, submit a written statement to the Office of Environmental Services, Permits Division to enable the department to determine whether the license should be modified, suspended, or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1713. Performance Criteria for Sealed Sources

* * *

[See Prior Text in A]

1. shall have been evaluated by the department, the Nuclear Regulatory Commission, or an agreement state in accordance with 10 CFR 32.210;

* * *

[See Prior Text in A.2-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1737. Operating and Emergency Procedures

[See Prior Text in A-B.10]

C. The licensee may revise operating and emergency procedures without department approval only if all of the following conditions are met:

[See Prior Text in C.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2118 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1743. Detection of Leaking Sources

A. Each dry-source-storage sealed source shall be tested for leakage at intervals not to exceed six months using a leak test kit or method approved by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state. In the absence of a certificate from a transferor that a test has been made within the six months before the transfer, the sealed source shall not be used until tested. The test shall be capable of detecting the presence of 200 becquerels (0.005 μ Ci) of radioactive material and shall be performed by a person approved by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state to perform the test.

[See Prior Text in B]

C. If a leaking source is detected, the licensee shall arrange to remove the leaking source from service and have it decontaminated, repaired, or disposed of by a licensee that is authorized to perform these functions by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state. The licensee shall promptly check its personnel, equipment, facilities, and irradiated product for radioactive contamination. No product shall be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have been inadvertently contaminated, the licensee shall arrange to locate and survey that product for contamination. If any personnel are found to be contaminated, decontamination shall be performed promptly. If contaminated equipment, facilities, or products are found, the licensee shall arrange to have them decontaminated or disposed of by a licensee that is authorized to perform these functions by the department, the Nuclear Regulatory Commission, an agreement state, or a licensing state. If a pool is contaminated, the licensee shall arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in LAC 33:XV.Chapter 4.Appendix B.Table II, Column 2. The licensee shall report all incidents in accordance with LAC 33:XV.486.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2119 (November

1998), repromulgated LR 24:2243 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1753. Irradiation of Explosive or Flammable Materials

A. Irradiation of explosive material is prohibited unless the licensee has received prior written authorization from the department. Authorization shall not be granted unless the licensee can demonstrate that detonation of the explosive would not rupture the sealed sources, injure personnel, damage safety systems, or cause radiation overexposures of personnel.

B. Irradiation of more than small quantities of flammable material with a flash point below 140°F is prohibited in panoramic irradiators, unless the licensee has received prior written authorization from the department. Authorization shall not be granted unless the licensee can demonstrate that a fire in the radiation room could be controlled without damage to sealed sources or safety systems and without radiation overexposures of personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§1755. Records and Retention Periods

[See Prior Text in A-A.2]

3. a copy of the current operating and emergency procedures required by LAC 33:XV.1737 until superseded or the department terminates the license. Records of the radiation safety officer's review and approval of changes in procedures, as required by LAC 33:XV.1737.C.3, shall be retained for three years from the date of the change;

[See Prior Text in A.4-B]

1. a copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the department terminates the license for documents not superseded;

2. film badge and TLD results required by LAC 33:XV.1739 until the department terminates the license;

[See Prior Text in B.3-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2013. Radiation Survey Instruments

[See Prior Text in A-B.3]

C. Calibration records shall be kept and maintained for a period of two years for inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2014. Leak Testing of Sealed Sources

A. Requirements. Each licensee using sealed sources of radioactive material shall have the sources tested for leakage. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department two years after the next required leak test is performed or until transfer or disposal of the sealed source.

B. Method of Testing. Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination, and the analysis shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

* * *

[See Prior Text in C]

D. Leaking or Contaminated Source. If the test reveals the presence of 0.005 microcurie (185 Bq) or more of leakage or contamination, the licensee shall immediately withdraw the source from use and shall cause it to be decontaminated, repaired, or disposed of in accordance with these regulations. A report describing the equipment involved, the test results, and the corrective action taken shall be filed in writing with the Office of Environmental Compliance within 30 days of discovery of a leaking or contaminated source.

* * *

[See Prior Text in E-E.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2015. Quarterly Inventory

Each licensee or registrant shall conduct a quarterly physical inventory to account for all sources of radiation. Records of inventories shall be kept and maintained for two years from the date of the inventory for inspection by the department and shall include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of inventory, and the name of the individual conducting the inventory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2016. Utilization Records

A. Each licensee or registrant shall maintain current records, which shall be kept available for inspection by the department for two years from the date of the recorded event, showing the following information for each source of radiation:

* * *

[See Prior Text in A.1-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations

A. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations and manufactured after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the department, to meet the following minimum criteria:

* * *

[See Prior Text in A.1-B]

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the department, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

D. Certification documents shall be kept and maintained for inspection by the department for a period of two years after source disposal. If the source is abandoned downhole, the certification documents shall be maintained until the department authorizes disposition in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2019. Inspection and Maintenance

A. Each licensee or registrant shall conduct, at intervals not to exceed six months, a program of inspection and maintenance of source-holders, logging tools, source-handling tools, storage containers, transport containers, and injection tools to assure proper labeling and physical condition. Records of inspection and maintenance shall be kept and maintained for a period of two years for inspection by the department.

* * *

[See Prior Text in B]

C. The repair, opening, or modification of any sealed source shall be performed only by persons specifically authorized to do so by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter A. Requirements for Personnel Safety
§2020. Training Requirements

* * *

[See Prior Text in A]

1. received, in a course recognized by the department, the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, instruction in the subjects outlined in Appendix A of this Chapter and demonstrated an understanding thereof;

* * *

[See Prior Text in A.2-B.2]

C. The licensee or registrant shall keep and maintain employee training records for inspection by the department for two years following termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2022. Personnel Monitoring

* * *

[See Prior Text in A]

B. Personnel monitoring records shall be maintained for inspection until the department authorizes disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter B. Precautionary Procedures in Logging and Subsurface Tracer Operations

§2033. Subsurface Tracer Studies

* * *

[See Prior Text in A]

B. No licensee shall cause the injection of radioactive material into potable aquifers without prior written authorization from the department and any other appropriate state agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Radiation Surveys and Records

§2041. Radiation Surveys

* * *

[See Prior Text in A-D]

E. Records required pursuant to LAC 33:XV.2041.A-D shall include the dates, the identification of individual(s) making the survey, the identification of survey instrument(s) used, and an exact description of the location of the survey. Records of these surveys shall be kept and maintained for inspection by the department for two years after completion of the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2042. Documents and Records Required at Field Stations

A. Each licensee or registrant shall keep and maintain, for inspection by the department, the following documents and records for the specific devices and sources used at the field station:

* * *

[See Prior Text in A.1-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2043. Documents and Records Required at Temporary Jobsites

A. Each licensee or registrant conducting operations at a temporary jobsite shall have the following documents and records available at that site for inspection by the department:

* * *

[See Prior Text in A.1-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Notification

§2051. Notification of Incidents, Abandonment, and Lost Sources

A. The licensee shall immediately notify the Office of Environmental Compliance by telephone at (225) 765-0160 and subsequently within 30 days by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured. The letter must designate the well or other location, describe the magnitude and extent of the release of licensed materials, assess the consequences of the rupture, and explain efforts planned or being taken to mitigate these consequences.

* * *

[See Prior Text in B-B.1]

2. notify the Office of Environmental Compliance immediately by telephone at (225) 765-0160 if radioactive contamination is detected at the surface or if the source

appears to be damaged and provide a follow-up written report to the department within 30 days of detection.

[See Prior Text in C-C.1.c]

2. notify the Office of Environmental Compliance by telephone at (225) 765-0160 giving the circumstances of the loss, and request approval of the proposed abandonment procedures; and

3. file a written report with the Office of Environmental Compliance, or e-mail at surveillance@deq.state.la.us within 30 days of the abandonment, setting forth the following information:

[See Prior Text in C.3.a-D.2.g]

h. an appropriate warning, depending on the specific circumstances of each abandonment. Appropriate warnings may include "Do not drill below plug back depth"; "Do not enlarge casing"; or "Do not re-enter the hole," followed by the words, "before contacting the Department of Environmental Quality."

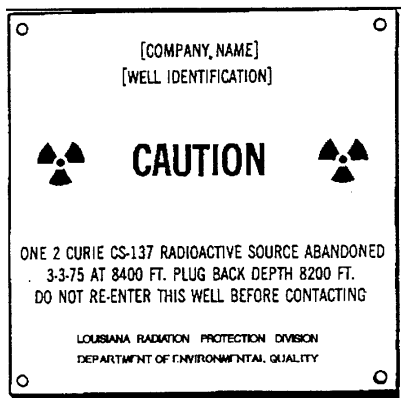
E. The licensee shall notify the department of the theft or loss of radioactive materials, radiation overexposure, excessive levels and concentrations of radiation or radioactive materials, and certain other accidents as required by LAC 33:XV.341, 485, 486, and 487.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:555 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix B

Example of Plaque for Identifying Wells Containing Sealed Sources of Radioactive Material Abandoned Downhole



[Editor's Note: The text "Louisiana Radiation Protection Division" should be deleted from the above plaque graphic.]

The size of the plaque should be convenient for use on active or inactive wells, e.g., a 7-inch square. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information, e.g., 1/2-inch and 1/4-inch letter size, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 25. Fee Schedule

§2505. Annual Fees

All activities for which an annual fee is provided shall be subject to the payment of such fee by the due date indicated on the invoice, except that any fee in excess of \$50,000, upon written application to, and approval of, the administrative authority, may be paid in installments over a period not to exceed six months, according to a payment schedule established by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2506. Reciprocal Agreements—Licenses and Registrants

Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit to the Office of Environmental Services, Permits Division the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license for one year from the date of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2507. Reimbursements

A. One-half of the annual fee will be reimbursed to the licensee or registrant upon receipt of a written request to terminate the license or registration, provided that the request has been received by the Office of Environmental Services, Permits Division within 180 days after the annual fee due date, and the fee has not been delinquent. Requests for termination of the license or registration received after 180 days of the annual fee due date will not entitle the licensee or registrant to reimbursement of any portion of the annual fee. No interest, legal or otherwise, will be paid on the funds withheld prior to reimbursement.

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2508. Determination of Fee

* * *

[See Prior Text in A-C]

D. Electronic products that are in storage are subject to the same initial application fee and annual maintenance fee unless the X-ray unit is rendered permanently incapable of producing radiation and this fact is documented in writing to the Office of Environmental Services, Permits Division.

* * *

[See Prior Text in E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000), LR 26:

Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
* * *		
[See Prior Text in I-VIII]		
IX. La. Radiation Protection Program Laboratory Analysis Fees		
Sample Type	Analysis	Unit Price
* * *		
[See Prior Text in A-H.*]		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS036. Such comments must be received no later than October 2, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS036.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Correct Organization Citations
Resulting From Reengineering of DEQ**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs to the state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no known effect on competition or employment.

James H. Brent, Ph.D. Assistant Secretary 0008#019	Robert E. Hosse General Government Section Director Legislative Fiscal Office
--	---

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Fluoroscopic X-Ray Systems (LAC 33:XV.605)

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 Radiation Protection regulations, LAC 33:XV.605 (Log #NE026*).

This proposed rule is identical to federal regulations found in 21 CFR 1020.32, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule;

therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule will relax requirements that are stricter than the federal requirements for exposure rate limits. It adds restrictions on equipment manufactured after May 19, 1995, when high level control is provided. This action will allow the state to become more compatible with the federal regulations. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 6. X-Rays in the Healing Arts

§605. Fluoroscopic X-ray Systems

A. All fluoroscopic x-ray systems shall be image intensified and meet the following requirements:

[See Prior Text in A.1 - 3.a.i]

(a). during recording of fluoroscopic images;

(b). when an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 roentgens (1.29 µC/kg) per minute at the point where the center of the useful beam enters the patient unless high level control is activated. Special means of activation of high level controls shall be required. The high level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed; or

(c). when optional high level control is provided on equipment manufactured after May 19, 1995. When so provided, the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 10 roentgens (2.58 µC/kg) per minute at the point where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level control shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator and the equipment shall not be operable at any combination of tube and current that will result in an exposure rate in excess of 20 roentgens (5.16 µC/kg) per minute at the point where the useful beam enters the patient. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

[See Prior Text in A.3.a.ii - 10.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE026*. Such comments must be received no later than September 25, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of NE026*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0008#024

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference Update, 40 CFR Part 63 (LAC 33:III.5116 and 5122)(AQ207*).

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 Air Quality regulations, LAC 33:III.5116 and 5122 (Log #AQ207*).

This proposed Rule is identical to federal regulations found in 40 CFR Part 63, July 1, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule incorporates by reference, into Chapter 51, additional federal regulations in 40 CFR Part 63,

National Emission Standards for Hazardous Organic Air Pollutants (NESHAP), as well as removes previous references to Federal Registers. The state of Louisiana has received delegation of authority from EPA to implement NESHAP by "straight" delegation, which requires that we incorporate into the LAC rules as promulgated by EPA without changes. Louisiana incorporated certain NESHAP regulations by reference on January 20, 1997. In agreement with the revised delegated authority mechanism and with EPA grant objectives, the department is now incorporating additional NESHAP regulations by reference. These changes will expedite both the EPA approval process and the state implementation of delegation of authority for the NESHAP program. The NESHAP and the authority for EPA to delegate authority of that program to the state is established in the Clean Air Act Amendments of 1990, Section 112. This rulemaking is applicable to stationary sources statewide. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR part 61, revised as of July 1, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the State of Louisiana.

40 CFR 61	Subpart/Appendix Heading
[See Prior Text in Subpart A - Appendix C]	

B. Corrective changes are made to 40 CFR part 61 subpart A, section 61.04(b)(T), to read as follows: State of Louisiana: Technical Support Section Program Manager, Permits Division, Office of Environmental Services, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135.

C. Copies of documents incorporated by reference in this Chapter are available for review at the Office of Environmental Services, Environmental Assistance Division Information Center, Louisiana Department of Environmental Quality, or may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR part 63, revised as of July 1, 1999, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	SUBPART/APPENDIX HEADING
[See Prior Text in Subpart A - Subpart Y]	
Subpart AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
Subpart BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
[See Prior Text in Subpart CC - Subpart GG]	
Subpart HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
[See Prior Text in Subpart II - Subpart RR]	
Subpart SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process
Subpart TT	National Emission Standards for Equipment Leaks - Control Level 1
Subpart UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
[See Prior Text in Subpart VV]	
Subpart WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
Subpart YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
Subpart CCC	National Emission Standards for Hazardous Air Pollutants For Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants
Subpart DDD	National Emission Standards for Hazardous Air Pollutants For Mineral Wool Production
[See Prior Text in Subpart EEE]	
Subpart GGG	National Emission Standards for Pharmaceuticals Production
Subpart HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
Subpart III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
[See Prior Text in Subpart JJJ]	
Subpart LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
Subpart MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
Subpart NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

Incorporation by Reference Update,
40 CFR Part 68 (LAC 33:IV.5901)

40 CFR 63	SUBPART/APPENDIX HEADING
Subpart PPP	National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production
Subpart TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
Subpart XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
[See Prior Text in Appendix A - Appendix D]	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999). amended by the Office of Environmental Assessment, Environmental Planning Division LR 26:690 (April 2000), LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ207*. Such comments must be received no later than September 25, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ207*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0008#025

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 Air Quality regulations, LAC 33:III.5901 (Log #AQ205*).

This proposed Rule is identical to federal regulations found in 40 CFR Part 68 through July 1, 1999, and 65 FR 13243-13250, Number 49, March 13, 2000, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed Rule incorporates by reference 40 CFR Part 68 through July 1, 1999, and 65 FR 13243-13250 air quality regulations. The federal regulation revises the list of regulated flammable substances to exclude those substances used as a fuel or held for sale as a fuel at a retail facility. This Rule will allow the facilities to comply with equivalent federal regulations. The basis and rationale for this proposed rule are to be equivalent to federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 59. Chemical Accident Prevention and
Minimization of Consequences**

Subchapter A. General Provisions

**§5901. Incorporation by Reference of Federal
Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1999), and as amended in 65 FR 13243-13250 (March 13, 2000).

* * *

[See Prior Text in B - C.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ205*. Such comments must be received no later than September 25, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ205*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0008#073

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**LPDES Stormwater Phase II Regulations
(LAC 33:IX.Chapter 23)**

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 Water Quality regulations, LAC 33:IX.Chapter 23 (Log #WP039*).

This proposed Rule is identical to federal regulations found in 64 FR 68772-68852, Number 64, December 8, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The Phase II stormwater regulations expand the existing Louisiana Pollutant Discharge Elimination System (LPDES)

stormwater program (Phase I) to address stormwater discharges from small municipal separate storm sewer systems (MS4s)(those serving less than 100,000 persons) and construction sites that disturb one to five acres. The regulations allow for the exclusion of certain sources based on a demonstration of the lack of impact on water quality, as well as the inclusion of others based on a higher likelihood of localized adverse impact on water quality. The regulations exclude from the LPDES program stormwater discharges from industrial facilities that have "no exposure" of industrial activities or materials to stormwater. Also, the deadline by which certain industrial facilities owned by small MS4s must obtain coverage under an LPDES permit is extended from August 7, 2001 until March 10, 2003. In order to fulfill the department's responsibility as defined in the existing Memorandum of Agreement between the LDEQ and the US EPA, the department is required to develop and maintain the legal authority (including state regulations) to carry out all aspects of the LPDES program. The basis and rationale for this proposed rule are to enable Louisiana to retain its authorization and ensure that effective stormwater management will be practiced by a larger portion of the state.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality Regulations

**Chapter 23. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program**

**Subchapter B. Permit Application and Special LPDES
Program Requirements**

§2341. Storm Water Discharges

A. Permit Requirement

* * *

[See Prior Text In A.1-8]

9. The state administrative authority may not require a permit for discharges of storm water as provided in Subsection A.2 of this Section or agricultural storm water runoff, which is exempted from the definition of point source at LAC 33:IX.2313 and 2315.

a. On and after October 1, 1994, for discharges composed entirely of storm water for which a permit is not required by Subsection A.1 of this Section, operators shall be required to obtain an LPDES permit only if:

i. the discharge is from a small MS4, as defined in Subsection B.17 of this Section, required to be regulated in accordance with LAC 33:IX.2347;

ii. the discharge is a storm water discharge associated with small construction activity in accordance with Subsection B.15 of this Section;

iii. either the state administrative authority or the EPA regional administrator determines that storm water controls are needed for the discharge based on wasteload allocations that are part of *total maximum daily loads* (TMDLs) that address the pollutant(s) of concern; or

iv. either the state administrative authority or the EPA regional administrator determines that the discharge, or

category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

b. Operators of small MS4s designated in accordance with Subsection A.9.a.i, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with LAC 33:IX.2348 - 2350. Operators of nonmunicipal sources designated in accordance with Subsection A.9.a.ii, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with Subsection C.1 of this Section.

c. Operators of storm water discharges designated in accordance with Subsection A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services, Permits Division for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the department.

B. Definitions

[See Prior Text in B.1-4]

a. located in an incorporated place with a population of 250,000 or more as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix F); or

[See Prior Text in B.4.b-7]

a. located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix G); or

[See Prior Text in B.7.b-14.i]

j. construction activity including clearing, grading, and excavation activities, except operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more; and

k. facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25.

15. Storm Water Discharge Associated with Small Construction Activity

a. the discharge from construction activities, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The state administrative authority may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

i. the value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street, SW, Washington, DC 20460. An operator must certify to the state administrative authority that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

ii. storm water controls are not needed based on a TMDL established by the department that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this Clause, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the state administrative authority that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis; or

b. the discharge from any other construction activity designated by the state administrative authority or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the state.

Exhibit 1. Summary of Coverage of "Storm Water Discharge Associated with Small Construction Activity" Under the LPDES Storm Water Program	
Automatic Designation: Required Coverage	Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres. Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five acres (see Subsection B.15.a of this Section).
Potential Designation: Optional Evaluation and Designation by the State Administrative Authority or EPA Regional Administrator	Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants (see Subsection B.15.b of this Section).
Potential Waiver: Waiver from Requirements as Determined by the State Administrative Authority	Any automatically designated construction activity where the operator certifies: (1) a rainfall erosivity factor of less than five, or (2) that the activity will occur within an area where controls are not needed based on a TMDL or, for nonimpaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern (see Subsection B.15.a of this Section).

16. Small Municipal Separate Storm Sewer System—a municipal separate storm sewer system that:

a. is owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or in accordance with state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;

b. is not defined as a *large* or *medium* municipal separate storm sewer system in accordance with Subsection B.4 and 7 of this Section, or designated under Subsection A.1.e of this Section; and

c. includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

17. *Small MS4*—a small municipal separate storm sewer system.

18. *Municipal Separate Storm Sewer System*—a separate storm sewer that is defined as a *large*, *medium*, or *small* municipal separate storm sewer system in accordance with Subsection B.4, 7, and 16 of this Section, or designated under Subsection A.1.e of this Section.

19. *MS4*—a municipal separate storm sewer system.

20. *Uncontrolled Sanitary Landfill*—a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established in accordance with subtitle D of the Solid Waste Disposal Act.

C. Application Requirements for Storm Water Discharges Associated with Industrial Activity and with Small Construction Activity

1. Individual Application. Dischargers of storm water associated with industrial activity and of storm water associated with small construction activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under Subsection A.1.e of this Section, and is not a municipal separate storm sewer, and that is not part of a group application described under Subsection C.2 of this Section, shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of the remainder of this Paragraph. Applicants for discharges composed entirely of storm water shall submit Form 1 and Form 2F. Applicants for discharges composed of storm water and non-storm water shall submit Form 1, Form 2C, and Form 2F. Applicants for new sources or new discharges (as defined in LAC 33:IX.2313) composed of storm water and non-storm water shall submit Form 1, Form 2D, and Form 2F.

* * *

[See Prior Text in C.1.a-a.vii]

b. The operator of an existing or new storm water discharge that is associated with industrial activity solely under Subsection B.14.j of this Section, or is associated with

small construction activity solely under Subsection B.15 of this Section, is exempt from the requirements of LAC 33:IX.2331.G and Subsection C.1.a of this Section. Such operator shall provide a narrative description of:

* * *

[See Prior Text In C.1.b.i-E]

1. Individual Applications

* * *

[See Prior Text in E.1.a]

b. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power plant, or uncontrolled sanitary landfill, the permit application must be submitted to the state administrative authority by March 10, 2003.

* * *

[See Prior Text In E.2-4.c]

5. A permit application shall be submitted to the state administrative authority within 180 days of notice, unless permission for a later date is granted by the administrative authority (see LAC 33:IX.2443) for:

a. a storm water discharge that is determined by either the state administrative authority or the EPA regional administrator to contribute to a violation of a water quality standard or is determined to be a significant contributor of pollutants to waters of the state (see Subsection A.1.e of this Section);

b. a storm water discharge subject to LAC 33:IX.2341.C.1.e.

* * *

[See Prior Text in E.6-7.c]

8. Any storm water discharge associated with small construction activity identified in Subsection B.15.a of this Section requires permit authorization by March 10, 2003, unless designated for coverage before then.

9. For any discharge from a regulated small MS4, the permit application made under LAC 33:IX.2348 must be submitted to the state administrative authority:

a. by March 10, 2003, if designated under LAC 33:IX.2347.A.1, unless the MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing schedule (see LAC 33:IX.2348.C.1); or

b. within 180 days of notice, unless the state administrative authority grants a later date, if designated under LAC 33:IX.2347.A.2 (see LAC 33:IX.2348.C.2).

F. Petitions

* * *

[See Prior Text in F.1-3]

4. Any person may petition the state administrative authority for the designation of a large, medium, or small municipal separate storm sewer system as defined in Subsection B.4.d or 7.d of this Section.

5. The state administrative authority shall make a final determination on any petition received under this Section within 90 days after receiving the petition, with the exception of petitions to designate a small MS4, in which case the state administrative authority shall make a final determination on the petition within 180 days after its receipt.

G Conditional Exclusion for *No Exposure* of Industrial Activities and Materials to Storm Water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is *no exposure* of industrial materials and activities to rain, snow, snowmelt, and/or runoff and the discharger satisfies the conditions in Subsection G.1-4 of this Section. *No exposure* means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

a. provide a storm-resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and/or runoff;

b. complete and sign (according to LAC 33:IX.2333) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Subsection G.2 of this Section;

c. submit the signed certification to the state administrative authority once every five years;

d. allow the state administrative authority to inspect the facility to determine compliance with the no-exposure conditions;

e. allow the state administrative authority to make any no-exposure inspection reports available to the public upon request; and

f. for facilities that discharge through an MS4, upon request, submit a copy of the certification of no exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial Materials and Activities Not Requiring Storm-Resistant Shelter. To qualify for this exclusion, storm-resistant shelter is not required for:

a. drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (*sealed* means banded or otherwise secured and without operational taps or valves);

b. adequately-maintained vehicles used in material handling; and

c. final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

3. Limitations

a. Storm water discharges from construction activities identified in Subsection B.14.j and 15 of this Section are not eligible for this conditional exclusion.

b. This conditional exclusion from the requirement for an LPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be no-exposure discharges, individual permit requirements should be adjusted accordingly.

c. If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt,

and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for unpermitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

d. Notwithstanding the provisions of this Subparagraph, the state administrative authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

4. Certification. The no-exposure certification must require the submission of the following information, at a minimum, to aid the department in determining if the facility qualifies for the no-exposure exclusion:

a. the legal name, address, and phone number of the discharger (see LAC 33:IX.2331.B);

b. the facility name and address, the parish name, and the latitude and longitude where the facility is located;

c. a statement that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

i. using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing, or cleaning industrial machinery or equipment remain;

ii. materials or residuals on the ground or in storm water inlets from spills/leaks;

iii. materials or products from past industrial activity;

iv. material handling equipment (except adequately maintained vehicles);

v. materials or products during loading/unloading or transporting activities;

vi. materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

vii. materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar containers;

viii. materials or products handled/stored on roads or railways owned or maintained by the discharger;

ix. waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

x. application or disposal of process wastewater (unless otherwise permitted); and

xi. particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow; and

d. the following certification statement, signed in accordance with the signatory requirements of LAC 33:IX.2333:

"I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of no exposure and obtaining an exclusion from LPDES storm water permitting, and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under Subsection G.2 of this Section. I understand that I am obligated to submit a no-exposure certification

form once every five years to the state administrative authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the state administrative authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an LPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. Application Requirements for Discharges Composed Entirely of Storm Water Under Clean Water Act Section 402(p)(6). Any operator of a point source required to obtain a permit under Subsection A.9 of this Section shall submit an application to the Office of Environmental Services, Permits Division in accordance with the following requirements.

1. Application Deadlines. The operator shall submit an application in accordance with the following deadlines:

a. a discharger that the state administrative authority determines to contribute to a violation of a water quality standard or that is a significant contributor of pollutants to waters of the state shall apply for a permit to the state administrative authority within 180 days of receipt of notice, unless permission for a later date is granted by the state administrative authority (see LAC 33:IX.2443.C); or

b. all other dischargers shall apply to the state administrative authority no later than August 7, 2001.

2. Application Requirements. The operator shall submit an application in accordance with the following requirements, unless otherwise modified by the state administrative authority:

a. individual application for nonmunicipal discharges (the requirements contained in Subsection C.1 of this Section);

b. application requirements for municipal separate storm sewer discharges (the requirements contained in Subsection D of this Section);

c. notice of intent to be covered by a general permit issued by the state administrative authority (the requirements contained in LAC 33:IX.2345.B.2).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2345. General Permits

* * *

[See Prior Text In A- B.2.d]

e. Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the state administrative authority, be authorized to discharge under a general permit without submitting a notice of intent where the state administrative authority finds that a notice of intent requirement would be inappropriate. In making such a finding, the state administrative authority shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The state administrative authority shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

* * *

[See Prior Text In B.2.f- C.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2346. What are the Objectives of the Storm Water Regulations for Small MS4s?

A. LAC 33:IX.2346-2352 are written in a *readable regulation* format that includes both department guidance, which is not legally binding, as well as code requirements. This format is used to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For these sections, *I* and *you* refer to the owner/operator. The department has clearly distinguished its recommended guidance from the code requirements by putting the guidance in a separate paragraph headed by the word *guidance*.

B. Under the statutory mandate in section 402(p)(6) of the Clean Water Act, the purpose of this portion of the storm water program is to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources. (Because the storm water program is part of the Louisiana Pollutant Discharge Elimination System (LPDES) program, you should also refer to LAC 33:IX.2311, which addresses the broader purpose of the LPDES program.)

C. Storm water runoff continues to harm the nation's waters. Runoff from lands modified by human activities can harm surface water resources in several ways, including by changing natural hydrologic patterns and by elevating pollutant concentrations and loadings. Storm water runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids, nutrients, heavy metals, pathogens, toxins, oxygen-demanding substances, and floatables.

D. The department strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2347. As an Operator of a Small MS4, Am I Regulated Under the LPDES Storm Water Program?

A. Unless you qualify for a waiver under Subsection C of this Section, you are regulated if you operate a small MS4 including, but not limited to, systems operated by federal, state, tribal, and local governments, including state departments of transportation, and:

1. your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

2. you are designated by the state administrative authority, including where the designation is based upon a petition under LAC 33:IX.2341.F.4.

B. You may be the subject of a petition to the state administrative authority to require an LPDES permit for your discharge of storm water. If the state administrative authority determines that you need a permit, you are required to comply with LAC 33:IX.2348-2350.

C. The state administrative authority may waive the requirements otherwise applicable to you if you meet the criteria of Subsection D or E of this Section. If you receive this waiver, you may subsequently be required to seek coverage under an LPDES permit in accordance with LAC 33:IX.2348.A if circumstances change.

D. The state administrative authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

1. your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the LPDES storm water program; and

2. if you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of a department-established *total maximum daily load* (TMDL) that addresses the pollutant(s) of concern.

E. The department may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

1. the department has evaluated all waters of the state, including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

2. for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a department-established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

3. for the purpose of this Subsection, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from your MS4; and

4. the department has determined that future discharges from your MS4 do not have the potential to result in noncompliance with water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2348. If I Am an Operator of a Regulated Small MS4, How Do I Apply for an LPDES Permit and When Do I Have to Apply?

A. If you operate a regulated small MS4 under LAC 33:IX.2347, you must seek coverage under an LPDES permit issued by the Department of Environmental Quality, Office of Environmental Services, Permits Division.

B. You must seek authorization to discharge under a general or individual LPDES permit, as follows:

1. if the Office of Environmental Services, Permits Division has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2349.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization;

2.a. if you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2349, you must submit an application to the Department of Environmental Quality, Office of Environmental Services, Permits Division that includes the information required under LAC 33:IX.2331.F and 2349.D, an estimate of square mileage served by your small MS4, and any additional information that the Permits Division requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2349.B.3.a will satisfy the map requirement in LAC 33:IX.2331.F.7;

b. if you are seeking authorization to discharge under an individual permit and wish to implement a program that is different from the program under LAC 33:IX.2349, you will need to comply with the permit application requirements of LAC 33:IX.2341.D. You must submit both parts of the application requirements in LAC 33:IX.2341.D.1 and 2 by March 10, 2003. You do not need to submit the information required by LAC 33:IX.2341.D.1.b and 2 regarding your legal authority, unless you intend for the permit writer to take such information into account when developing your other permit conditions; and

c. if approved by the Office of Environmental Services, Permits Division, you and another regulated entity may jointly apply under either Subsection B.2.a or b of this Section to be co-permittees under an individual permit;

3. if your small MS4 is in the same urbanized area as a medium or large MS4 with an LPDES storm water permit

and that other MS4 is willing to have you participate in its storm water program, you and the other MS4 may jointly seek a modification of the other MS4 permit to include you as a limited co-permittee. As a limited co-permittee, you will be responsible for compliance with the permit's conditions applicable to your jurisdiction. If you choose this option you will need to comply with the permit application requirements of LAC 33:IX.2341, rather than the requirements of LAC 33:IX.2349. You do not need to comply with the specific application requirements of LAC 33:IX.2341.D.1.c,d, and 2.c (discharge characterization). You may satisfy the requirements in LAC 33:IX.2341.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program; and

4. guidance: in referencing an MS4's storm water management program, you should briefly describe how the existing plan will address discharges from your small MS4 or would need to be supplemented in order to adequately address your discharges. You should also explain your role in coordinating storm water pollutant control activities in your MS4 and detail the resources available to you to accomplish the plan.

C. If you operate a regulated small MS4:

1. designated under LAC 33:IX.2347.A.1, you must apply for coverage under an LPDES permit or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section by March 10, 2003, unless your MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing; and

2. designated under LAC 33:IX.2347.A.2, you must apply for coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section within 180 days of notice, unless the state administrative authority grants a later date.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2349. As an Operator of a Regulated Small MS4, What Will My LPDES MS4 Storm Water Permit Require?

A. Your LPDES MS4 permit will require, at a minimum, that you develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Your storm water management program must include the minimum control measures described in Subsection B of this Section unless you apply for a permit under LAC 33:IX.2341.D. For purposes of this Section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program required in accordance with this Section and the provisions of the permit required in accordance with LAC 33:IX.2348

constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Your state administrative authority will specify a time period of up to five years from the date of permit issuance for you to develop and implement your program.

B. Minimum Control Measures

1. Public Education and Outreach on Storm Water Impacts

a. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. Guidance. You may use storm water educational materials provided by your state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. The department recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. The department recommends that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, the department recommends that some of the materials or outreach programs be directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this would include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. You are encouraged to tailor your outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

2. Public Involvement/Participation

a. You must, at a minimum, comply with state, tribal, and local public notice requirements when implementing a public involvement/participation program.

b. Guidance. The department recommends that the public be included in developing, implementing, and reviewing your storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water management panel, attending public hearings, working as citizen volunteers to educate other individuals about the

program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

3. Illicit Discharge Detection and Elimination

a. You must develop, implement, and enforce a program to detect and eliminate illicit discharges (see LAC 33:IX.2341.B.2) into your small MS4.

b. You must:

i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls;

ii. to the extent allowable under state, tribal, or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;

iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and

iv. inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

c. You need to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. Guidance. The department recommends that the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The department recommends visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

4. Construction Site Storm Water Runoff Control

a. You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in

your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC 33:IX.2341.B.15.a, you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. Your program must include the development and implementation of, at a minimum:

i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;

ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

iii. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

iv. procedures for site plan review that incorporate consideration of potential water quality impacts;

v. procedures for receipt and consideration of information submitted by the public; and

vi. procedures for site inspection and enforcement of control measures.

c. Guidance. Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The department recommends that procedures for site plan review include the review of individual preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. You are encouraged to provide appropriate educational and training measures for construction site operators. You may wish to require a storm water pollution prevention plan for construction sites within your jurisdiction that discharge into your system. See LAC 33:IX.2361.R (LPDES permitting authorities' option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2350.B. (The state administrative authority may recognize that another government entity, including the administrative authority, may be responsible for implementing one or more of the minimum measures on your behalf.)

5. Post-Construction Storm Water Management in New Development and Redevelopment

a. You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts.

b. You must:

i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for your community;

ii. use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state, tribal, or local law; and

iii. ensure adequate long-term operation and maintenance of BMPs.

c. Guidance. If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. The department recommends that the BMPs chosen be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, the department encourages you to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, the department recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The department recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction, or operation and maintenance. Storm water technologies are constantly being improved, and the

department recommends that your requirements be responsive to these changes, developments, or improvements in control technologies.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, your state, tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. Guidance. The department recommends that, at a minimum, you consider the following in developing your program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from your separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by you, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

C. If an existing qualifying local program requires you to implement one or more of the minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in your LPDES permit that direct you to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

D.1. In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services, Permits Division the following information:

a. the BMPs that you or another entity will implement for each of the storm water minimum control measures at Subsection B.1-6 of this Section;

b. the measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, interim milestones, and the frequency of the action; and

c. the person or persons responsible for implementing or coordinating your storm water management program.

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Subsection B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services, Permits Division has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

3. Guidance. Either EPA or the department will provide a menu of BMPs. You may choose BMPs from the menu or select others that satisfy the minimum control measures.

E.1. You must comply with any more stringent effluent limitations in your permit, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved TMDL or equivalent analysis. The department may include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.

2. Guidance. EPA has strongly recommended that until the evaluation of the storm water program in LAC 33:IX.2352, no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality.

F. You must comply with other applicable LPDES permit requirements, standards, and conditions established in the individual or general permit, developed consistently with the provisions of LAC 33:IX.2355-2369, as appropriate.

G Evaluation and Assessment

1. Evaluation. You must evaluate program compliance, the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals. [Note: The state administrative authority may determine monitoring requirements for you in accordance with state/tribal monitoring plans appropriate to your watershed. Participation in a group monitoring program is encouraged.]

2. Recordkeeping. You must keep records required by the LPDES permit for at least three years. You must submit your records to the state administrative authority only when specifically asked to do so. You must make your records, including a description of your storm water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). You may assess a reasonable charge for copying. You may require a member of the public to provide advance notice.

3. Reporting. Unless you are relying on another entity to satisfy your LPDES permit obligations under LAC 33:IX.2350.A, you must submit annual reports to the state administrative authority for your first permit term. For

subsequent permit terms, you must submit reports in years two and four unless the state administrative authority requires more frequent reports. Your report must include:

a. the status of compliance with permit conditions, an assessment of the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals for each of the minimum control measures;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities you plan to undertake during the next reporting cycle;

d. a change in any identified best management practices or measurable goals for any of the minimum control measures; and

e. notice that you are relying on another governmental entity to satisfy some of your permit obligations (if applicable).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2350. As an Operator of a Regulated Small MS4, May I Share the Responsibility to Implement the Minimum Control Measures with Other Entities?

A. You may rely on another entity to satisfy your LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on your behalf. In the reports you must submit under LAC 33:IX.2349.G.3, you must also specify that you rely on another entity to satisfy some of your permit obligations. If you are relying on another governmental entity regulated under LAC 33:IX.Chapter 23 to satisfy all of your permit obligations, including your obligation to file periodic reports required by LAC 33:IX.2349.G.3, you must note that fact in your NOI, but you are not required to file the periodic reports. You remain responsible for compliance with your permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages you to enter into a legally binding agreement with that entity if you want to minimize any uncertainty about compliance with your permit.

B. In some cases the Office of Environmental Services, Permits Division may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services, Permits Division does so, you are not required to include such minimum control measure(s) in your storm water management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to

control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2349.B.4, you could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2351. As an Operator of a Regulated Small MS4, What Happens if I Don't Comply with the Application or Permit Requirements in LAC 33:IX.2348-2350?

A. In accordance with LAC 33:IX.2355.A violators of provisions of the LPDES system or permit conditions are subject to enforcement actions and penalties. If you are covered as a co-permittee under an individual permit or under a general permit by means of a joint notice of intent, you remain subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in your jurisdiction, except as set forth in LAC 33:IX.2350.B.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

§2352. Will the Small MS4 Storm Water Program Regulations at LAC 33:IX.2347-2351 Change in the Future?

A. EPA will evaluate the small MS4 regulations at LAC 33:IX.2347-2351 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services, Permits Division. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter C. Permit Conditions

§2361. Establishing Limitations, Standards, and Other Permit Conditions

A. In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

* * *

[See Prior Text In A-K.1]

2. authorized under section 402(p) of the CWA for the control of storm water discharges;

3. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA; or

4. numeric effluent limitations are infeasible.

* * *

[See Prior Text In L-Q]

R. Qualifying State, Tribal, or Local Programs

1. For storm water discharges associated with small construction activity identified in LAC 33:IX.2341.B.15, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. When a qualifying state, tribal, or local program does not include one or more of the elements in this Subsection, the state administrative authority must include those elements as conditions in the permit. A qualifying state, tribal, or local erosion and sediment control program is one that includes:

a. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

b. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

c. requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal, or local requirements, maintenance procedures, inspection procedures, and identification of non-storm water discharges); and

d. requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

2. For storm water discharges from construction activity identified in LAC 33:IX.2341.B.14.j, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. A qualifying state, tribal, or local erosion and sediment control program is one that includes the elements listed in Subsection R.1 of this Section and any additional requirements necessary to achieve the applicable technology-based standards of *best available technology* and *best conventional technology* based on the best professional judgment of the permit writer.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits

§2383. Modification or Revocation and Reissuance of Permits

A. When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for

modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

* * *

[See Prior Text In A-A.13]

14. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

- a. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and
- b. the other entity fails to implement measure(s) that satisfy the requirement(s).

* * *

[See Prior Text In A.15- B.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter F. Specific Decisionmaking Procedures

Applicable to LPDES Permits

§2443. Permits Required on a Case-by-Case Basis

* * *

[See Prior Text in A-B]

C. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this Section (see LAC 33:IX.2341.A.1.e, C.1.e, and G.1.a), the state administrative authority may require the discharger to submit a permit application or other information regarding the discharge under Section 308 of the CWA. In requiring such information, the state administrative authority shall notify the discharger in writing and shall send an application form with the notice. The discharger must apply for a permit within 180 days of notice, unless permission for a later date is granted by the state administrative authority. The question whether the initial designation was proper will remain open for consideration during the public comment period under LAC 33:IX.2417 and in any subsequent hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP039*. Such comments must be received no later than September 25, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP039*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0008#055

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Radiographer Trainee Requirements and Records
(LAC 33:XV.503 and 588)**

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 Radiation Protection regulations, LAC 33:XV.503 and 588 (Log #NE025).

This proposed Rule will change the definition of "radiographer trainee" to allow the individual to be a trainee for 24 consecutive months, provided the industrial radiography exam is taken during the first 12-month period. Previously the trainee status was only good for 12 consecutive months. The 12-month period for trainee status was putting a burden on some industrial radiography companies. This action will allow them to maintain trained personnel for a longer period of time and will give the trained personnel more time to prepare themselves to pass

the industrial radiography exam. If an individual is granted trainee status and is working as part of a two-man radiography crew, the licensee must have the written confirmation letter from the department at the temporary job site where the individual is working. The basis and rationale for this proposed Rule are to ensure that the individual working has been given written authorization as a trainee and time to get the proper experience needed for the trainee status.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 5. Radiation Safety Requirements for
Industrial Radiographic Operations

§503. Definitions

A. As used in this Chapter, the following definitions apply.

* * *

[See Prior Text]

Radiographer Trainee—any individual who satisfied the following conditions:

- a. has been instructed for at least 40 hours in the subjects outlined in Appendix A.I – III of this Chapter;
- b. has successfully completed a company-specific written examination and field test covering the applicable Louisiana radiation protection regulations (LAC 33:XV) and the company's operating and emergency procedures;
- c. has completed and documented at least 40 hours of on-the-job training, in industrial radiography operations, as part of a three-person crew composed of an instructor, a radiographer, and the radiographer trainee applicant; and
- d. has filed a completed Form DRC-20 with the department requesting radiographer trainee status and has received written confirmation from the department granting radiographer trainee status. Radiographer trainee status shall be granted only once for each individual and is valid for only 12 consecutive months. Radiography trainee status may be extended for an additional 12 consecutive months provided that the radiographer trainee has taken the industrial radiography radiation safety examination administered by the department or its agent during the first 12 months of granting radiographer trainee status.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§588. Documents and Records Required at Temporary Job Sites

A. Each licensee or registrant conducting industrial radiography at a temporary job site shall have the following

documents and records available at that job site for inspection by the department:

* * *

[See Prior Text In A.1-4]

- 5. daily pocket dosimeter records for the period of operation at the site;
- 6. the latest instrument calibration and leak test records for specific devices and sealed sources in use at the site. Acceptable records include tags or labels which are affixed to the device or survey meter; and
- 7. a copy of the written confirmation letter issued by the department granting radiographer trainee status to any radiographer trainee performing industrial radiography at the temporary job site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE025. Such comments must be received no later than October 2, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of NE025.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394, or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Radiographer Trainee
Requirements and Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

- No implementation costs or savings to state or local governmental units are expected as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated.
 - III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs to any affected person is anticipated. It will economically benefit industrial radiographer companies and trainees employed by these companies.
 - IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will allow industrial radiography companies to utilize a trained person for an additional year before mandating the person to pass a test.

James H. Brent, Ph.D. Robert E. Hosse
 Assistant Secretary General Government Section Director
 0008#023 Legislative Fiscal Office

NOTICE OF INTENT
Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Reportable Quantity for Pollutants
 (LAC 33:I.3905 and 3931)

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 Office of the Secretary regulations, LAC 33:I.3905 and 3931 (Log #OS038).

The proposed Rule provides clarification that "brine," not just "produced water" is a reportable substance when released in the event of an unauthorized discharge. Brine is to be included in the Reportable Quantity List with a reportable quantity of one barrel (same as produced water). Further, brine is to be defined in LAC 33:I.3905 as indicated. The threshold of 500 mg/l chloride content is based upon the limitation of chlorides in storm water runoff from oil and gas facilities in LAC 33:IX.708.C.4. Brine, when released to the environment, can be injurious to flora and fauna due to the high osmotic potential of salt water. Produced water (listed in the Reportable Quantity List) is usually high in chloride content, but brine is frequently used by some chemical industries in the manufacture of chlorine and is not necessarily included in the "produced water" definition. This action seeks to clarify that brine is indeed a reportable pollutant. The basis and rationale for this proposed Rule are to clarify whether or not high salt-content waters not associated with oil and gas production are within the scope of LAC 33:I.Chapter 39. Proper notification of unauthorized releases to the department are necessary to ensure the department is provided the opportunity to respond and provide environmentally-protective actions.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report

regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification Regulations
Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

* * *

[See Prior Text]

Brine—includes liquid solutions comprised of water as the solvent and chloride salts, not specifically incorporated in LAC 33:I.3931, as the solute where the solute content of the solution exceeds 500 mg/l chloride content.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

* * *

[See Prior Text in A – A.2]

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
[See Prior Text in Allyl Chloride – Biphenyl]			
			1 barrel
[See Prior Text in 1-Butanol – F005. Methyl ethyl ketone]			

* * *

[See Prior Text in Notes * - @]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2060(H), R.S. 30:2076(D), R.S. 30:2183(I), R.S. 30:2194(C), R.S. 30:2204(A), and R.S. 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810.

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS038. Such comments must be received no later than October 2, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178, or to fax (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS038.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394, or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reportable Quantity for Pollutants**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed revision should require no implementation costs as notifications systems are already in place to address facility self-reporting in the event of an unauthorized discharge.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed revision will have no effect on state or local revenue collections. Self-reporting of unauthorized releases is not fee related.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Affected organizations include primarily industrial facilities that use high chloride-content waters in the production of chlorine. No significant effect is anticipated as these organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment are anticipated as this proposal is merely a clarification of existing regulations.

James H. Brent, Ph.D.
Assistant Secretary
0008#022

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Waste Tire Regulations (LAC 33:VII.Chapter 105)

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 Solid Waste regulations, LAC 33:VII.Chapter 105 (Log #SW029).

The Rule clarifies definitions, simplifies the exemption process, simplifies the standards for waste tire generators, transporters, and recyclers, and implements the fee for off-road tires and tires weighing more than 100 pounds. The Rule also implements a raise in payments to waste tire processors from \$1 per 20 pounds of waste tire material processed and marketed to \$1.50 per 20 pounds. Waste tire processors have not received an increase since program inception in 1992. The revisions are necessary to meet the standards required by Act 1015 of the 1999 Regular Session of the Louisiana Legislature, which places a fee on off-road tires for their disposal and/or recycling. In addition, many of the sections in the Waste Tire Program regulations have not been updated since inception in 1994. These revisions will make the regulations current. The basis and rationale for this proposed Rule are to incorporate the aspects of Act 1015 into the regulations and to make the standard current.

The Department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed Rule. This report is published in the Potpourri Section of the August 20, 2000, issue of the *Louisiana Register*. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling**

**Chapter 105. Waste Tires
§10503. Administration**

A. This program shall be administered by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

[See Prior Text]

AgreementCa written contract or other written arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

Authorization CertificateCwritten authorization issued by the administrative authority.

Clean ClosureCthe act of closing a facility whereby all waste tires and waste tire material are removed, including any resulting on-site or off-site contamination.

Collection CenterCa permitted or authorized location denoted on an authorization certificate where waste tires and waste tire material can be stored and/or collected.

CollectorCa person who operates a collection center.

[See Prior Text]

Destination FacilityCa facility where waste tires and/or waste tire material is processed, recycled, collected, stored and/or disposed after transportation.

[See Prior Text]

DisposalCthe depositing, dumping, or placing of waste tires or waste tire material on or into any land or water so that such waste tires, waste tire material, or an constituent thereof, may have the potential for entering the environment, or being emitted into the air, or discharged into any waters of Louisiana.

FacilityAny land and appurtenances thereto used for storage, processing, recycling, and/or disposal of solid waste or tire material, but possibly consisting of one or more units. (Any earthen ditches leading to or from a facility that receive waste are considered part of the facility to which they connect; except ditches which are lined with materials which are capable of preventing groundwater contamination.)

GeneratorCa facility that generates waste tires as a part of its business operations.

Government AgenciesClocal, parish, state, municipal, and federal governing authorities having jurisdiction over a defined geographic area.

[See Prior Text]

ManifestCthe form, provided by the department, used for identifying the quantity, composition, origin, routing, and destination of waste tires and/or waste tire material during transportation from the point of generation to the authorized destination.

[See Prior Text]

Mobile ProcessorCa standard permitted processor who has processing equipment capable of being moved from one location to another.

ModificationAny change in a site, facility, unit, process or disposal method, or operation that deviates from the specification in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specification of the permit is not considered a modification.

Motor VehicleCan automobile, motorcycle, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated on the roads of

this state, used to transport persons or property, and propelled by power other than muscular power.

Off-Road VehicleCa vehicle used for construction, farming, industrial uses, or mining, not normally operated on the roads of the state. This term does not include vehicles propelled solely by muscular power.

Permittee/Permit HolderCa person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

[See Prior Text]

ProcessingAny method or activity that alters whole waste tires so that they are no longer whole; such as, cutting, slicing, chipping, shredding, distilling, freezing, or other processes as determined by the administrative authority. At a minimum, a tire is considered processed only if its volume has been reduced by cutting it in half along its circumference.

ProcessorCa person that collects and processes waste tires.

Qualified RecyclerAny entity who uses waste tire material in a beneficial manner as determined by the administrative authority.

RecyclingAny process by which waste tires, waste tire material, or residuals are reused or returned to beneficial use in the form of products or as a fuel source.

Standard PermitCa written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, or closure of facilities or equipment used or intended to be used to process or collect waste tires in accordance with the act, these regulations, specified terms and conditions, and the permit application.

Temporary PermitCa written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post closure of a particular facility used or intended to be used for processing waste tires or waste tire material in accordance with the act, these regulations, and specified terms and conditions.

TireCa continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle or off-road vehicle.

Tire Dealer—any person, business, or firm that engages in the sale of new tires for use on motor vehicles.

Tire WholesalerAny wholesaler, supplier, distributor, jobber, or other entity who distributes tires to retail dealers in this state or to its own retail establishments in this state.

TransporterCa person who transports waste tires.

Unauthorized Waste Tire PileCa pile in excess of 20 waste tires whose storage and/or disposal is not authorized by the administrative authority.

Waste TireCa whole tire that is no longer suitable for its original purpose because of wear, damage, or defect.

Waste Tire MaterialCwaste tires after processing; such as, but not limited to, chipped, shredded, cut, or sliced tires, crumb rubber, steel cord, cord material, oil, or carbon black.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10507. Exemptions

A. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10509. Prohibitions and Mandatory Provisions

A. No person may knowingly or intentionally dispose unprocessed waste tires in a landfill within the boundaries of Louisiana.

B. Upon promulgation of these regulations, no person may store more than 20 whole waste tires unless they are authorized by the administrative authority and:

1. collected and stored at a registered tire dealer, registered used tire dealer, or registered other generator of waste tires;

2. collected and stored at an authorized waste tire collection center or permitted waste tire processing facility; or

3. collected and stored at an authorized waste tire recycling facility.

C. No person may transport more than 20 waste tires without first obtaining a transporter authorization certificate.

D. No person may receive payment from the Waste Tire Management Fund for processing tires without a standard permit issued by the department.

E. No regulated generator, collector, or processor may store any waste tire for longer than 365 days.

F. All persons subject to these regulations are subject to inspection and/or enforcement action by the administrative authority, in accordance with LAC 33:VII.10537.

G. All persons subject to these regulations shall maintain all records required to demonstrate compliance with these regulations for a minimum of three years. The department may extend the record retention period in the event of an investigation. The records shall be maintained at the regulated facility or site unless an alternate storage location is approved in writing by the administrative authority. All records shall be produced upon request for inspection by the department.

H. All persons who sell new tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all new tire sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10511. Permit System

A. Permit Requirements

1. Scope. Persons, other than generators and government agencies, operating collection facilities that collect waste tires and/or waste tire material and/or process waste tires or waste tire material for payment from the Waste Tire Management Fund must secure a permit and are subject to the requirements detailed in these regulations.

2. Types of Permits

a. Temporary Permits. A temporary permit allows continued operation of an existing collector and/or processor, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility without approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

* * *

[See Prior Text in A.2.a.i]

ii. Order to Close. To allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan.

* * *

[See Prior Text in A.2.b]

3. Permit Provisions

* * *

[See Prior Text in A.3.a-b]

B. Modifications. Modification requests shall be tendered in accordance with LAC 33:VII.517. No modifications shall be made to the permit or facility without prior written approval from the administrative authority.

C. Suspension or Revocation of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend or revoke a permit in whole or in part in accordance with procedures outlined in LAC 33:VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

* * *

[See Prior Text in A-A.3]

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the department. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

* * *

[See Prior Text in B.2]

C. Requirements for Public Notification of Permit Application

1. As provided in R.S. 30:2022 and 30:2418, upon receipt of a permit application the department shall provide written notice on the subject matter to the parish governing authority and each municipality affected by the application.

* * *

[See Prior Text in C.2]

3. The applicant shall cause the notice of the hearing to be published in the official journal of the parish or municipality on two separate days preceding the hearing. The last day of publication of such notice shall be at least 10 days prior to the hearing. The applicant shall provide the department with proof of publication.

4. The applicant shall post a notice of the hearing, in prominent view of the public, for two weeks prior to the hearing, in the courthouse, government center, and all the libraries of the parish.

5. A public comment period of at least 30 days shall be allowed following the public hearing.

* * *

[See Prior Text in D-D.2]

E. Waste Tire Standard Permit Application Review

1. An application deemed unacceptable for technical review shall be rejected. Applications shall be subject to the completeness review requirements of LAC 33:I.1505.A.

2. Applications shall be subject to the technical review requirements of LAC 33:I.1505.B.

3. Closure plans that are determined to be unacceptable for a technical review shall be rejected. The applicant shall be required to resubmit the closure plan to the administrative authority.

4. An applicant whose closure plan is acceptable for technical review, but lacks the necessary information, shall be informed of such in a closure plan deficiency letter. These deficiencies shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter. Closure plans that have been deemed technically complete shall be approved.

F. Standard Permit Applications Deemed Technically Complete

* * *

[See Prior Text in F.1-2]

3. After the six copies are submitted to the department, a notice shall be placed in the office bulletin (if one is available), the official journal of the state, and the official journal of the parish or municipality where the facility is located. The department shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of the official journal of the parish or municipality where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the department.

The notice shall be published in accordance with the sample public notice provided by the department.

4. A public hearing shall be held for any proposed standard permit application when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice required in Subsection F.3 of this Section, request that a public hearing be held. If the administrative authority determines that the hearing is warranted, a public hearing shall be held. If the administrative authority determines not to hold the requested hearing, the department shall send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

* * *

[See Prior Text in F.6]

7. Receipt of Comments Following a Public Hearing. The department shall receive comments for 30 days after the date of a public hearing.

* * *

[See Prior Text in G-G.2]

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in the official journal of the parish or municipality where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The permit holder shall provide proof of publication of the notice(s) to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10515. Agreements with Waste Tire Processors

Standard permitted waste tire processors may apply to the administrative authority for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the administrative authority.

A. Maximum Payments to Processors

1. Standard permitted processors shall be eligible to receive a minimum of \$1.50 per tire equivalent unit of 20 pounds of waste tire material that is actually recycled or that reaches certifiable end-market uses provided.

a. Standard permitted processors shall provide documentation to prove that they are contracted with a

qualified recycler. Proof shall be provided in the form of a letter or other document from the qualified recycler.

b. Standard permitted processors shall provide a certificate of end use demonstrating that the waste tire material has been recycled.

c. Standard permitted processors shall provide a Department of Agriculture certified scale-weight ticket including gross, tare and net weights.

2. Standard permitted processors shall be eligible to receive a minimum of \$1.50 per 20 pounds of whole waste tire that is marketed and shipped to a qualified recycler in accordance with LAC 33:VII.10535.D.4.

a. Standard permitted processors must apply and obtain approval from the department in order to market and ship whole waste tires. At this time they shall provide a detailed description of the operational plan to market and ship whole waste tires to a qualified recycler, including:

- i. shipping destination;
- ii. place of origin of the tires;
- iii. name of the qualified recycler;
- iv. method of recycling authorized or allowed under applicable state and federal laws;
- v. detailed description of product material or fuel source; and
- vi. a copy of an agreement with the qualified recycler who will accept whole waste tires for recycling.

b. The standard permitted processor shall ensure the qualified recycler accepts whole waste tires or baled waste tires from the processor in accordance with its agreement and Subsection A.2.a of this Section.

B. The standard permitted processor shall provide, with the monthly report required by LAC 33:VII.10535.D.6, a certificate of end use by the qualified recycler, demonstrating that it has recycled the waste tires or waste tire material.

C. The standard permitted processor shall comply with LAC 33:VII.10533.

D. The standard permitted processor shall provide all documentation to demonstrate that all the requirements of this Section have been met.

E. Once the application is approved, the department shall issue an agreement in accordance with Subsection A of this Section.

F. General Conditions of Agreements. It shall be the responsibility of processors to make payments to authorized waste tire transporters who provide them with waste tires. This includes making payments to local governmental bodies acting as transporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10517. Standard Waste Tire Permit Application

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this Section.

A. Processing Facility. The permit application shall include:

- 1. the name of the applicant;

- 2. the name and phone number of the owner/contact; * * *

[See Prior Text in A.3]

- 4. the location of the processing/collection facility, including section, township, and range; * * *

[See Prior Text in A.5-6]

- 7. the name, address, and phone number of a contact person in case of an emergency, other than the individual specified in Subsection A.2 of this Section;

8. The applicant must certify in writing that all the information provided in the application and in accordance with the application is true and correct. Providing false or incorrect information may result in criminal or civil enforcement. The applicant shall also provide the site master plan, including property lines, building, facilities, excavations, drainage, roads, and other elements of the process system employed, certified by a registered engineer licensed in the state of Louisiana.

- 9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a waste tire processing and/or collection facility; * * *

[See Prior Text in A.10]

- 11. written documentation from the property owner granting approval for use of property as a waste tire processing and/or collection facility, if property owner is other than applicant;

- 12. proof of publication of Notice of Intent to submit an application for a standard waste tire permit; * * *

[See Prior Text in A.13-14.a]

- b. waste tire acceptance plan, to count, record, and monitor incoming quantities of waste tires; * * *

[See Prior Text in A.14.c-e.i]

- ii. maximum number of waste tires and volume of waste tire material to be stored at any one time. The total amount of waste tires and volume of waste tire material shall not exceed 60 times the daily capacity of the processing unit; * * *

[See Prior Text in A.14.e.iii-iv]

- v. type of access roads and buffer zones; and * * *

[See Prior Text in A.14.e.vi-15]

16. site closure plan to assure clean closure. The closure plan must be submitted as a separate section with each application. The closure plan for all facilities must ensure clean closure and must include the following:

- a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

- c. an estimate of the maximum inventory of whole waste tires and waste tire material on-site at any one time over the active life of the facility;

- d. a schedule for completing all activities necessary for closure; and

- e. the sequence of final closure as applicable;

* * *

[See Prior Text in A.17-21]

B. Waste Tire Collection Center. Waste tire processors or other persons may operate a waste tire collection center in accordance with LAC 33:VII.10527. All information required in Subsection A of this Section must be provided in a permit application for each waste tire collection center.

C. Governmental Agencies. Government agencies intending to operate collection centers and/or tire processing equipment for the purposes of volume reduction prior to disposal will not be required to possess permits provided that:

1. the governmental agency collection centers shall be located on property owned or otherwise controlled by the governmental agency, unless otherwise authorized by the department;

2. governmental agency collection centers shall be attended during operational hours and have controlled ingress and egress during non-operational hours;

3. governmental agency collection center personnel shall witness all loading and unloading of waste tires;

4. governmental agency collection centers may accept waste tires from roadside pickup, from rights-of-way, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1.50 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the department, in writing, of the agency's intent prior to removing the tires from said site;

5. governmental agencies shall develop fire control plans and disease vector control plans for the collection center and/or tire processing equipment; and

6. governmental agencies shall satisfy the requirements of LAC 33:VII.10509 and 10533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the department of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the department.

B. Tire dealers must accept one waste tire for every new tire sold from the purchaser of the new tire at the time of purchase, unless the purchaser elects to retain the waste tire.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each new tire weighing 100 pounds or less and a fee of \$1 per 20 pounds for tires weighing more than 100 pounds. Tires weighing 100 pounds or less include all automobile, pickup, sport utility vehicle, front steer wheel tractor, farm implement service, golf cart, lawn mower, and all terrain vehicle (ATV) tires. Tires weighing more than 100 pounds and less than 500 pounds shall pay a fee based on Appendix C of this Chapter. The figures in Appendix C are based on a weighted average of

each size, regardless of brand or type. No fee shall be collected on tires weighing more than 500 pounds or solid tires. "Tire dealers" includes any dealer selling new tires in Louisiana, where the tire is delivered into this state.

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted along with the Monthly Waste Tire Fee Report Form obtained from the department. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

* * *

[See Prior Text in E-E.1]

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of \$2 per tire weighing 100 pounds or less and \$1 per 20 pounds for tires weighing more than 100 pounds, upon sale of each new tire. Tires weighing 100 pounds or less include all automobile, pickup, sport utility vehicle, front steer wheel tractor, farm implement service, golf cart, lawn mower, and all terrain vehicle (ATV) tires. Tires weighing more than 100 pounds and less than 500 pounds shall pay a fee based on Appendix C of this Chapter. The figures in Appendix C are based on a weighted average of each size, regardless of brand or type. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every new tire sold, unless the purchaser elects to retain the waste tire."

F. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice. No tax of any kind shall be applied to this fee.

G. Generators of waste tires shall comply with the manifest requirements of LAC 33:VII.10533.

H. For all waste tires and waste tire material collected and/or stored, generators must provide:

1. a cover adequate to exclude water from the waste tires;

2. vector and vermin control; and

3. means to prevent or control standing water in the containment area.

I. Generators of waste tires may store waste tires up to 365 days after receipt or generation, provided:

1. the extended storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing; and

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection.

J. All waste tires and waste tire material must be collected and/or stored on property contiguous to the tire dealership or other waste tire generator facility.

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an

authorized transporter, unless the generator generates less than 50 waste tires per month from the sale of 50 new tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the administrative authority within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any new or used tires offered for sale.

N. Governmental agencies are not required to comply with this Section, except Subsections A, G, I, and J of this Section.

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be kept for a period of three years and shall be available and subject to inspection by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10521. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10523. Standards and Responsibilities of Waste Tire Transporters

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the administrative authority.

B. A transporter authorization certificate shall be valid for a maximum of one year from the date of issuance. All transporter authorization certificates expire on August 31 of each calendar year. The administrative authority shall issue to the transporter an appropriate number of transporter decals to be placed in accordance with Subsection F of this Section.

C. No person shall transport more than 20 waste tires without a completed manifest satisfying the requirements of LAC 33:VII.10533.

D. For in-state waste tire transportation, the transporter shall transport all waste tires to an authorized collection center or a permitted processing facility.

E. Any person who engages in the transportation of waste tires from Louisiana to other states or countries or from other states to Louisiana, or persons who collect or transport waste tires in Louisiana, but have their place of business in another state, shall comply with all of the requirements for transporters contained in this Section.

F. The transporter shall affix to the driver's door, along with the transporter decal, and the passenger's door of each truck or tractor listed on the notification form, the authorization certificate number in characters no less than three inches in height.

G. All persons subject to this Section shall notify the administrative authority in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10525. Standards and Responsibilities of Waste Tire Processors

A. Upon receiving a shipment containing waste tires, the processor shall be responsible to verify the number of waste tires in each shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving waste tires.

* * *

[See Prior Text in B-C]

D. All waste tire facilities must meet the following standards:

1. All processors shall control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide.

2. All facilities shall have a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone.

3. Fire Protection

a. There shall be no open burning.

b. The facility operator shall enter into a written agreement with the local fire department regarding fire protection at the facility.

c. The facility operator shall develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment.

4. Suitable drainage structures or features shall be provided to prevent or control standing water in the waste tires, waste tire material, and associated storage areas.

5. All water discharges, including stormwater runoff, from the site shall be in accordance with applicable state and federal rules and regulations.

6. All waste tire processors, collectors, and associated solid waste management units shall comply with LAC 33:VII.Subpart 1.

7. Waste tires and waste tire material shall be treated according to an acceptable and effective disease vector control plan approved by the administrative authority.

8. Waste tires and waste tire material stored outside shall be maintained in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority.

9. Waste tire or waste tire material piles shall be separated by lanes with a minimum width of 50 feet to allow access by emergency vehicles and equipment.

10. Access lanes to and within the facility shall be free of potholes and ruts and be designed to prevent erosion.

11. The storage limit for waste tires and waste tire material shall be no more than 60 times the daily permitted processing capacity of the processing facility.

12. All waste tire facility operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tire material that will be stored at the processing facility site at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of \$20 per ton of waste tire material on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in Appendix A. The financial assurance must be reviewed at least annually.

13. An alternative method of determining the amount required for financial assurance shall be as follows:

a. the waste tire facility operator shall submit an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

c. if the estimates provided are lower than the required \$20 per ton of waste tire material, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the processor is required to provide.

14. Financial assurances for closure and post closure activities must be in conformity with the standards contained in LAC 33:VII.727.A.2.i.

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor certificate that expires after the effective date of these regulations shall not be renewed for a period extending beyond 365 days after the effective date of these regulations.

* * *

[See Prior Text in E.2-6]

7. Mobile processors are responsible for notifying the administrative authority in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the administrative authority before initiating any processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10527. Standards and Responsibilities for Waste Tire Collectors and Collection Centers

A. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10533. All collection center operators shall be responsible for counting the tires in the shipment. The collection center shall maintain a log for all unmanifested loads of 20 or fewer waste tires.

B. All collection center operators shall meet the standards in LAC 33:VII.10525.D.1-10 and 12-14.

C. The storage limit for a collection center shall be 3000 whole waste tires or 60 times the daily permitted processing capacity, whichever is greater.

D. Use of mobile processing units are allowed at collection centers only when processed waste tire material is immediately deposited in a trailer or other suitable container for immediate removal from the site.

E. No processed waste tire material shall be deposited on the ground at a collection center at any time.

F. All collection centers shall provide a method to control and/or treat process water if applicable.

G. The closure plan for all collection centers must ensure clean closure and must include the following:

1. the method to be used and steps necessary for closing the center;

2. the estimated cost of closure of the center, based on the cost of hiring a third party to close the center at the point in the center's operating life when the extent and manner of its operation would make closure the most expensive;

3. an estimate of the maximum inventory of whole waste tires ever on-site over the active life of the center;

4. a schedule for completing all activities necessary for closure; and

5. the sequence of final closure as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10529. Standards and Responsibilities of Property Owners

A. Owners of property on which unauthorized waste tire piles are located shall remediate the site or reimburse the department for the cost of remediation, except as provided by R.S. 30:2156.

B. Owners of property on which unauthorized waste tire piles are located shall provide disease vector control measures adequate to protect the safety and health of the public, and shall keep the site free of excess grass, underbrush, and other harborage.

C. Owners of property on which unauthorized waste tire piles are located shall limit access to the piles to prevent further disposal of tires or other waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the

§10531. Standards And Responsibilities of Qualified Recyclers

* * *

[See Prior Text in A-A.9]

B. All facilities recycling waste tires and/or waste tire material in Louisiana shall meet the requirements of LAC 33:VII.10525.D.

C. The storage limit for waste tire material shall be no more than 180 times the daily recycling capacity of the recycling facility. The facility must maintain records to document its compliance with this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10533. Manifest System

A. All shipments of 20 or more waste tires shall be accompanied by a waste tire manifest provided by the department and executed in accordance with this Section.

B. The manifest document flow is as follows:

1. the generator initiates the manifest (original and at least five copies), completing all of Section 1 and designating the destination facility in Section 3. After the transporter signs the manifest, the generator retains one copy for his files, and the original and all other copies accompany the waste tire shipment. Upon receipt of the waste tires, the transporter completes the Section 2, Transporter 1 information. If applicable, upon surrender of the shipment to a second transporter, the second transporter completes the Section 2, Transporter 2 information. After Transporter 2 signs the manifest, Transporter 1 retains his copy of the manifest;

2. the transporter secures signature of the designated destination facility operator upon delivery of waste tires and/or waste tire material to the designated destination facility. The transporter retains one copy for his files and gives the original and remaining copies to the designated destination facility operator;

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the department with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

4. a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated destination facility within 30 days of the date the waste tires and/or waste tire material was accepted by the initial transporter must contact the transporter and/or the owner or the operator of the designated destination facility to determine the status of the shipment; and

5. a generator must submit to the department written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

6. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

7. a cover letter signed by the generator explaining the efforts taken to locate the shipment and the results of those efforts.

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the administrative authority, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant shall submit a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

* * *

[See Prior Text in A.1-4]

5. Permit modification fee **C\$100.**

* * *

[See Prior Text in A.6-8]

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer from the purchaser at the time of retail sale. The fee shall be \$2 per tire weighing 100 pounds or less and \$1 per 20 pounds for tires weighing more than 100 pounds. Tires weighing 100 pounds or less include all automobile, pickup, sport utility vehicle, front steer wheel tractor, farm implement service, golf cart, lawn mower, and all terrain vehicle (ATV) tires. Tires weighing more than 100 pounds and less than 500 pounds shall pay a fee based on Appendix C of this Chapter. The figures in Appendix C are based on a weighted average of each size, regardless of brand or type. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

C. The disposition of the fee shall be as follows:

1. the entire waste tire fee shall be forwarded to the administrative authority by the tire dealer and shall be deposited in the Waste Tire Management Fund;

2. the waste tire fee shall be designated as follows: a minimum of \$1.50 per twenty pound equivalent will be utilized to pay waste tire processors that are working under agreement with the administrative authority for the processing of currently generated waste tires marketed in accordance with D.4 of this Section, a maximum of 10 percent of the waste tire fees collected may be utilized for program administration, 5 percent of the waste tire fees collected may be used for research and market development, and 10 percent of the waste tire fees collected may be used for unauthorized tire pile cleanup.

D. Payments for Processing and Marketing Waste Tires and Waste Tire Material. Payments made by the state of Louisiana are meant to temporarily supplement the business activities of processors and are not meant to cover all business expenses and costs associated with processing and marketing. Payments shall only be paid to standard permitted processors under written agreement with the department in accordance with LAC 33:VII.10515.

* * *

[See Prior Text in D.1-2]

3. No payments shall be made for marketing used tires or for tires destined to be retreaded.

4. The payment for marketing or recycling of shredded waste tire material shall be a minimum of \$1.50 per 20 pounds of waste tire material that is recycled by a qualified recycler. The processor shall demonstrate that the waste tire material has been recycled. The determination that waste tire material is being marketed to a qualified recycler shall be made by the administrative authority; this determination may be reviewed at any time.

5. The payment for marketing waste tire material produced by means other than shredding shall be determined on a case-by-case basis, but shall be a minimum of \$1.50 per 20 pounds of waste tire material.

6. The marketing payments shall be made to the processor for whole waste tires or baled waste tires that are marketed and shipped to a qualified recycler by the processor.

7. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the department. Reporting forms will be provided by the administrative authority.

8. The amount of payments made to each processor is based on the availability of monies in the Waste Tire Management Fund.

9. All, or a portion, of a processor's payments may be retained by the administrative authority if the administrative authority has evidence that the processor is not fulfilling the terms of his agreement and/or his standard permit.

10. Waste tire material that was produced prior to January 1, 1998, and for which processing payments were made are only eligible for the additional \$.15 incentive for marketing the waste tire material when the material is marketed after December 31, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10536. Remediation of Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for remediation of unauthorized waste tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for unauthorized waste tire pile remediation. Any such agreements shall designate specific eligible sites and the department shall monitor the remediation activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid

Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to, administrative costs, consulting fees, legal fees, or premiums for performance bonds. Furthermore, they shall not be applied to reclamation efforts or remediation costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, recycling, and disposal costs of the waste tires.

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the administrative authority with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the administrative authority.

C. Unauthorized waste tire piles shall be chosen for remediation based on their placement on the waste tire priority remediation list. Point values shall be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B of this Chapter. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

* * *

[See Prior Text in D-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§10537. Enforcement

* * *

[See Prior Text in A]

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In cases where persons selling new tires have failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in cases(s) where a grossly incorrect report or a report that is false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

* * *

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

Appendix A
Louisiana Department of Environmental Quality
Financial Assurance Documents For Waste Tire
Facilities
(August 4, 1994)

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Sample Document 1:
Waste Tire Facility Financial Guarantee Bond

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105. Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETIES

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: \$

**Sample Document 2:
Waste Tire Facility Performance Bond**

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization : [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described herein above.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the Louisiana Administrative Code, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

**Sample Document 3:
Waste Tire Facility Irrevocable Letter of Credit**

Secretary

Louisiana Department of Environmental Quality

Post Office Box 82231

Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums to up to the aggregate amount of U.S. dollars \$ upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration date, we notify both the administrative authority and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of issuing Institutions]

[Date]

Appendix B

Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
<50,000	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the

corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within ¼ mile radius	20
Major highway within ½ mile radius	10

Appendix C

Waste Tire Fee Collection Schedule

Waste tire fees shall be collected according to tire weight or by specific tire type identified in this Appendix.

Code	Category	Waste Tire Fee
A	0 to 100 pounds	\$2.00
B	101 to 120 pounds	6.00
C	121 to 140 pounds	7.00
D	141 to 160 pounds	8.00
E	161 to 180 pounds	9.00
F	181 to 200 pounds	10.00
G	201 to 220 pounds	11.00
H	221 to 240 pounds	12.00
I	241 to 260 pounds	13.00
J	261 to 280 pounds	14.00
K	281 to 300 pounds	15.00
L	301 to 320 pounds	16.00
M	321 to 340 pounds	17.00
N	341 to 360 pounds	18.00
O	361 to 380 pounds	19.00
P	381 to 400 pounds	20.00
Q	401 to 420 pounds	21.00
R	421 to 440 pounds	22.00
S	441 to 460 pounds	23.00
T	461 to 480 pounds	24.00
U	481 to 499 pounds	25.00
V	500 pounds or larger	No Fee

Waste Tire Fee Collection Schedule

\$2 shall be collected on all tires weighing less than 100 pounds unless specifically excluded by these regulations.

Medium Truck Tires

	Code	Fee
Bias, tube type		
825-20	A	\$2.00
900-20	A	2.00
1000-20	B	6.00
1000-22	B	6.00
Radial, tube type		
900 R20	C	7.00
1000 R20	C	7.00
1100 R20	D	8.00
1200 R20	F	10.00
1400 R20	I	13.00
1100 R22	E	9.00
1100 R24	E	9.00

1200 R24	F	10.00	14.9 R-28	G	11.00
Radial, tubeless			16.9 R-28	H	12.00
9 R22.5	A	2.00	600/65 R-28	G	11.00
10 R22.5	B	6.00	420/70 R-28	F	10.00
11 R22.5	C	7.00	480/70 R-28	J	14.00
12 R22.5	D	8.00	440/80 R-28	B	6.00
11 R24.5	C	7.00	380/85 R-28	B	6.00
12 R24.5	D	8.00	420/85 R-28	B	6.00
Radial, low profile			385/80 R-30	B	6.00
295/75 R22.5	C	7.00	420/90 R-30	B	6.00
285/75 R24.5	C	7.00	14.9 R-30	G	11.00
Super Single			16.9 R-30	I	13.00
315/80 R22.5	D	8.00	18.4 R-30	I	13.00
385/65 R22.5	F	10.00	480/70 R-30	K	15.00
425/65 R22.5	G	11.00	520/70 R-30	J	14.00
445/65 R22.5	H	12.00	540/65 R-30	J	14.00
Rear Farm Tire, Bias			30.5L R-32	Q	21.00
14.9-24	B	6.00	12.4 R-32	S	23.00
16.9-24	C	7.00	14.9 R-34	G	11.00
17.5L-24	D	8.00	320/85 R-34	E	9.00
18.4-24	F	10.00	380/85 R-34	G	11.00
19.5L-24	E	9.00	385/85 R-34	H	12.00
21L-24	H	12.00	480/85 R-34	I	13.00
16.9-26	H	12.00	16.9 R-34	I	13.00
18.4-26	H	12.00	18.4 R-34	I	13.00
23.1-26	N	18.00	12.4 R-36	I	13.00
28L-26	R	16.00	13.6 R-36	I	13.00
13.6-28	B	6.00	15.5 R-38	F	10.00
14.9-28	C	7.00	480/80 R-38	J	14.00
16.9-28	E	9.00	520/85 R-38	O	19.00
18.4-28	F	10.00	18.4 R-38	M	17.00
21L-28	J	14.00	20.8 R-38	P	20.00
16.9-30	F	10.00	13.6 R-38	I	13.00
18.4-30	F	10.00	16.9 R-38	J	14.00
23.1-30	L	16.00	320/90 R-42	F	10.00
24.5-32-R	R	22.00	480/80 R-42	M	17.00
VA500/95D32	U	25.00	520/85 R-42	Q	21.00
16.9-34	G	11.00	18.4 R-42	M	17.00
18.4-34	H	12.00	20.8 R-42	R	22.00
20.8	M	17.00	14.9 R-46	K	15.00
23.1-34	N	18.00	18.4 R-46	P	20.00
11.2-38	B	6.00	320/90 R-46	H	12.00
12.4-38	B	6.00	340/85 R-46	K	15.00
13.6-38	C	7.00	380/90 R-46	J	13.00
15.5-38	D	8.00	380/85 R-46	L	16.00
16.9-38	G	11.00	420/80 R-46	L	16.00
18.4-38	I	13.00	480/80 R-46	L	16.00
20.8-38	N	18.00	520/85 R-46	T	24.00
9.5-42	A	2.00	480/80 R-50	R	22.00
20.8-42	P	20.00			
Rear Farm Tire, Radial			Construction Tires Including Grader and Loader		
280/70 R-18	I	13.00	750-15	A	2.00
380/70 R-20	B	6.00	820-15	A	2.00
380/70 R-34	D	8.00	825-20	A	2.00
14.9 R-24	G	11.00	900-15	A	2.00
320/75 R-24	A	2.00	900-16	A	2.00
16.9 R-24	F	10.00	950-20	I	13.00
16.9 R-26	G	11.00	1000-24	B	6.00
18.4 R-26	J	14.00	1100-16	A	2.00
620/75 R-26	R	22.00	1100-20	E	9.00
13.6 R-28	D	8.00	1200-20	H	12.00
			1200-24	K	15.00

1200 R-24	M	17.00
1300-20	O	19.00
1300-24	G	11.00
1300 R-24	J	14.00
1400-20	L	16.00
1400 R-20	K	15.00
1400 R-21	K	15.00
1400-24	P	20.00
1400 R-24	Q	21.00
1400-25	J	14.00
1400 R-25	R	22.00
1600-16	A	2.00
1600-20	K	15.00
1600 R-20	M	17.00
1600-21	R	22.00
1600 R-21	O	19.00
1600-24	P	20.00
1600 R-24	P	20.00
2725-21	O	19.00

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by SW029. Such comments must be received no later than October 2, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884 or to fax (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW029.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Waste Tire Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation cost will be \$3,646,697. This results from an increase from \$1.00 per twenty pounds of waste tire

- material paid to Louisiana waste tire processors to \$1.50 per twenty pounds of waste tire material.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Waste Tire Management Fund will collect an additional \$3,080,000 approximately per year based new fees on 35,000 off-road tires at an average fee of \$20 per tire and 595,000 truck tires at an average fee of \$6 per tire.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated off-road and truck tire fee increases will be borne directly by those individuals purchasing these tires. Waste tire processors will realize a 50% increase in Waste Tire Management Fund payments.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or employment.

James H. Brent, Ph.D. Robert E. Hosse
Assistant Secretary General Government Section Director
0008#082 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Commission on Law Enforcement
and Administration of Criminal Justice**

Law Enforcement Training and Assistance Fund; Crime Victims Reparations Fund; and Drug Abuse Education and Treatment Fund (LAC 22:III.4544)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 15:1201, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to promulgate rules and regulations regarding the collection of the Law Enforcement Training and Assistance Fund, the Crime Victims Reparations Fund, and the Drug Abuse Education and Treatment Fund. There may be minor impact on family earnings and budget as set forth in R.S. 49:972 by the ineligibility for grant funding of criminal justice agencies that fail to submit funds collected under the cited fund programs.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Subpart 6. Grant Applications or Subgrants Utilizing
Federal, State, or Self-Generated Funds
Chapter 45. Guidelines
§4544. Funding Eligibility**

A. Effective January 1, 2001, criminal justice agencies that fail to submit funds collected under the Law Enforcement Training and Assistance Fund, the Crime Victims Reparations Fund, and the Drug Abuse Education and Treatment Fund to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice (LCLE)

as statutorily required shall not be eligible for funding under any grant program administered by the LCLE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 26:

Interested persons may submit written comments on the proposed Rule, or submit a written request for a public hearing on the proposed Rule, until 5 p.m., September 15, 2000, to Judy Mouton, Deputy Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Law Enforcement Training and Assistance Fund, Crime Victims Reparations Fund and Drug Abuse Education and Treatment Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule will have no estimated implementation costs or savings for state or local governmental units. The proposed Rule will prevent criminal justice agencies that fail to submit funds collected under the Law Enforcement Training and Assistance Fund, the Crime Victims Reparations Fund, and the Drug Abuse Education and Treatment Fund to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice (LCLE) from receiving any grant funding from the LCLE. Criminal justice agencies are expected to continue submitting funds collected under the listed Fund programs in order to receive anticipated grant funding.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no immediate effect on revenue collections for those local agencies which are currently complying with C.Cr.P. Article 887(E), R.S.46:1816, and R.S.15:1224. If additional submissions are made, additional funds may be available to criminal justice agencies. The proposed Rule should have an effect on the revenue collections of the LCLE itself, but the amount cannot be estimated because the funds are derived from convictions in various criminal courts statewide. The number of such convictions cannot be estimated. The proposed Rule will have no estimated effect on revenue collections of other state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will impose no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Michael A. Ranatza
Executive Director
0008#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Nursing Education Programs
(LAC 46:XLVII.Chapter 35)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to Nursing Education Programs. The proposed amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3503. Definitions

* * *

Distance Education—teaching learning strategies to meet the needs of students who are physically separated from the faculty.

Distance Education Technology—the methods and technical support used to teach students who may be physically distant from the faculty. The methods may include audio conference, compressed video, electronic mail, and the World Wide Web.

* * *

Goals—the aims of the program including the expected competencies of the graduate.

Major Change in Curriculum—any one of the following shall be deemed to constitute a major change in curriculum:

1. alteration, other than editorial, in program's mission/philosophy and goals:

* * *

Nursing Education Program—a program whose purpose is to prepare graduates eligible to apply to write the registered nurse licensing examination.

1. ...

2. *Baccalaureate*—a program leading to a bachelor's degree in nursing conducted by an educational unit, department, division, college or school, that is an integral part of a college or university.

3. ...

Objectives—the behavioral expectations of the students in courses and throughout the program that lead to the goals of the program.

* * *

Preceptorship Experience—an individualized teaching-learning strategy in which a nursing student participates in clinical nursing practice while assigned to a preceptor.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:913 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:184 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1208 (December 1991), LR 24:1293 (July 1998), LR 26:

§3511. Standards and Requirements for Nursing Education Program: Mission/Philosophy and Goals

A. The nursing education program shall have a clear statement of mission/philosophy, consistent with the mission of the parent institution and congruent with current concepts in nursing education.

B. The program shall use an identified set of professional standards congruent with the mission/philosophy and from which the goals are developed. The standards shall be consistent with the *Legal Standards of Nursing Practice*, LAC 46:XLVII.3900.

C. Expected competencies of the graduate shall be clearly delineated.

D. Distance education programming is consistent with the mission and goals of the nursing unit and the governing organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1146 (September 1993), LR 26:

§3515. Faculty and Faculty Organization

A. - B.1. ...

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. ...

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of one calendar year;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of three calendar years.

8. The number of faculty exceptions shall not exceed twenty percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678

(October 1986), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 26:

§3517. Student Selection and Guidance

A. - F. ...

G. Students shall be provided opportunity for input into the program.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:

§3519. Facilities, Resources, Services

A. - D. ...

E. Nursing library resources shall be comprehensive, current and accessible.

F. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 26:

§3521. Curriculum

A. The faculty shall periodically review, evaluate and revise as appropriate the mission philosophy, and goals of the program.

B. The mission/philosophy and goals shall be used by the faculty in planning, implementing and evaluating the total program.

C. The goals shall be consistent with the mission and describe the cognitive, affective and psychomotor capabilities of the graduate.

D. The curriculum shall include, but not be limited to, content from the behavioral, biological, mathematical, nursing and physical sciences.

E. Opportunities shall be provided for the application of the nursing process throughout the curriculum and in a variety of settings.

F. Course objectives and content shall reflect society's concern with the bioethical and legal parameters of health care and professional practice.

G.1. The nursing courses shall provide for classroom and clinical laboratory instruction that shall be under the supervision of a faculty member of the nursing program.

2. Provision shall be made for learning experiences with clients having nursing care needs in all age groups and stages of the health-illness continuum as appropriate to the role expectations of the graduate.

H. Provision shall be made for the development of other knowledge and skills as deemed necessary by the faculty and as appropriate to the role expectations of the graduate.

I. The curriculum shall be arranged to provide opportunities for upward career mobility for students who have completed other nursing programs and have met appropriate requirements for licensure.

1. Mechanisms for the recognition of prior learning and advanced placement in the curriculum shall be in place.

2. Any formalized agreements between programs to facilitate the transfer of credit between nursing programs shall be identified and described.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:

§3523. Program Evaluation

A. ...

1. mission/philosophy, outcomes of the curriculum;
2. - 4. ...
5. faculty evaluations of students;
6. ...
7. follow-up studies of the graduates;
8. employment functioning of the graduates; and
9. evaluation of faculty performance

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977) amended by the Department of Health and Hospitals, Board of Nursing, LR 15:1081 (December 1989), LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:

§3529. Selection and Use of Clinical Facilities

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the Health Care Financing Administration (HCFA). In addition, hospitals should be accredited by the Joint Commission of Accredited Health Organizations (JCAHO). Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency as appropriate.

B. - D. ...

E. The facility shall have:

1. a written mission/philosophy of patient/client care which gives direction to nursing care;
2. registered nurses to insure the safe care of patient and to serve as role models for students;
3. - 13. ...

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended by the Department of Health and Hospitals, LR 16:133 (February 1990), LR 19:1149 (September 1993), LR 26:

§3533. Procedure for Establishing a New Program

A. - B.5. ...

- a. mission/philosophy and goals;

B.5.c. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:190 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:532 (August 1988), LR 24:1293 (July 1998), LR 26:

§3534. Procedure for Restructuring an Existing Program Into/Within Higher Education

A. - C.5. ...

- a. mission/philosophy and goals;

C.5.b. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:690 (August 1990), amended LR 24:1293 (July 1998), LR 26:

§3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana

A. - B.1.d.i. ...

- ii. a copy of the mission/philosophy and goals,

B.1.d.iii. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), amended LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:

§3537. Procedure for Proposed Major Change in Curriculum

A. A nursing education program proposing a major curriculum change shall submit to the board, six months prior to date of implementation, the following:

1. - 2. ...

3. mission/philosophy, goals, course objectives and course outlines;

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 24:1293 (July 1998), LR 26:

§3539. Procedure for Submitting Required Forms and Reports

A. - B.2.a. ...

b. A "community-based agency review form" shall be submitted by the nursing education program to the board describing facilities in which a student receives less than 10 percent of the total clinical experience in a given course. This form will be incorporated in the Annual Report.

3. Any program required to submit a National League for Nursing Accrediting Commission or a Council for Collegiate Nursing Education Interim Report shall submit a copy of the report to the board.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 21:803 (August 1995), LR 24:1293 (July 1998), LR 26:

§3541. Preceptorship Learning Experiences

A. - F. ...

G. The faculty member shall confer with each preceptor and student at least once during each daily learning experience.

H. - I. ...

J. There shall be one preceptor for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028

(December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1207 (December 1991), LR 24:1293 (July 1998), LR 26:

§3542. Community-Based Learning Experiences

A. - G.4. ...

5. The faculty member shall confer with each preceptor and student(s) at least weekly during said learning experience.

6. ...

7. There shall be no more than three students per preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 21:803 (August 1995), amended by the Department of Health and Hospitals, Board of Nursing, LR 24: 1293 (July 1998), LR 26:

Interested persons may submit written comments on the proposed rules to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on September 5, 2000.

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board’s appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Education Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only implementation cost is the estimated \$45.00 cost of publishing the rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Programs in nursing, which prepare graduates for a Registered Nurse (RN) licensure must adhere to these standards. There is not anticipated cost or economic benefit as a result of amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The action proposes that the head of a baccalaureate program be doctorate prepared as opposed to the preference of doctorate preparation. All baccalaureate program head (Deans and Directors) currently hold a doctorate.

Barbara L. Morvant, R.N. M.N.
Executive Director
0008#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Chiropractic Service Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states, "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule establishing the provisions governing coverage of chiropractic services under the Medicaid Program in March of 1996 (*Louisiana Register*, Volumes 22, Number 3). The March 1996 Rule was subsequently amended by Rule adopted in October of 1997 which incorporated additional provisions governing chiropractic services (*Louisiana Register*, Volumes 23, Number 10). Section 440.225 of the Code of Federal Regulations (42 CFR) states that “any of the services defined in subpart A of this Part that are not required under sections 440.210 and 440.220 may be furnished under the state plan at the state’s option.” Chiropractic care is considered an optional service under Title XIX of the Social Security Act. Therefore, each state may choose to either include or exclude this service under its Medicaid State Plan.

As a result of a budgetary shortfall, the bureau determined that it was necessary to terminate coverage of chiropractic services for recipients age 21 and older. In addition, reimbursement to chiropractors for radiology services was discontinued (*Louisiana Register*, Volume 26, Number 2). The bureau now proposes to adopt a Rule to continue the provisions contained in the February 21, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 regular session of the Louisiana legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage of chiropractic services for recipients age 21 and older. In addition, reimbursement to chiropractors for radiology services is discontinued. However, coverage for medically necessary manual manipulations of the spine shall continue for recipients from birth up to the age of 21 when the service is rendered as the result of a referral from an

Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) medical screening provider.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, September 26, 2000, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Chiropractic Service Termination
of Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will reduce state program costs by approximately \$1,076 for SFY 1999-00, \$5,176 for SFY 2000-01 and \$5,331 for SFY 2001-02. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will reduce federal revenue collections by approximately \$2,634 for SFY 1999-00, \$12,357 for SFY 2000-01, and \$12,728 for SFY 2001-02.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed Rule will terminate coverage of chiropractic services for recipients over the age of 21 and discontinue reimbursement to chiropractors for radiology services. This proposed Rule will reduce expenditures by approximately \$3,830 for SFY 1999-00, \$17,533 for SFY 2000-01 and \$18,059 for SFY 2001-02.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition. As a result of the service program termination and discontinuance of reimbursement for radiology services, some chiropractors may find it necessary to reduce staff or staff hours of work.

David W. Hood
Secretary
0008#088

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Durable Medical Equipment (DME) Equipment and
Supplies Delivery Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement under the Medicaid Program for the delivery of durable medical equipment and supplies. The reimbursement is either the lesser of billed charges or 10 percent of the total shipping amount for the prior authorized medical equipment and supplies up to a maximum amount of \$75. As a result of a budgetary shortfall, the bureau determined it was necessary to reduce the reimbursement rate for delivery of prior authorized durable medical equipment and supplies to either the lesser of billed charges or 5 percent of the total shipping amount for the medical equipment and supplies up to a maximum of \$50 (*Louisiana Register*, Volume 26, Number 2). The bureau now proposes to adopt a Rule to continue the provisions contained in the February 8, 2000 Emergency Rule.

In compliance with Act 1183 of the 1999 regular session of the Louisiana legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rate for delivery of prior authorized durable medical equipment and supplies to either the lesser of billed charges or 5 percent of the total shipping amount for the medical equipment and supplies up to a maximum of \$50.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, September 26, 2000 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to

submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Durable Medical Equipment
(DME)C Equipment and Supplies Delivery
Reimbursement Reduction**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that the implementation of this proposed Rule will reduce state program costs by approximately \$16,891 for SFY 1999-00, \$82,069 for SFY 2000-01 and \$84,532 for SFY 2001-02. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 1999-00 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$40,121 for SFY 1999-00, \$195,943 for SFY 2000-01, and \$201,821 for SFY 2001-02.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementation of this proposed rule will reduce the reimbursement paid to providers for the delivery of durable medical equipment and supplies. This proposed rule will reduce expenditures by approximately \$57,132 for SFY 1999-00, \$278,012 for SFY 2000-01, and \$286,353 for SFY 2001-02.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition. As a result of the reduction in the reimbursement rate for deliveries, some providers may find it necessary to reduce staff or staff hours of work.

David W. Hood
Secretary
0008#089

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Assisting in Violations (LAC 42:XIII.2931)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2931, 42:IX.2927 and 42:XIII.2931 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

**Chapter 29. Operating Standards
§2931. Assisting in Violations**

A. No employee, agent, or representative of a licensee or permittee shall intentionally assist another person in violating any provisions of the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent, or representative of a licensee or permittee to promptly notify the division of any possible violation of any Federal, State or Municipal Law, the Act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:767 (April 2000), amended LR 26:

**Part IX. Landbased Casino Gaming
Chapter 29. Operating Standards
§2927. Assisting in Violations**

A. No employee, agent or representative of the casino operator or a permittee shall intentionally assist another person in violating any provision of the act, rules adopted pursuant to the act, the casino operating contract, any orders of the board or division, or the casino operator's internal Controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent or representative of the casino operator or permittee to promptly notify the board and the Division of any possible violation of any federal, state or municipal law, the act, the rules adopted pursuant to the act, the casino operator's internal controls or any order of the division or the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1953 (October 1999), amended LR 26:

**Part XIII. Riverboat Gaming
Chapter 29. Operating Standards
§2931. Assisting in Violations**

A. No employee, agent, or representative of a licensee or permittee shall intentionally assist another person in violating any provisions of the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls. Such assistance shall constitute a violation of these rules. It is incumbent upon an employee, agent, or representative of a licensee or permittee to promptly notify the division of any possible violation of any federal, state or municipal law, the act, rules adopted pursuant to the act, any orders of the board or division, or the licensee's internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and

may submit comments relative to these proposed rules, through September 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Family Impact Statement

Pursuant to the provisions of R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the amendment of LAC 42:VII.2931, IX.2927 and XIII.2931.

It is accordingly concluded that the amendment of LAC 42:VII.2931, IX.2927 and XIII.2931 would appear to have a positive, yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Assisting in Violations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0008#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Code of Conduct of Licensees and Permittees
(LAC 42:VII.2901, XI.2417, 2901 and XIII.2901)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2901, IX.2901, XI.2417 and XIII.2901 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

**Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

Chapter 29. Operating Standards Generally

§2901. Code of Conduct of Licensees and Permittees

A. General Provisions

1. All licensees and permittees shall comply with all applicable federal, state, and local laws and regulations.

2. All licensees and permittees shall, at all times, conduct themselves in a professional manner when communicating with the public, the division and the board.

3. Any violation of the provisions of the Act, shall also constitute a violation of these rules.

B. Unsuitable Conduct

1. No licensee or permittee shall engage in unsuitable conduct or practices or shall employ or have a business association with any person, natural or juridical, which engages in unsuitable conduct or practices.

2. For purposes of this Section, unsuitable conduct or practices shall include, but not be limited to the following:

a. employment of, in a managerial or other significant capacity as determined by the division or board, business association with, or participation in any enterprise or business with, except for race horse care personnel, a person convicted of a felony or declared unsuitable by the division or board;

b. employment of, association with, or participation in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;

c. misrepresentation of any material fact or information to the division or board;

d. engaging in, furtherance of, or profit from any illegal activity or practice, or any violation of these rules or the act;

e. obstructing or impeding the lawful activities of the board, division or its agents;

f. persistent or repeated failure to pay amounts due or to be remitted to the state; and

3. A licensee or permittee shall not engage in, participate in, or facilitate by any means, any criminal activity.

4. All licensees and permittees shall have a continuing duty to inform the division of any legal action that may materially affect the licensee's capability to perform or execute his responsibilities as a licensee or permittee.

5. A licensee or permittee shall not intentionally make, cause to be made, or aid, assist, or procure another to make any false statement in any report disclosure, application, permit form, or any other document, including improperly notarized documents, required by these rules or the act.

C. Additional Causes for Disciplinary Action

1. Further instances of conduct by a licensee or permittee where the division or board may sanction a licensee or permittee shall include but not be limited to when:

a. the licensee or permittee has been involved in the diversion of gaming equipment for unlawful means;

b. the licensee or permittee or a designated representative of the licensee or permittee has been involved

in activities otherwise prohibited by law or the willful purpose of which was to circumvent or contravene the provisions set forth in the division's rules;

c. the licensee or permittee has demonstrated a reluctance or inability to comply with the requirements set forth in these rules and the act, particularly after repeated warnings;

d. the licensee or permittee violates written conditions;

e. the division discovers incomplete or erroneous information as to a material or a substantial matter provided on an application or any item affecting the decision whether to license the applicant;

f. the division discovers substantial, incomplete, or erroneous information provided in a report or other required communication; and

g. the licensee or permittee has failed to timely pay a fine imposed by the division or board;

h. tardy, inaccurate, or incomplete reports;

i. failure to respond in a timely manner to communications from the division or board; and

j. unavailability of the licensees or permittees, their designated representatives, or their agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000)

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees

A. General Provisions

1. The Casino Operator, Casino Manager, and all licensees and permittees shall comply with all applicable federal, state, and local laws and regulations.

2. The Casino Operator, Casino Manager, and all licensees and permittees shall, at all times, conduct themselves in a professional manner when communicating with the public, the division and the board.

3. Any violation of the provisions of the Act, shall also constitute a violation of these rules.

B. Unsuitable Conduct

1. No Casino Operator, Casino Manager, licensee or permittee shall engage in unsuitable conduct or practices or shall employ or have a business association with any person, natural or juridical, which engages in unsuitable conduct or practices.

2. For purposes of this Section, unsuitable conduct or practices shall include, but not be limited to the following:

a. employment of, in a managerial or other significant capacity as determined by the division or board, business association with, or participation in any enterprise or business with, a person convicted of a felony or declared unsuitable by the division or board;

b. employment of, association with, or participation in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;

c. misrepresentation of any material fact or information to the division or board;

d. engaging in, furtherance of, or profit from any illegal activity or practice, or any violation of these rules or the act;

e. obstructing or impeding the lawful activities of the board, division or its agents;

f. persistent or repeated failure to pay amounts due or to be remitted to the state.

3. The casino operator, casino manager, a licensee or permittee shall not engage in, participate in, or facilitate by any means, any criminal activity.

4. The casino operator, casino manager, all licensees and permittees shall have a continuing duty to inform the division of any legal action that may materially affect the licensee's capability to perform or execute his responsibilities as a licensee or permittee.

5. The casino operator, casino manager, any licensee or permittee shall not intentionally make, cause to be made, or aid, assist, or procure another to make any false statement in any report disclosure, application, permit form, or any other document, including improperly notarized documents, required by these rules or the act.

C. Additional Causes for Disciplinary Action

1. Further instances of conduct by the casino operator, casino manager, any licensee or permittee where the division or board may sanction a licensee or permittee shall include but not be limited to when:

a. the casino operator, casino manager, any licensee or permittee has been involved in the diversion of gaming equipment for unlawful means;

b. the casino operator, casino manager, licensee or permittee or a designated representative of the licensee or permittee has been involved in activities otherwise prohibited by law or the willful purpose of which was to circumvent or contravene the provisions set forth in the division's rules;

c. the casino operator, casino manager, licensee or permittee has demonstrated a reluctance or inability to comply with the requirements set forth in these rules and the act, particularly after repeated warnings;

d. the casino operator, casino manager, licensee or permittee violates written conditions;

e. the division discovers incomplete or erroneous information as to a material or a substantial matter provided on an application or any item affecting the decision whether to license the applicant;

f. the division discovers substantial, incomplete, or erroneous information provided in a report or other required communication; and

g. the casino operator, casino manager, licensee or permittee has failed to timely pay a fine imposed by the division or board.

h. tardy, inaccurate, or incomplete reports;

i. failure to respond in a timely manner to communications from the division or board; and

j. unavailability of the Casino Operator, Casino Manager, licensees or permittees, their designated representatives, or their agents.

D. Specific Provisions

1. Responsibility for the employment and maintenance of suitable methods of operation rests with the casino operator, casino manager or permittee, as the case may be, and willful or persistent use or toleration of methods

of operation deemed unsuitable is grounds for disciplinary action.

2. The board may deem any activity on the part of the casino operator, casino manager, licensee or permittee, their agents or employees that is inimical to the public health, safety, morals, good order and general welfare of the people of the State of Louisiana or that would reflect or tend to reflect discredit upon the State of Louisiana or the tourism industry to be an unsuitable method of operation and grounds for disciplinary action.

3. The casino operator shall be responsible, in addition to the casino manager, for all reporting and Approval obligations imposed upon the casino manager by these Regulations or assumed by the casino manager in connection with the casino management agreement.

4. Consistent with Section 17.1 of the casino operating contract, the casino operator shall deliver updated copies of the scale drawings to the board as changes are made in the use of any room or enclosed area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 26:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2417. Code of Conduct of Licensees and Permittees

A. General Provisions

1. All licensees and permittees shall comply with all applicable federal, state, and local laws and regulations.

2. All licensees and permittees shall, at all times, conduct themselves in a professional manner when communicating with the public, the division and the board.

3. Any violation of the provisions of the Act, shall also constitute a violation of these rules.

B. Unsuitable Conduct

1. No licensee or permittee shall engage in unsuitable conduct or practices or shall employ or have a business association with any person, natural or juridical, which engages in unsuitable conduct or practices.

2. For purposes of this Section, unsuitable conduct or practices shall include, but not be limited to the following:

a. employment of, in a managerial or other significant capacity as determined by the division or board, business association with, or participation in any enterprise or business with, except for race horse care personnel, a person convicted of a felony or declared unsuitable by the division or board;

b. employment of, association with, or participation in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;

c. misrepresentation of any material fact or information to the division or board;

d. engaging in, furtherance of, or profit from any illegal activity or practice, or any violation of these rules or the act;

e. obstructing or impeding the lawful activities of the board, division or its agents;

f. persistent or repeated failure to pay amounts due or to be remitted to the state; and

3. A licensee or permittee shall not engage in, participate in, or facilitate by any means, any criminal activity.

4. All licensees and permittees shall have a continuing duty to inform the division of any legal action that may materially affect the licensee's capability to perform or execute his responsibilities as a licensee or permittee.

5. A licensee or permittee shall not intentionally make, cause to be made, or aid, assist, or procure another to make any false statement in any report disclosure, application, permit form, or any other document, including improperly notarized documents, required by these rules or the act.

C. Additional Causes for Disciplinary Action

1. Further instances of conduct by a licensee or permittee where the division or board may sanction a licensee or permittee shall include but not be limited to when:

a. the licensee or permittee has been involved in the diversion of gaming equipment for unlawful means;

b. the licensee or permittee or a designated representative of the licensee or permittee has been involved in activities otherwise prohibited by law or the willful purpose of which was to circumvent or contravene the provisions set forth in the division's rules;

c. the licensee or permittee has demonstrated a reluctance or inability to comply with the requirements set forth in these rules and the act, particularly after repeated warnings;

d. the licensee or permittee violates written conditions;

e. the division discovers incomplete or erroneous information as to a material or a substantial matter provided on an application or any item affecting the decision whether to license the applicant;

f. the division discovers substantial, incomplete, or erroneous information provided in a report or other required communication; and

g. the licensee or permittee has failed to timely pay a fine imposed by the division or board;

h. tardy, inaccurate, or incomplete reports;

i. failure to respond in a timely manner to communications from the division or board; and

j. unavailability of the licensees or permittees, their designated representatives, or their agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), LR 26:

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. General Provisions

1. All licensees and permittees shall comply with all applicable federal, state, and local laws and regulations.

2. All licensees and permittees shall, at all times, conduct themselves in a professional manner when communicating with the public and the division and the board.

3. Any violation of the provisions of the Act, shall also constitute a violation of these rules.

B. Unsuitable Conduct

1. No licensee or permittee shall engage in unsuitable conduct or practices or shall employ or have a business association with any person, natural or juridical, which engages in unsuitable conduct or practices.

2. For purposes of this Section, unsuitable conduct or practices shall include, but not be limited to the following:

a. employment of, in a managerial or other significant capacity as determined by the division or board, business association with, or participation in any enterprise or business with, a person convicted of a felony or declared unsuitable by the division or board;

b. employment of, association with, or participation in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;

c. misrepresentation of any material fact or information to the division or board;

d. engaging in, furtherance of, or profit from any illegal activity or practice, or any violation of these rules or the act;

e. obstructing or impeding the lawful activities of the board, division or its agents;

f. persistent or repeated failure to pay amounts due or to be remitted to the state;

3. A licensee or permittee shall not engage in, participate in, or facilitate by any means, any criminal activity.

4. All licensees and permittees shall have a continuing duty to inform the division of any legal action that may materially affect the licensee's capability to perform or execute his responsibilities as a licensee or permittee.

5. A licensee or permittee shall not intentionally make, cause to be made, or aid, assist, or procure another to make any false statement in any report disclosure, application, permit form, or any other document, including improperly notarized documents, required by these rules or the act.

C. Additional Causes for Disciplinary Action

1. Further instances of conduct by a licensee or permittee where the division or board may sanction a licensee or permittee shall include but not be limited to when:

a. the licensee or permittee has been involved in the diversion of gaming equipment for unlawful means;

b. the licensee or permittee or a designated representative of the licensee or permittee has been involved in activities otherwise prohibited by law or the willful purpose of which was to circumvent or contravene the provisions set forth in the division's rules;

c. the licensee or permittee has demonstrated a reluctance or inability to comply with the requirements set forth in these rules and the act, particularly after repeated warnings;

d. the licensee or permittee violates written conditions;

e. the division discovers incomplete or erroneous information as to a material or a substantial matter provided on an application or any item affecting the decision whether to license the applicant;

f. the division discovers substantial, incomplete, or erroneous information provided in a report or other required communication; and

g. the licensee or permittee has failed to timely pay a fine imposed by the division or board.

h. tardy, inaccurate, or incomplete reports;

i. failure to respond in a timely manner to communications from the division or board; and

j. unavailability of the licensees or permittees, their designated representatives, or their agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1900 (October 1999), LR 25:2255 (November 1999), LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through September 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Family Impact Statement

Pursuant to the provisions of R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the amendment of LAC 42:VII.2901, IX.2901, XI.2417 and XIII.2901.

It is accordingly concluded that the amendment of LAC 42:VII.2901, IX.2901, XI.2417 and XIII.2901. would appear to have a positive, yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Code of Conduct of Licensees and Permittees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0008#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety
Gaming Control Board**

Requirements for Licensing (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2405.B. in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

**Chapter 24. Video Draw Poker
§2405. Application and License**

A.1. - 15. ...

B. Requirements for Licensing

B.1. - 12.a. ...

b. If surrendered in accordance with §2405.B.12.a, no gaming activities may be conducted at the premises unless and until the license is returned to the licensee.

c. The license may be returned to the licensee when business operations are resumed for the unexpired term of the license provided that the licensee is in good standing as defined in LAC 42:III.119 and further provided that no more than 180 days has elapsed from the date the license was surrendered.

d. Licenses surrendered in accordance with §2405.B.12.a shall not be subject to renewal unless the license has been returned to the licensee.

e. Failure to surrender the license as provided in §2405.B.12.a shall constitute grounds for revocation or suspension of the license.

C. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through September 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Family Impact Statement

Pursuant to the provisions of R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the amendment of LAC 42:XI.2405.B.

It is accordingly concluded that the amendment of LAC 42:XI.2405.B. would appear to have a positive, yet inestimable impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Requirements for Licensing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0008#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Riverboat Gaming Commission; Licensees and Permits;
Passenger Embarkation and Disembarkation
(LAC 42:XIII.301-911, 2118, 2123, 2156, 2910)

The Louisiana Gaming Control Board hereby gives notice that it intends to repeal LAC 42:XIII, Chapters 3, 5, 7 and 9 and adopt LAC 42:XIII.2118, 2156 and 2910, and to amend XIII.2123 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Subpart 1. Riverboat Gaming Commission

Chapters 3, 5, 7 and 9

Repealed

Chapter 21. Licensees and Permits

§2118. Indemnification

A. Every contract for construction of a riverboat shall contain an indemnification provision for the protection of the state, the board and division and their agents and

employees against claims for personal injury or property damage arising out of errors and omissions in the:

1. approval of riverboat or support facility plans, designs and specifications;
2. granting of approval or licensure;
3. issuance of emergency orders;
4. denial, suspension or revocation of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§2123. Additional Application Information Required

A.1 - 11. ...

12. a description of planned excursions including all proposed designated waterways and routes, frequency and approximate schedule of excursions, projected passenger load, admission charges, and a proposed general location of the berth;

13. a general promotion and advertising plan. A general description of the amounts, kinds and types of general promotion and advertising campaign(s) which will likely be undertaken by the applicant or operator including information whether any national or regional advertising will occur, the medium(s) which may be used, the proposed market and whether any other facility or activity except the riverboat will be included in such advertising;

14. a feasibility study. Each applicant shall submit or make available to division or board personnel a feasibility study performed by an independent or approved applicant's staff consultant, which study shall examine, evaluate and attest to the feasibility of the applicant's proposed operation and shall describe or list the evaluation methodology used. The feasibility study shall include a list of the consultant's qualifications, a discussion of the overall market for riverboat gaming operations and the effect of the proposed riverboat on the market. In addition, the feasibility study shall address possible competition from other riverboat gaming and other forms of gaming in all areas of Louisiana and other states;

15. an economic development and utilization plan. Each applicant shall submit an economic development plan addressing the purchasing of or utilization of goods and services in the construction and operation of proposed operations. The plan shall include a list and offer of voluntary conditions by the applicant regarding the following procurement:

- a. an estimated procurement budget for resources and goods to be used in the operation of a riverboat listing the amount of the proposed utilization of Louisiana resources, goods and services in the operation of the riverboat and the area from which they will be procured;
- b. a list of employees which the applicant anticipates employing in the riverboat operation, including job classifications and total estimated salaries;
- c. the percentage of Louisiana residents projected to be hired and the percentage of minorities projected to be employed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993),

amended LR 21:705 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§2156. Modifications of Routes, Excursion Schedules and Berth

A. Except for emergency orders and applications therefor, all proposed modifications to routes, excursion schedules, and berth shall be submitted by the applicant or licensee for prior approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

§2910. Passenger Embarkation and Disembarkation

A. Except in the case of emergencies, passengers and crew may embark and disembark from a riverboat only at its authorized berth.

B. In the event that the vessel master, pursuant to the provisions to R.S. 27:65 (B)(1)(a), certifies in writing that weather or water conditions make it unsafe for a riverboat to commence or continue on its authorized excursion, and gaming activities are conducted while the vessel is at dockside, there shall be no restriction on the embarking or disembarking of passengers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:

Family Impact Statement

Pursuant to the provisions of La. R.S. 49:953 A., the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the repeal of Title 42, Part XIII Chapters 3, 5, 7 and 9, amendment of LAC 42:XIII.2123 and adoption of 42:XIII.2118, 2156 and 2910.

It is accordingly concluded that the repeal of Title 42, Part XIII Chapters 3, 5, 7 and 9, amendment of LAC 42:XIII.2123 and adoption of 42:XIII.2118, 2156, 2910 would appear to have no impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through September 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Riverboat Gaming Commission; Licensees and Permits; Passenger Embarkation and Disembarkation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0008#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

**User Fees for Louisiana State Police Facility
(LAC 55:I Chapter 3)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 40:1375(F), gives notice of its intent to amend LAC 55:I.301, the rule setting user fees for the State Police training facilities.

**Title 55
PUBLIC SAFETY
Part 1. State Police**

Chapter 3. Training and Education Section

§301 User Fees for Louisiana State Police Facilities

The Louisiana State Police announces maximum user fees for its training facilities pursuant to R.S. 40:1375(F) according to the following schedule:

Academy Dorm Room		\$30 per day
VIP Dorm Room		\$40 per day
Large Flat Room	50 person capacity	\$150 per day
Large Tiered Room	50 person capacity	\$150 per day
Gymnasium Class	40 person capacity	\$100 per day
Conference Room	15 person capacity	\$100 per day
Exercise Room	75 person capacity	\$300 per day
Auditorium	250 person capacity	\$500 per day
Gymnasium	250 person capacity	\$500 per day
Training Tank	50 person capacity	\$500 per day
Walker Firearms Range		\$500 per day
Firearms Range Classroom	50 person capacity	\$500 per day
Holden Classroom		\$200 per day
Holden Site Usage		\$3,000 per day
Classroom Audio Visual Package*		\$80 per day
Computer Equipment		\$100 per day
Holden Cabin		\$30 per day
Video Production Service		\$2-\$750 per day, depending on requested service
Bomb Ranges		\$500 per day
Driving Track		\$500 per day

Facility Grounds		\$500 per day
Courses of Instruction		\$300 per day
Applied Technology Labs		\$100 per day
*Audio Visual Package consists of: Overhead Projector, Slide Projector, Projection Screen, VHS Video Cassette Player, Television Monitor, Carts and Necessary Cabling.		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1375(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February, 1986), amended Office of State Police, LR 26:95 (January 2000), LR 26:

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through September 15, 2000.

Family Impact Statement

1. The effect of these rules on the stability of the family.

These rules will have no effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children.

These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family.

These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget.

These rules will have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children.

These rules will have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules.

These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Jerry Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: User Fees for Louisiana
State Police Facility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no additional costs associated with the implementation of this Rule. This will be accomplished utilizing personnel and equipment currently available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the adjustment to this fee schedule will result in self-generated revenue increasing by a total of \$114,000 per year. This increase is estimated based on an

increase in fees only for the federal government's Anti-Terrorist Training Program held at the Louisiana State Police Training Academy. Fees are not being increased for state and local governmental units at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The increase in the fee schedule for the Louisiana State Police Training Academy will result in an increased cost to the federal government for its use of these facilities for the Anti-Terrorist Program. Costs to state and local governmental units will not increase initially for use of these facilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should not be any effect upon competition and employment with the implementation of this Rule.

Jerry Jones
Undersecretary
0008#085

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Weights and Standards Mobile Police Force
(LAC 55:I Chapter 23)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 32:380-389 gives notice of its intent to enact LAC 55, Part I Chapter 23, §2301 et seq., the rule creating the Weights and Standards Mobile Police Force.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 23. Weights and Standards

§2301. Weights and Standards Mobile Police Force

A. Within the Office of State Police there shall be a Weights and Standards Mobile Police Force which shall perform the functions of the state related to the enforcement of R.S. 32:380-389, and R.S. 47:718, and the provisions of Chapter 4 of Subtitle II of Title 47 relating to trucks, trailers, and semi-trailers of the Louisiana Revised Statutes of 1950 and these regulations adopted pursuant thereto.

B. The Weights and Standards Mobile Police Force is authorized to carry weapons and to make arrests in the enforcement of these regulations, and in that regard, shall have the same authority and powers conferred by law upon other law enforcement officers of this state; however, no member of the Weights and Standards Mobile Police Force shall be authorized to carry a weapon until the member has received P.O.S.T. certification training.

C. The weights and standards police force and the State Police shall have concurrent authority to enforce the provisions of R.S.32:380-389 and these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2303 Definitions

A. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this section:

Axle Group Ca combination of two or more consecutive axles considered together in determining their combined load effect on a highway (as tandem, tridum, or quadrum axle groups).

Axle With Single-Mounted Tires Cany single or individual axle which is composed of one tire on each side of the vehicle (as opposed to dual-mounting).

Department CLouisiana Department of Public Safety and Corrections, Public Safety Services

Designated Truck Routes: (National Network CNN) Chighways designated by the secretary of the Louisiana Department of Transportation and Development in accordance with the Federal Surface Transportation Assistance Act of 1982 that includes provisions for truck-semi trailer-trailer combinations and maximum vehicle width of 8 feet, 6 inches.

Domicile Cthe fixed, permanent, and principal residence for legal purposes.

Dromedary Unit Ca load carrying compartment on a truck-tractor located between the cab and fifth wheel.

Dummy Axle Ca single axle attached independently to the frame of a vehicle and so designed and placed as to indicate the appearance of and to carry a uniformly distributed load of a normal axle group.

Gross Weight Cthe weight of a vehicle and/or combination of vehicles plus the weight of any load thereon.

Individual Axle Cany of the two, three, or four axles which make up the tandem, tridum, or quadrum axle groups.

Interstate Commerce Ctrade, traffic, or transportation in the United States:

a. between a place in a state and a place outside of such state (including a place outside of the United States);

b. between two places in a state through another state or a place outside of the United States; or

c. between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

Intrastate Commerce Cany trade, traffic, or transportation in any state which is not described in the term *interstate commerce*.

Length Cthe total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

Loose Material Cdirt, sand, gravel, or other material that is capable of blowing spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather but shall not include agricultural products in their natural state or wood chips.

Measurable Precipitation Ca minimum of 1 inch of precipitation in a 24-hour period as recorded by a National Weather Service recognized observation station. (For a listing of such stations, see Appendix A.)

Quadrum Axle Cany four consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A quadrum axle must be designed to equalize the load between the axles.

Single Axle Cany single axle or any assembly of two or more axles whose centers are less than 40 inches apart.

Semi-Trailer Any single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load-carrying axles.

Solid Waste Includes residential solid waste, agricultural waste, commercial solid waste, construction or demolition debris, garbage, industrial solid waste, trash, white goods, wood waste, and yard trash.

Stinger-Steered Combination A truck-tractor semi-trailer wherein the fifth wheel is located on a drop frame located behind and below the rear-most axles of the power unit.

Tandem Axle Any two consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A tandem axle must be designed to equalize the load between axles.

Trailer Any single vehicle without motive power designed for carrying property or passengers wholly on its own structure, drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels and having two or more load carrying axles.

Trunion Axle An axle configuration with two individual axles mounted in the same transverse plane, with four tires on each axle, connected at a pivot point which allows each individual axle to oscillate in a vertical plane to provide constant and equal weight distribution on each individual axle.

Trunion Axle Group Two or more consecutive trunion axles which are individually attached to, and/or articulated, from the vehicle by a weight equalizing suspension system.

Variable Load Suspension Axles Axles which can be regulated by the driver of the vehicle either through the use of an in-cab valve or switch or by turning a valve on the outside of the truck. These axles are controlled by hydraulic and air suspension systems, mechanically, or by a combination of these methods.

Vehicle Any device by which a person or things may be transported upon a public highway or bridge. A trailer or semi-trailer shall be a separate vehicle.

Width The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but, excluding approved safety devices and tire bulge due to load.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2305. Width

A. Safety-devices shall include flags, lights, and/or reflectors not to project more than 12 inches beyond the width of the vehicle's body.

B. Vehicles and/or loads which exceed the legal width shall meet the following requirements.

1. The owner of the vehicle shall obtain an oversize permit.

2. Warning flags are required on vehicles and loads which exceed the legal width. There must be flags at the following points.

a. Four flags Two on the front edges and two on the rear edges must be attached at the widest points on the part of the vehicle or load which exceeds the legal width.

b. A load which projects to only one side of a vehicle of legal width, shall have at least one flag to the front edge of the load, and at least one flag to the rear of the load provided each flag meets the requirement set forth herein; except a load which measures three feet or less from front most portion to the rear most portion shall have at least one flag which meets the requirements set forth herein affixed to each side of the projecting load.

c. Flags must be attached on any other portion of the vehicle or load which is wider than the flagged front or rear edges.

d. All warning flags must be red/fluorescent orange and at least 18 inches square. Flags must either be securely fastened by at least one corner or securely mounted on a staff which keeps the flag upright.

3. Vehicles and loads exceeding 10 feet in width must display two signs with the wording "OVERSIZE LOAD."

a. One sign must be on the front of the vehicle. The other must be on the rear of the load or if that does not result in an easily read sign, then the sign must be on the rear of the vehicle.

b. All warning signs must be at least seven feet long and 18 inches high. The background must be yellow and the lettering black. Letters must be at least 10 inches high with a 12-inch brush stroke.

4. All vehicles and loads (which exceed the legal width) with permits which have not been prohibited from traveling at night or during inclement weather must be equipped with the following lights:

a. Two amber lights must be attached at the widest points on the front edges of the over width part of the vehicle or load, and these lights must be visible from both the front and the side.

b. Two red lights must be attached at the widest points on the rear edges of the over-width part of the vehicle or load, and these lights must be visible from the rear and the side.

c. An amber light must be attached on any part of the vehicle or load which is wider than the front or rear edges, and this light must be visible from the front, side, and rear.

d. A single amber light on each side, visible from the front, side and rear, may be used if the over-width part of a vehicle or load does not exceed 3 feet from front to back. If the over-width part is at or near the rear of the vehicle, this light may be red and visible from the front, side, and rear.

5. Two or more lights may be combined if the resulting light still conforms to the requirements and its effectiveness is not hurt by the combination.

6. All lights must be visible from a distance of 500 feet and must be of types approved for such use by the Department of Public Safety and Corrections. Approval can be obtained at State Police troops.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2307. Length

A. Warning flags are required on vehicles and loads which exceed the legal length, or which have a rear overhang of more than four feet. There must be flags at the following points.

1. If the over-length or projecting portion is 2 feet wide or less, one flag must be located at the extreme rear end of the load.

2. If the over-length or projecting portion is wider than 2 feet, two flags at the extreme rear end of the load must be located to indicate maximum width.

3. All warning flags must be red/fluorescent orange and at least 18 inches square. Flags must either be securely fastened by at least one corner or securely mounted on a staff which keeps the flag upright.

B. Vehicles and loads exceeding legal length or the legal rear end overhang must display two signs with the wording "OVERSIZE LOAD." These signs must be on the sides of the overhanging part of the load or, if this is not possible, then the signs must be on the sides of the vehicle.

C. Vehicles and loads exceeding the legal front end overhang must display one sign with the wording "OVERSIZE LOAD." This sign must be displayed on the front of the vehicle. If the overhang clears the pavement by 6 feet or more, no sign is required.

D. All warning signs must be at least seven feet long and 18 inches high. The background must be yellow and the lettering black. Letters must be at least 10 inches high and with a 1/2-inch brush stroke.

E. Louisiana also requires the following lights at night and during inclement weather on vehicles and loads which are over length or have rear end overhangs of more than four feet or greater.

1. Two red lightsCone on each sideCmust be visible from the side and indicate the extreme rear of the vehicle or load.

2. Two red lightsCone on each sideCand two red reflectorsCone on each sideCmust be visible from the rear, must be located on the rear of the vehicle or load, and must indicate maximum width of the over-length or projecting part. However, if the over-length or projecting part is 2 feet wide or less, one red light and one red reflector is sufficient.

F. Two or more lights may be combined if the resulting light still conforms to the requirements and its effectiveness is not hurt by the combination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2309. State Police Escorts

A. State Police escorts are required for all vehicles and loads which are:

1. over 16 feet wide on a two-lane highway;
2. over 16 feet wide on a multi-lane highway;
3. over 125 feet in length.

B. Escorts should be arranged at the troop nearest the beginning of the movement.

C. State Police escorts must be used for escorted loads that exceed the above dimensions on all state highways outside of municipality limits, and also inside city limits if on state highway.

D. Travel through metropolitan areas may require city or parish escorts and/or permits. Contact with city or parish authorities is the responsibility of the hauler for possible requirements and/or restrictions.

E. Private escorts are required for all vehicles and loads:

1. over 12 feet wide and up to 16 feet wide on a two-lane highway;

2. over 12 feet wide and up to 16 feet wide on a multi-lane highway;

3. over 90 feet long and up to 125 feet long.

F. An escort vehicle may escort two over-length vehicles or loads, but only one over-width vehicle or load.

G. All private escort vehicles must have a Louisiana Approved Escort Vehicle Permit. Companies domiciled outside of the state of Louisiana must pay a \$10 fee for a Louisiana Approved Escort Vehicle Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2311. Care of Vehicle Load

Vehicle owner/operator shall ensure that the vehicle is equipped with equipment in proper working condition for care of load to prevent escape of loose material. The driver of the vehicle is responsible for the proper installation of equipment provided by owner to prevent the escape of loose materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2313. Farm Vehicles and Equipment

A. Farm vehicles and equipment, except draglines and bulldozers, being operated and/or transported for bona fide agricultural purposes or the transportation of farm vehicles and equipment to be used for normal farm purposes by persons transporting such farm equipment or machinery for distances not to exceed 50 miles from the point of origin shall be exempt from the requirements for width, height, length, and for trailers and towed vehicles, but shall not be exempt from any weight limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2315. Weight Limitations

A. Legal Limitations.

1. The maximum legal axle weights on interstate highways are:

- | | |
|------------------|----------------|
| a. single axles | 20,000 pounds |
| b. tandem axles | 34,000 pounds |
| c. tridum axles | 42,000 pounds |
| d. quadrum axles | 50,000 pounds. |

2. Axle variances of 2,000 pounds for single axles and 3,000 pounds for tandem, tridum, and quadrum axles are allowed on non-interstate highways. Therefore, the maximum legal weights on non-interstate highways are:

- | | |
|------------------|----------------|
| a. single axles | 22,000 pounds |
| b. tandem axles | 37,000 pounds |
| c. tridum axles | 45,000 pounds |
| d. quadrum axles | 53,000 pounds. |

3. The maximum legal weight on a tire is 650 pounds per inch width of tire.

4. The sum of the legal axle weights on a vehicle or combination of vehicles is its legal gross weight. But regardless of the number and type of axles the maximum legal gross weight of any vehicle or combination of vehicles (except a combination with a tridum or quadrum axle) is 80,000 pounds.

5. Regardless of the number and type of axles, the maximum legal gross weight of any combination of vehicles which has a tridum or quadrum axle is:

- a. 83,400 pounds on interstate highways;
- B. 88,000 pounds on non-interstate highways.

B. Vehicles operating on the interstate highway shall comply with the federal bridge formula subject to the following exceptions:

1. vehicles with type two axle configuration (three-axle combination with one single axle and one set of tandem axles); or

2. type six axle configuration (five-axle combination with one single axle and two sets of tandem axles); or

3. a vehicle with type eight axle configuration (six-axle combination with one single axle, one tandem axle, and one tridem axle);

4. or vehicles with type ten axle configuration (double bottom);

5. or type eighteen axle configuration (four-axle combination with one single axle and one set of tridem axles) carrying any of the following bulk commodities thereof:

- a. forest products in their natural state;
- b. lumber;
- c. sand;
- d. gravel;
- e. agricultural products in their natural state;
- f. loose or mixed concrete (including asphaltic or Portland cement); or
- g. bulk liquid commodities.

C. Any truck fitted with a compactor body which is engaged in the collecting and hauling of solid waste shall not be assessed a penalty for exceeding the maximum permissible gross weight if the waste is wet and the location from which the waste was collected had received measurable precipitation within 24 hours prior to collection. The owner or operator of such truck shall bear the burden of proving such precipitation by providing a written statement from the nearest National Weather Service recognized observation station.

D. The owner or operator of a vehicle which exceeds the maximum allowable axle weights shall be permitted to shift the load as long as no part of the shipment is removed and only if the shift can be performed safely and within a reasonable period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2317. Special Permits

A. Special permits must be in the vehicle at all times of operation, and such permit shall be produced upon request by any police officer.

B. Violation of any terms or conditions of a special permit shall subject the driver and/or owner of the permitted vehicle to the penalties provided for in R.S. 32:388.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2319. Assessment of Civil Penalties

A. Any person who is determined by the superintendent of the department after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of these regulations (excluding §2315), is subject to a civil penalty of \$100 per violation. Penalties for §2315 shall be computed in accordance with R.S. 32:388.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

§2321. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied upon a person determined by the deputy secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of these regulations, the deputy secretary:

1. may order the removal of the offending vehicle's license tag if the registration is from this state;

2. may seize any vehicle not registered within the state which is owned by the person or company in violation;

3. shall have the driver's or operator's license suspended for a violation(s) committed by the driver or operator.

B. The secretary shall enforce the provisions of Subsection A as follows.

1. The removal of a vehicle's license tag shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

2. When the person or company fails to remit a levied civil penalty within 90 days subsequent to the seizure of a vehicle as authorized in this Section, the Department of Public Safety and Correction shall collect the penalty in a manner consistent with applicable portions of R.S. 32:521 et seq.

3. The suspension of a driver's license shall be completed and, upon remittance of the levied penalty, reinstated in a manner consistent with the provisions required by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:

Interested persons may submit written comments to: Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through September 15, 2000.

Family Impact Statement

1. The effect of these rules on the stability of the family.

These rules will have no effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children.

These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family.

These rules will have no effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget.

These rules will have no effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children.

These rules will have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules.

These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Jerry Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: *Weights and Standards*
*Mobile Police Force***

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs nor savings regarding the adoption of these rules as very similar rules were previously administered by the Department of Transportation and Development. The last section of the rules is being submitted by the department because of the mandate in R.S. 40:1321.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the department was previously enforcing similar Department of Transportation and Development's rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Jerry Jones
Undersecretary
0008#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Corporation Income and Franchise Taxes Division**

**Income Tax Withholding Tables
(LAC 61:I.1501)**

Under the authority of R.S. 47:112 and 295 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Corporate Income and Franchise Taxes Division, proposes to adopt LAC 61:I.1501 to establish individual

income tax withholding tables based on the new income tax rates provided by Act 37 of the 2000 Regular Session of the Louisiana Legislature.

This Act amended R.S. 47:112, which requires every employer paying wages to deduct and withhold income tax from those wages, and R.S. 47:295, which provides for the tax rates. These amendments will be effective January 1, 2001, only if the constitutional amendments made by Act 48 of the 2000 Regular Session of the Louisiana Legislature are adopted at the statewide election to be held November 7, 2000.

**Title 61
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 15. Income: Withholding Tax
§1501. Income Tax Withholding Tables**

A. Employers required to deduct and withhold taxes pursuant to R.S. 47:112 shall deduct and withhold tax in an amount determined in accordance with the tables provided in Subsection C, the formula provided in Subsection D, or a formula that produces equivalent amounts.

B. Wage Bracket Tables and Instructions

1. Select the set of tables that corresponds to the payroll period of the employee.

2. With the use of the information obtained from Form R-1300 (L-4), *Employee's Withholding Exemption Certificate*, determine which column of the tables to use.

a. If your employee claims neither himself, his spouse, nor any dependency credits, use the first column in the table designated 0 exemptions, 0 dependents.

b. If your employee claims only himself, whether he is married or not, use Column 1. Also, use the appropriate subcolumn for the number of dependency credits he is claiming.

c. If your employee claims himself and his spouse, use Column 2. Also, use the appropriate subcolumn for the number of dependency credits he is claiming.

C. Withholding Tax Tables

1. For the Purposes of the Withholding Tax Tables

a. Exemptions are for a husband, wife, or single filer.

b. Dependency credits include children, stepchildren, etc., as described in Section 152 of the Internal Revenue Code.

2. Adjustments to Wage Bracket Tables

a. Each table provides for the appropriate withholding amount for single or married personal exemptions with up to six dependency credits. There is no provision for withholding based on head-of-household status and these taxpayers may claim only a single withholding personal exemption.

b. When an employee has more than six dependents, the amount may be determined by reducing the tax shown in the column for six dependents by the amount shown at the right for the applicable payroll period multiplied by the number of dependents over six.

Payroll Period	Amount of Reduction
Daily	\$.15
Weekly	.80

Table with 18 columns and 77 rows of numerical data. The bottom row contains the text 'Add 5.25% for amounts in excess of \$50,500'.

D. Income Tax Withholding Formula

1. The formula used to compute the tax withholding on the withholding tax tables in Subsection C computes the tax on the total wage amount and then subtracts the tax effect of the personal exemptions and dependents.

2. Withholding formula used to compute the withholding tables is as follows.

- W = Withholding tax.
S = Salary per period.
X = Number of personal exemptions claimed for withholding; X may be 0, 1, or 2.
Y = Number of dependency credits claimed for withholding; Y may be 0 or greater.
M = Income Brackets for tax rate change.
If X = 0 or 1, then M1 = \$2,500, M2 = \$5,000, and M3 = \$25,000

If X = 2, then M1 = \$5,000, M2 = \$10,000, and M3 = \$50,000
N = Number of pay-periods per year (for example, weekly = 52 or monthly = 12).

If (A + B + C + D) - (E + F + G) > 0
Then W = (A + B + C + D) - (E + F + G)
Else W = 0

If S > 0
Then A = (S * .021)
Else A = 0

If S > (M1 / N)
Then B = .0105 [S - (M1 / N)]
Else B = 0

If S > (M2 / N)
Then C = .0105 [S - (M2 / N)]

Else C = 0

If $S > (M_3 / N)$
Then $D = .0105 [S - (M_3 / N)]$
Else $D = 0$

$E = .021 \{[(X * \$4,500) + (Y * \$1,000)] / N\}$
If $[(X * \$4,500) + (Y * \$1,000)] > M_1$
Then $F = .0105 \{[(X * \$4,500) + (Y * \$1,000) - M_1] / N\}$
Else $F = 0$

If $[(X * \$4,500) + (Y * \$1,000)] > M_2$
Then $G = .0105 \{[(X * \$4,500) + (Y * \$1,000) - M_2] / N\}$
Else $G = 0$

3. In place of the withholding tables in Subsection C, employers may use the formula described in Subsection D.2 or an alternative formula if it produces equivalent results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112 and R.S. 47:295.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Corporate Income and Franchise Taxes Division, LR 26:

Interested persons may submit data, views, or arguments, in writing to Michael Pearson, Director of the Corporate Income and Franchise Taxes Division, Department of Revenue, P.O. Box 201, Baton Rouge, LA 70821 or by fax to (225) 925-0456. All comments must be submitted by 4:30 p.m., Thursday, September 28, 2000. A public hearing will be held on Friday, September 29, 2000, at 10 a.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings but the income tax increase will adversely affect the family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Michael Pearson
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Income Tax Withholding Tables

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

If the constitutional amendment to increase the income tax rates as provided by Act 48 of the Regular Session of the Louisiana Legislature is adopted at the statewide election to be held November 7, 2000, and this regulation is adopted, implementation is estimated to cost the Department \$50,000 for printing and distribution of the new withholding tables.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 37 of the 2000 Regular Session of the Louisiana Legislature disallows the deductions for federal income tax and excess itemized deductions and amends the income tax rates and applicable income brackets. These changes are contingent on adoption of the constitutional amendment provided by Act 48 of the Regular Session of the Louisiana Legislature, which will be voted on at the statewide election to be held November 7, 2000.

Act 37 has the effect of increasing individual income tax liabilities. This proposed regulation provides for the amount of income tax liability that employers are required to withhold from wages paid. While these regulations will affect all withholdings, these proposed regulations occur only as specifically required by the provisions of Act 37. This fiscal and economic impact statement only addresses the incremental results of Act 37. This Act increased income tax liabilities in tax year 2001 by some \$642 million. Historically, approximately 67 percent of net income tax collections are received through the withholding process. However, this share occurred, in part, because of deductions and credits that were realized when returns were filed. Many of these deductions and credits are repealed by Act 37. Thus, a larger share of tax receipts are likely to be collected through the withholding process. This suggests that the withholding process will collect a minimum of \$430 million of the additional tax liability of year 2001 associated with Act 37.

For state fiscal year 2001, a half year of additional tax liabilities may be collected through the withholding process, and may be as much as \$215 million. In subsequent years, tax liabilities will likely grow by 5 percent or more and fiscal year effects will consist of a full year of withholdings.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 37 has the effect of increasing income tax liabilities. This proposed regulation provides for the amount of income tax liability that employers are required to withhold from wages paid. As discussed above, the likely effect on taxpayers of this proposed regulation is for a greater portion of their income tax liabilities to be satisfied through the withholding process than is currently experienced.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have minimal effect on competition and aggregate employment. The regulation effects the process by which additional income tax liabilities are collected, and does not itself generate those additional liabilities.

Cynthia Bridges

Robert E. Hosse

NOTICE OF INTENT

**Department of Revenue
Office of Alcohol and Tobacco Control**

Caterer's Permits (LAC 55:VII.325)

Under the authority of R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.325 to provide for a Class A-Caterer's Permit.

Act 987 of the 1999 Regular Session of the Louisiana Legislature amended R.S. 26:793(A) to provide that the Commissioner establish by regulation a Class A-Caterer's Permit for any person who does not otherwise qualify for a retail dealers permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2.

**Title 55
PUBLIC SAFETY**

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§325. Caterer-s Permits

A. The Office of Alcohol and Tobacco Control may issue a Class A-Caterer's permit to persons who meet the qualifications and criteria of either Paragraph 1 or 2 below.

1. Holders of any Class A or B liquor or beer retail permit will be allowed to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than on the premises for which the holder's regular permit is issued.

a. This holder of a Class A-Caterer's permit must use the permit in conjunction with their Class A or B liquor and/or beer permit and shall expire at the same time as the regular Class A or B permit.

b. If the regular Class A or B permit ceases to be valid for cause, the caterer's permit ceases to be valid.

2. Persons who do not otherwise qualify for a retail dealer permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, but who operate a facility with a fully equipped kitchen where food is prepared for the purpose of catering functions, will be allowed to obtain a Class A-Caterer's permit under the following conditions.

a. This holder of a Class A-Caterer's permit must derive 70 percent of their gross annual revenue from the sale of food or food-related product, and 40 percent of the gross revenue per event must be derived from the sale of food or food-related product.

b. This holder of a Class A-Caterers permit must maintain separate sales figures for alcoholic beverages.

B.1. An application for a Class A-Caterer's permit shall be made on forms prescribed by the Commissioner of the Office of Alcohol and Tobacco Control.

2. A Class A-Caterer must display the permit on the premises of the event being catered.

3. A Class A-Caterer must only cater events in an area in which the sale of alcoholic beverages has been authorized

by local option election and with permission from the local governing authority.

4. A Class A-Caterer must provide the Office of Alcohol and Tobacco Control with written notice of the date, time, and place of each catered event at least one week prior to the date of the event.

5. All alcoholic beverages at a catered event must be dispensed by the holder of the Class A-Caterer's permit or his employee, agent, or servant.

6. Class A-Caterers must comply with the provisions of the Responsible Vendor Program of R.S. 26:931 et seq.

7. The cost of the Class A-Caterer's permit is \$200 per year or any portion thereof; costs shall not be prorated.

8. Class A-Caterer permits shall be renewed annually in accordance with the provisions relative to all other retail permits, specifically R.S. 26:88 and 285 and LAC 55:VII.321.

C. - C.10. ...

D. Any violation of these regulations or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension, or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:904 (July 1993), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:

Interested persons may submit data, views, or arguments, in writing to Melissa Gregg, Attorney, Office of Alcohol and Tobacco Control, Department of Revenue, 1885 Wooddale Boulevard, Suite 600, Baton Rouge, LA 70806, or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Wednesday, September 27, 2000. A public hearing will be held on Thursday, September 28, 2000, at 10 a.m., at 1755 Wooddale Boulevard, Baton Rouge, LA.

Family Impact Statement

Implementation of this proposed Rule will have no effect on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, or the ability of the family or a local government to perform this function.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Caterer-s Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed amendment, which requires a Class A-Caterer's Alcoholic Beverage Permit to be obtained by any caterer who serves alcoholic beverages and is not otherwise required to obtain a Retail Dealer's Alcoholic Beverage Permit pursuant to the provisions of R.S. 26:71.1 or R.S. 26:271.2, will result in a minimal increase in the agency's administrative costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this amendment, which will require caterers who serve alcoholic beverages and were not previously required to have a Class A-Caterer's Alcoholic Beverage Permit, to obtain a permit and pay the \$200 annual fee, will result in a small increase in the agency's self-generated revenues. The annual increase is expected to be less than \$20,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this amendment will require caterers who serve alcoholic beverages and were not previously required to have a Class A-Caterer's Alcoholic Beverage Permit, to obtain a permit and pay the \$200 annual fee. It is expected that less than 100 caterers will be impacted by this proposed amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this amendment to require all caterers who serve alcoholic beverages to obtain a Class A-Caterer's Alcoholic Beverage Permit and to pay the \$200 annual fee, will equalize the permit requirement for caterers and should have little or no effect on competition or employment.

Murphy J. Painter
Commissioner
0008#011

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Revenue
Office of Alcohol and Tobacco Control

Liquor Credit RegulationsCSampling
(LAC 55:VII.317)

Under the authority of R.S. 26:75(C) and 275(B) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.317.A.4.f.iii(a), (b) and (e) to allow Class A and Class B retail dealers to provide beer, wine, or beverage alcohol for samplings on their licensed premises.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§317. Prohibition of Certain Unfair Business Practices

A. - A.3. ...

4. Exceptions

a. - e. ...

f. Trade Calls

i. - ii. ...

iii. Beer, wine, or beverage alcohol sampling for the purposes of allowing a customer to taste a product may be conducted on any premises holding a permit as designated in R.S. 26:75(C)(1) and 275(B)(1) in accordance with the following restrictions.

(a). A retail dealer, wholesaler, and/or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold such products. The wholesaler and/or manufacturer may also provide and display point-of-sale material in an amount not to exceed \$150 in value. Said display materials shall only be placed

inside of the facility and shall not block the aisles or other points of ingress or egress.

(b). No retail dealer, wholesaler, or manufacturer shall furnish a sampling of product in a greater quantity than two ounces per type of beverage alcohol to each individual and no individual shall consume more than two ounces of each type of beverage alcohol provided at the sampling. The sampling of a beverage alcohol having an alcoholic content of more than 23 percent by volume shall be limited to one half ounce per serving per individual.

(c). All samplings shall be limited in duration to one day.

(d). No more than two samplings per product shall be conducted on the same licensed premises in any month.

(e). The retail dealer, wholesaler, or manufacturer shall provide the Office of Alcohol and Tobacco Control with written notice of the date, time, place, permit number and product to be sampled at least one week prior to the date of the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:75 and 275.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 26:

Interested persons may submit data, views, or arguments, in writing to Melissa Gregg, Attorney, Office of Alcohol and Tobacco Control, Department of Revenue, 1885 Wooddale Boulevard, Suite 600, Baton Rouge, LA 70806, or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Wednesday, September 27, 2000. A public hearing will be held on Thursday, September 28, 2000, at 11 a.m., at 1755 Wooddale Boulevard, Baton Rouge, LA.

Family Impact Statement

Implementation of this proposed rule will have no effect on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, or the ability of the family or a local government to perform this function.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Liquor Credit

Regulations C Sampling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed amendment, which will allow Class A and Class B retail dealers to provide beer, wine, or beverage alcohol for samplings on their licensed premises, will have no effect on the agency's administrative costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this amendment, which will allow Class A and Class B retail dealers to provide beer, wine, or beverage alcohol for samplings on their licensed premises, will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this amendment, which will allow Class A and Class B retail dealers to provide beer, wine, or beverage alcohol for samplings on their licensed premises, may result in additional sales revenues for the retail dealers as a result of the samplings. The effect should be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this amendment, which will allow Class A and Class B retail dealers to provide beer, wine, or beverage alcohol for samplings on their licensed premises, should have little or no effect on competition or employment.

Murphy J. Painter
Commissioner
0007#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Child Care Assistance Program Eligibility,
Payments and Providers (LAC 67:III.Chapter 51)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

The agency proposes this rule to implement cost-saving measures to ensure that funding is available to as many eligible low-income and poverty-level families as possible. Changes in regulations are also proposed to increase the quality of care in registered Family Child Day Care Homes, to have more accountability to ensure payments are being made for eligible families, and to raise the eligibility requirements for registered Family Child Day Care Homes. The agency proposes to accomplish these goals by making such changes as: paying for up to five absences per calendar month instead of ten; requiring that all countable work hours be paid at least at the Federal minimum hourly wage; decreasing by 15% (from 75% to 60% of the State Median Income) the maximum income standard for program eligibility; decreasing the percentage of child care costs paid; implementing a combination open enrollment/waiting list; and verifying case situations and recertifying cases every six months.

With the rapid growth of the Child Care Assistance Program, these actions are designed to streamline the program and help reduce current levels of spending.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

§5102. Definitions

Case Head Can individual who may apply for child care assistance for a child who customarily resides with him/her

for more than half the time, including the child's parent, or an adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home or living in the home but is under age 18 and not emancipated by law.

Full-Time Care Authorized child care calculated to be 30 or more hours per week that is paid in units of days with a maximum of 22 days per month.

Household A group of individuals who live together, consisting of the case head, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), and all children under the age of 18 who are dependent on the case head and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

Part-Time Care Authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

Training or Employment Mandatory Participant (TEMP) A household member who is required to be employed or attending a job training or educational program, including the case head, the case head's spouse, and the minor unmarried parent of children who need child care assistance.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program (FIND Work), as determined by the Case Manager, are categorically eligible. The program will pay 100 percent of the FITAP/FIND Work participant's child care costs.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. The household must reside in Louisiana to be eligible for Child Care Assistance.

2. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or is under court supervision.

3. ...

4. The case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70%, must be:

a. employed a minimum average of 20 hours per week and all countable work hours must be paid at least at the Federal minimum hourly wage; or

b. ...

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b, that averages at least 20 hours per week.

d. ...

5. Household income does not exceed 60 percent of the state median income for a household of the same size. Income is defined as the gross earnings of the case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), and any minor unmarried parent who is not legally emancipated and whose children are in need of child care assistance, from all sources of employment and from the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits, disability benefits, child support/alimony, unemployment compensation benefits, adoption subsidy payments, and worker's compensation benefits.

6. - 7. ...

C. Cases eligible for payment shall be assigned a certification period of up to six months. The household is required to report any changes that could affect eligibility or benefit amount within ten days of knowledge of the change.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:

§5105. Funding Availability

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or slots, that the CCDF can pay for based on available funding.

1. A certain number of slots will be set aside for the children of FIND Work participants and for the children of those participants whose FIND Work eligibility has been terminated due to earned income. When the remaining slots are filled, all funds for the current year shall be considered as obligated, and no payments may be made for any additional children determined to be eligible.

2. After all available slots are filled, a waiting list of cases/eligible children will be established and maintained for each parish in chronological order by date of application. As slots become available, cases will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children determined eligible will be added to the waiting list. At the agency's discretion additional enrollment periods may be designated.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:

§5107. Child Care Providers

A. The case head, or parent/caretaker relative in the case of a FIND Work participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A day care centers and licensed Class A head start centers which provide before-and-after school care and/or summer programs), registered family child day care homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and- after school care programs.

B. A family child day care home shall be registered and entered into the provider directory by the Child Care Assistance Program before payments can be made to that provider.

1. To be eligible for participation, a family child day care home provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements including:

a. current certification in infant/child or infant/child/adult cardiopulmonary resuscitation (CPR);

b. criminal background check on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider;

c. furnish verification of 12 clock hours of training in pediatric first aid and other job-related subject areas approved by the Department of Social Services by the provider's renewal date beginning January 1, 2002, and every year thereafter;

d. retain a statement of good health signed by a physician or his designee and proof of a clear tuberculin test, both of which must have been obtained/performed within the past three years and must be repeated every three years thereafter; and

e. pass an inspection by the Office of State Fire Marshal.

2. All registration functions for family child day care homes, as provided in R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the bureau of licensing, shall be carried out by the Office of Family Support, Child Care Assistance Program.

C. An in-home child care provider must show proof that he/she is at least 18 years of age, verify Social Security number and residence, and complete the Health and Safety Standards Form, the Provider Agreement, and form W-9. An in-home provider may not live at the same residence as the child who is being cared for and may not use the participant's residence address or post office box as his/her mailing address.

D. Under no circumstance can the following be considered an eligible child care provider:

1. a person living at the same residence as the child;

2. the child's parent or guardian, or parent/caretaker relative in the case of a FIND Work participant, regardless of whether that individual lives with the child (if the child's non-custodial parent is residing in the Family Child Day Care Home (FCDCH) in which the child receives care and is

not working during the hours that care is needed, the FCDCH provider is ineligible to receive Child Care Assistance payments for that child);

3. Class B child care centers;
4. persons who have been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C) or who reside with or employ a person who has been convicted of such an offense;
5. persons/centers providing care outside of the State of Louisiana.

E. Providers must certify that neither they, nor any person employed by or residing with them, have been the subject of a validated complaint of child abuse or neglect, nor have they, or any person employed by or residing with them, been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C). Providers, other than an in-home child care provider, unless the agency is aware of a possible criminal offense, must certify that a criminal background check has been requested from the Louisiana State Police to verify this information with respect to above providers and employees of Class A centers. Results of the criminal background check must be received annotating "no hits" prior to being licensed/registered as an eligible provider or

certified as an in-home provider if the agency is aware of a possible criminal offense.

1. Providers shall be disqualified from further participation in the program if the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care. (Examples: a complaint of child abuse or neglect is validated by authorities, the provider breaks the terms of the provider agreement, or a family child day care home fails the Fire Marshal inspection.)

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household shall pay a portion of its child care costs in accordance with the sliding fee scale, and this shall be referred to as a Acopayment.® The sliding fee scale is as follows:

**Sliding Fee Scale For Non-Fitap Child Care Assistance Recipients
60 Percent Of Projected Median Income**

Number in Household	2	3	4	5	6	7	DSS %
Monthly Household Income	0 - 922	0 - 1157	0 - 1392	0 - 1627	0 - 1862	0 - 2097	85%
	923 - 1084	1158 - 1352	1393 - 1620	1628 - 1889	1863 - 2157	2098 - 2351	70%
	1085 - 1245	1353 - 1547	1621 - 1848	1890 - 2150	2158 - 2452	2352 - 2604	55%
	1246 - 1406	1548 - 1742	1849 - 2076	2151 - 2412	2453 - 2747	2605 - 2858	40%
	1407 - 1567	1743 - 1936	2077 - 2304	2413 - 2673	2748 - 3042	2859 - 3111	25%
	ABOVE 1567	ABOVE 1936	ABOVE 2304	ABOVE 2673	ABOVE 3042	ABOVE 3111	0%

Number in Household	8	9	10	11	12	13	DSS %
Monthly Household Income	0 - 2332	0 - 2567	0 - 2802	0 - 3037	0 - 3272	0 - 3507	85%
	2333- 2544	2568 - 2738	2803- 2931	3038 - 3125	3273 - 3319	3508- 3512	70%
	2545- 2756	2739 - 2908	2932- 3060	3126 - 3212	3320 - 3365	3513- 3517	55%
	2757- 2968	2909 - 3079	3061- 3189	3213 - 3300	3366 - 3411	3518- 3522	40%
	2969- 3180	3080 - 3249	3190- 3318	3301 - 3387	3412 - 3457	3523- 3526	25%
	ABOVE 3180	ABOVE 3249	ABOVE 3318	ABOVE 3387	ABOVE 3457	ABOVE 3526	0%

Number in Household	14	15	16	17	18	19	20	DSS %
Monthly Household Income	0 - 3595	0 - 3644	0 - 3733	0 - 3802	0 - 3871	0 - 3940	0 - 4010	85%
	ABOVE 3595	ABOVE 3644	ABOVE 3733	ABOVE 3802	ABOVE 3871	ABOVE 3940	ABOVE 4010	0%

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

- a. the providers actual charge multiplied by authorized service days or authorized service hours, or
- b. the State Maximum Rate for authorized services as indicated below:

Class A Centers

	Regular Care	Special Needs Care
Daily	\$15.00	\$18.75
Hourly	\$ 1.87	\$ 2.34

All Other Provider Types

	Regular Care	Special Needs Care
Daily	\$12.00	\$15.00
Hourly	\$ 1.50	\$ 1.87

c. The number of hours authorized for payment is based on the lesser of the following:

- i. the number of hours the child is actually in care each week; or

ii. the number of hours the case head, the case head's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

- a. the providers actual charge multiplied by authorized service days or authorized service hours, or
- b. the State Maximum Rate for authorized services as indicated below:

Class A Centers

Regular Care	Special Needs Care
Daily \$15.00	\$18.75
Hourly \$ 1.87	\$ 2.34

All Other Provider Types

Regular Care	Special Needs Care
Daily \$12.00	\$15.00
Hourly \$ 1.50	\$ 1.87

c. The number of hours authorized for payment is based on the lesser of the following:

- i. the number of hours the child is actually in care each week; or
- ii. the number of hours the head of household, head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

C. Payment is made to the eligible child care provider on a monthly basis following the month in which services are provided.

D. Payment may be made to more than one provider for the same child if providers are not paid for the same day, and the combined payment does not exceed the maximum allowable per child.

E. Payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:

§5111. Ineligible Payments

A. All ineligible benefits are subject to action to recover such benefits.

B. When a participant is suspected of Intentional Program Violation (IPV), appropriate referral and forms shall be submitted to the Fraud and Recovery Section. The Fraud and Recovery Section may then:

- 1. refer the case for prosecution; or
- 2. refer the case to the Appeals Bureau for a Disqualification Hearing if the participant does not sign the Waiver of Right to an Administrative Hearing and the facts of the case do not warrant civil or criminal prosecution

through the appropriate court systems; or the case was previously referred for prosecution and was declined by the appropriate legal authority; or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by Fraud and Recovery.

C. If an Intentional Program Violation is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the parish office. The parish office will take action to disqualify for the appropriate situations:

- 1. six months for the first violation,
- 2. 12 months for the second violation
- 3. 24 months for the third violation and for any additional violations.

Exception: The disqualification process will be waived for FIND Work participants and for participants in federally- or state-funded work or training programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:

Interested persons may submit written comments by October 6, 2000 to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the responding authority to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 27, 2000, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Information on additional hearings may be found in a Potpourri notice also appearing in this issue of the Louisiana Register.

Family Impact Statement

1. What effect will this rule have on the stability of the family? Assistance with child care costs could contribute to the stability of the family, in particular to FIND Work participants whose goal is self-sufficiency.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The family is assured freedom in selecting the child care provider of their choice from a variety of child care provider types.

3. What effect will this have on the functioning of the family? Changes to ensure a safe environment for children should also contribute to the well-being of the family.

4. What effect will this have on family earnings and family budget? In some instances, the changes will cause families to pay a larger copayment or to be responsible for the entire cost of child care services. Only FIND Work participants will have their child care costs paid at 100%. Families would also be required to pay for absences in excess of five calendar days per month.

5. What effect will this have on the behavior and personal responsibility of children? As families are given freedom of choice in selecting a child care provider, they

will be able to select a provider who most closely exhibits the traits the parents wish to be instilled in their children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the Child Care Assistance Program is a state function as directed by federal funding.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES: Child Care
Assistance Program Eligibility, Payments and Providers**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The immediate implementation cost to state government is the cost of publishing the rule and the related policy revisions for the Child Care Assistance Program (CCAP). This cost is minimal and funds for such actions are included in the program budget.

The fiscal goal of the rule is to reduce current spending in order to prevent depletion of the federal block grant which funds the program. Annual savings of \$12,337,920 can be projected in FY 01/02 and 02/03 (one-half of that amount for the six months of FY 00/01). These savings are based on reducing maximum payments from 100% to 85% of child care costs. Many of the other proposed measures are intended to improve and control expenditures; however, they will ultimately allow an increase in new participants from lower income levels and reduce the amounts saved.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

CCAP households in the upper income range will be removed from the program as a result of the proposal to reduce the maximum income standard from 75% to 60%: an estimated 8,000 children would no longer be ineligible. Those families will then incur increased child care costs estimated to be \$5,376,000 per year (one-half of that amount for the six months of FY 00-01). Remaining CCAP households will be affected by the requirement of a 15% copayment and up to a maximum of 75% of their child care expense and several other changes in regulations. Because of the numerous factors involved in determining payments, these costs cannot be fairly projected.

FIND Work Program participants will be eligible for 100% payment of their child care costs in an effort to further the goals of welfare reform.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed actions will have no estimated effect on competition and employment.

J Renea Austin-Duffin
Secretary
0008#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Adult Residential Care Facility (LAC 48:I.Chapter 88)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the Louisiana Administrative Code, Title 48, Part I, Chapter 88.

This proposed Rule is authorized by R.S. 40:2154, which authorizes the Department of Social Services to set an annual license fee for adult residential care homes, not to exceed the maximum amount of \$250. The proposed amendment will increase the license fee from the current amount of \$75 to \$175, \$200 or \$250, depending on the licensed capacity of the facility.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 88. Adult Residential Care Home

§8805. License and Other Fees

A. License Fees. There shall be a license fee of \$175 for adult residential care homes with a licensed capacity of two to four residents; \$200 for homes with a capacity of five to eight residents; \$250 for homes with a capacity of nine or more residents.

Note: License fees must be paid annually and must be received by the Bureau of Licensing prior to renewal of a license. License fees, and all other fees, must be paid by certified check or money order. Fees are nonrefundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2154.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification. LR 14:27 (January 1988), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2328 (December 1998), LR 26:

Interested persons may submit written comments by September 26, 2000, to Theresa Anzalone, Director, Department of Social Services, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821. She is the responding authority to inquiries regarding this proposed Rule.

A public hearing on the proposed rule will be held on Tuesday, September 26, 2000, from 9-10 a.m. at the Department of Social Services, Bureau of Licensing, 2751 Wooddale Boulevard, Suite 330, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said public hearing. Individuals with disabilities who require special services should contact the bureau of appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

1. What effect will this Rule have on the stability of the family?

This proposed Rule to increase the licensure fee charged of adult residential care providers will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children?

The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family?

This proposed Rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget?

There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children?

No affect on the behavior and personal responsibility of children is foreseen.

6. Is the family or local government able to perform the function as contained in this proposed Rule?

The family or local government is not able to perform the function contained in this proposed Rule.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Adult Residential Care Facility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs to state or local governmental units associated with this proposed Rule. It will increase the annual licensing fee charged of adult residential care facilities to these amounts: \$175 for homes with a licensed capacity of two to four residents; \$200 for homes with a capacity of five to eight residents; \$250 for homes with a capacity of nine or more residents. Section 2154 of Title 40 of the Louisiana Revised Statutes authorizes the Department of Social Services to set an annual license fee for adult residential care homes, in proportion with the size of the facility, not to exceed a maximum amount of \$250.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In accordance with the authority granted by the above-referenced state statute, licensing fees for adult residential care facilities will be increased to the amounts specified above. This will result in an estimated annual increase of \$19,350 in agency self-generated revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensure fees charged of adult residential care homes will be increased from the current amount of \$75 to \$175, \$200, or \$250, depending on the licensed capacity of the facility. There are currently 124 licensed providers operating adult residential care facilities that will be required to pay the increased fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed Rule is not anticipated to have any impact on competition or employment.

J. Renea Austin-Duffin Robert E. Hosse

Secretary
0008#067

General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Highways/Engineering**

Fiber Optic Permits
(LAC 70:III.Chapter 25)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "Fiber Optic Permits CA amendment to Specific Standards and Fee Requirements", in accordance with the provisions of R.S. 48:381.2. These rules shall be applied prospectively.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 25. Fiber Optic Permit Rules

§2503. Specific Standards for Installation of Fiber Optic Cable

A. - J. ...

K. The number of fibers contained in the conduit must be stated by permittee on the permit form.

L. Permittee shall be responsible for repairs to all fibers if all fibers are damaged as a result of the same occurrence. Should only those fibers belonging to DOTD be damaged, then DOTD will be solely responsible for repairs.

M. The permit shall become void if plans for the installation have not been submitted within 3 months from the date of issuance of the permit 2464.

N. The permit shall become void if construction of the permitted installation has not been initiated within 6 months of the date of the issuance of the permit.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:2464 (December 1999), amended LR 26:

§2509. Fees

A. - C.

D. Consideration received by DOTD in lieu of cash shall be defined as including fiber optic cable, conduits, regeneration cabinets, signal generating electronics, and/or any other telecommunications-related goods or services.

E. DOTD assumes full ownership of all resources accepted under the permit as "consideration in lieu of cash."

F. All goods received by the department as "consideration received by DOTD in lieu of cash" shall be conveyed with a good and effective warranty.

G. In general, DOTD shall establish the value of consideration received in lieu of cash.

H. The fee for installation of fiber optic cable shall be calculated by rounding up to the nearest mile. The length of the installation shall be calculated by determining the surface route miles.

I. Each permit shall be valid for a single duct no more than 2 inches in diameter. Installation of multiple ducts requires multiple permits and the payment of multiple fees.

J. When DOTD has no need of consideration received in lieu of cash along the permitted route, DOTD may accept resources along an alternate route.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 26:2465 (December 1999), amended LR 26:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to Sherryl J. Tucker, Senior Attorney, Legal Section, Department of Transportation and Development, P. O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225) 237-1359.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fiber Optic Permits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no costs to state or local governmental units to implement this rule change. The right-of-way permit program within the Department of Transportation and Development has been in effect for many years. The original Fiber Optic Permit Rules were implemented in December, 1999.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This amendment to the existing rule addresses problems which have been encountered since December, 1999, when fiber optic cable was first allowed within control-of-access rights-of-way. Revenues received by the Department of Transportation and Development will increase under this rule amendment if companies not already permitted establish new installations. The average number of conduits per future installation is estimated to be two. Rather than paying one fee (currently \$5,000.00) for all conduits, one fee for each conduit will be charged (once, not annually). If one new company installs a facility each year, then the Department will collect \$10,000.00 per mile (\$5,000.00 per mile more) in fees each year. The average number of miles per new installation will probably be 100. 100 miles x \$10,000.00 is \$1,000,000.00 (a \$500,000.00 increase in revenues). Funds collected from fees are deposited in the Right-of-Way Permit Fund to defray the expenses of the Right-of-Way Permit Office.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Most of the provisions of this rule amendment simply explain the current fiber optic cable installation process further. The cost to potential fiber optic cable companies will increase, depending upon the number of conduits which the company chooses to install. However, charging a fee "per conduit" should discourage companies from installing empty conduit in Interstate rights-of-way, thereby filling the rights-of-way to the detriment of other companies. It is assumed that the permittees' customers will bear all or part of the cost increase.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Competition and employment should be enhanced by the requirement that each conduit be permitted. Under this rule amendment, the situation would be limited in which one company can install unlimited numbers of conduit, thereby filling the right-of-way with empty conduit.

Kam K. Movassaghi, Ph.D., P.E.
Secretary

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

0008#056

NOTICE OF INTENT

**Department of Treasury
State Employees' Retirement System**

Trustee Election (LAC 58.I.301, 303, 307, 501 and 503)

Under the authority of by R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) advertises its intent to amend and reenact LAC 58.I.301, 303, 501 and 503, and to enact LAC 58.I.307. The proposed amendments and enactment to the rules changes the procedures utilized for the election of Trustees of the Board of Trustee of LASERS. The proposed amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58
RETIREMENT**

Part I. State Employees' Retirement

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. - B.4. ...

5. Fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time). No faxed ballots shall be accepted.

B.6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 26:

§303. Election Rules

A. - D. ...

E. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997(August 1997), amended LR 26:

§307. Optional Retirement Plan Participants

A. Because optional retirement plan participants do not acquire service credit for purposes of determining eligibility under R.S. 11:511(4), these participants will not be eligible

to vote in the Trustee elections or run for a position on the Board of Trustees.

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

A. - B.4. ...

5. Fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time).

B.6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 26:

§503. Election Rules

A. - D. ...

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes.

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

G. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 26:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 by 4:30 p.m. on September 15, 2000.

Glenda Chambers
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Trustee Election**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation cost to the state or local governmental units are anticipated because of the proposed rules. The proposed rule merely changes the process for electing members of the board of trustees for the Louisiana State Employees' Retirement System.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These rules will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or economic benefits to directly affected persons are anticipated to result from the proposed amendment to these rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not effect competition and employment.

Glenda Chambers
Executive Director
0008#071

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Daily Take and Possession Limits of King Mackerel,
Spanish Mackerel and Cobia (LAC 76:VII.327)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.327, changing the possession limit for the recreational harvest of Spanish mackerel from 10 to 15 fish per person per day. Authority for adoption of this Rule is included in R.S. 56:325.1 and R.S. 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§327. Daily Take and Possession Limits of King and Spanish Mackerel and Cobia

A. The recreational bag limit for possession of Spanish mackerel (*Scomberomorus maculatus*) whether caught within or without the territorial waters of Louisiana shall be 15 fish per person, per day.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR 19:513 (April 1993), LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Mr. Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, October 4, 2000.

In accordance with Act Number 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Daily Take and Possession Limits of
King and Spanish Mackerel and Cobia**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenues to state or local governmental units from the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Fishers subject to a recreational possession limit for Spanish mackerel will benefit by the proposed bag limit increase. They will be allowed to harvest five additional Spanish mackerel per trip. This could provide additional benefits in reduced trip costs per fish harvested and increased fishing satisfaction, resulting in increased participation. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.

Any impacts on receipts and/or income due to the proposed rule change is anticipated to be negligible. The intent of this rule change is to complement Federal rules presently in effect in waters beyond the State Territorial Sea.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be little or no effect on employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0008#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish Harvest Regulations (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.335, increasing the commercial and recreational minimum size limits for gag and black grouper, prohibiting the commercial harvest and sale or purchase of gag, black, and red grouper from February 15 to March 15 each year, and general reorganization of the rule. Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and R.S. 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish: triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters:

Species	Recreational Bag Limits
1. Red Snapper	4 fish per person per day
2. Queen, mutton, school-master, blackfin, cubera, gray, dog, mahogany, silk, yellowtail snappers, and wenchman	10 fish per person per day (in aggregate)
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface, tilefish, tilefish, blackline tilefish, anchor tilefish, blue line tilefish	20 per person per day (in aggregate)
4. Red hind, rock hind, speckled hind, black grouper, misty grouper, red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp	5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel
5. Greater amberjack	1 fish per person per day
6. Banded rudderfish and lesser amberjack	5 fish per person per day (in aggregate)
7. Hogfish	5 fish per person per day
8. No person shall possess jewfish or Nassau grouper whether taken from within or without Louisiana territorial waters per LAC 76:VII.337.	

B. Reef Fish Permits

1. All persons who do not possess a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the harvest of Gulf of Mexico Reef Fish resources are limited to the recreational bag limit. To commercially harvest, sell, barter, trade or exchange or possess for commercial purposes all species of reef fish including dwarf sand perch and sand perch, but (excluding queen triggerfish, black seabass, porgies, and grunts) requires a valid Federal Reef Fish Vessel Permit be on board the vessel and in the immediate possession.

2. Charter vessels and headboats harvesting all species of reef fish including dwarf sand perch and sand perch, but (excluding queen triggerfish, black seabass, porgies, and grunts) are required to have a valid federal charter vessel/headboat reef fish permit on board the vessel and in immediate possession.

3. Persons who are limited to a recreational bag limit shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any reef fish.

4. A person subject to a bag limit may not possess during a single day, regardless of the number of trips or the duration of a trip, any reef fish in excess of the bag limits.

5. No person aboard any commercial vessel shall transfer or cause the transfer of reef fish between vessels on state or federal waters.

C. Charter Vessels and Headboats

1. For charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2, there will be an allowance for up to two daily bag limits on multi-day trips provided the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips of over 12 hours, and each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

2. Any fish taken from charter vessels or headboats as defined in Federal Regulations 50 CFR Part 622.2 or any charter vessel as described in R.S. 56:302.9 shall not be sold, traded, bartered or exchanged or attempted to be sold,

traded, bartered or exchanged. The provisions of §335 apply to fish taken within or without Louisiana's territorial waters.

D. Red Snapper

1. All persons who do not possess a class 1 or class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper. Those persons possessing a Class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 200 pounds of red snapper per vessel.

2. Those persons possessing a class 1 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 2,000 pounds of red snapper per vessel.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which a commercial license or permit was issued.

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (Recreational) 15 inches total length (Commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red and yellowfin grouper	20 inches total length
7. Gag and black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
8. Scamp	16 inches total length
9. Greater amberjack	28 inches fork length (Recreational) 36 inches fork length (Commercial)
10. Black seabass	8 inches total length
11. Hogfish	12 inches fork length
12. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
13. Gray triggerfish	12 inches total length

F. Definitions. Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

Charter Vessel—A vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Headboat—A vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory pelagic fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G. Seasons

1. The season for the commercial harvest of greater amberjack shall be closed during the months of March through May of each year. Possession of greater amberjack in excess of the daily bag limit while on the water is prohibited during the closed season. Any greater amberjack harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

2. The commercial season for gag, black, and red grouper shall be closed from February 15 to March 15 of each year. During this closed season no person shall commercially harvest, sell, purchase, barter, trade or exchange or attempt to sell, purchase, trade, barter or exchange gag, black, or red grouper whether taken from within or without Louisiana territorial waters. This prohibition on sale/purchase does not apply to gag, black grouper, or red grouper that were harvested, landed ashore, sold and purchased prior to February 15.

3. Persons aboard a vessel for which the permits indicates both charter vessel/headboat for Gulf reef fish and commercial Gulf reef fish may continue to retain gag, red grouper, and black grouper under the recreational take and possession limits specified in §335.A, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel. During the closed commercial season gag, red grouper or black grouper shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.G.3 apply to fish taken within or without Louisiana's territorial waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of intent and Final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 5, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

B. Size limits, recreational and commercial.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reef Fish Harvest Regulations**

Species	Minimum Size Limit
1. Yellowfin Tuna	27 inches curved fork length (CFL)
2. Bigeye Tuna	27 inches curved fork length (CFL)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change is intended to provide consistent regulations for recreational and commercial fishers harvesting reef fish in state waters and in adjacent Federal waters. The proposed modifications will establish a more conservative size limit for two reef fish species that are primarily harvested in Federal waters and will improve consistency with Federal regulations, thereby improving enforcement. Economic impact on the recreational, commercial, for-hire and non-consumptive sectors is expected to be negligible. However, some recreational harvesters affected by the proposed minimum size restrictions and closed season may redirect their fishing efforts to other species, practice catch and release and/or participate in non-fishing activities. Commercial harvesters affected by the minimum size limits and closed season may experience per unit increase in trip costs, redirect their fishing efforts to other species, fish for longer periods, or exit the fishery. No additional costs, permits, fees, workload or paperwork will occur from the proposed Rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on employment in the public or private sector.

James L. Patton
Undersecretary
0008#083

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Tuna Harvest Regulations (LAC 76:VII.361)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.361, establishing regulations for the take of yellowfin tuna and bigeye tuna. Authority for adoption of this Rule is included in R.S. 56:325.1 and R.S. 56:326.3. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§361. Tuna Harvest Regulations**

A. Bag and possession limits, recreational.

Species	Bag and Possession Limit
---------	--------------------------

Note: Curved fork length (CFL): the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

C. No person shall take or have in their possession any species of tuna, less than the minimum size or in excess of the take or possession limits. The possession limit on tunas applies to tuna taken within or outside Louisiana territorial waters.

D. Permits

1. Recreational. Persons aboard a vessel whether within or outside Louisiana territorial waters possessing any of the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna, albacore, and Atlantic bonito are required to have a valid federal recreational tuna permit in their immediate possession on board the vessel.

2. Commercial. Persons harvesting the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna, albacore, and Atlantic bonito whether within or outside Louisiana state territorial waters for commercial purposes or possessing such tuna species in excess of a recreational take limit are required to have a valid federal commercial tuna permit in their immediate possession on board the vessel. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange any species of tuna without a valid federal permit. No person shall purchase, barter, trade or exchange or attempt to purchase, barter, trade or exchange any species of tuna from any person who harvested tuna without a valid federal commercial permit.

3. No person aboard any commercial vessel shall transfer or cause the transfer of fish between vessels on state or federal waters.

4. No person shall possess any species of tuna without tail intact or skinned or scaled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 5, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection

with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuna Harvest Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of the proposed Rule will be carried out using existing staff and funding levels. Local governmental units will not be impacted.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues to state or local governmental units from the proposed Rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A portion of Louisiana saltwater recreational and commercial fishers of yellowfin or bigeye tunas may be affected by the proposed Rule, but the impact, if any, will be small. No additional costs, fees, workload or paperwork will occur from the proposed Rule. Any impacts on receipts and/or income is anticipated to be negligible. The intended effect of this Rule is to complement federal rules presently in effect in waters beyond the State Territorial Sea. Long-term benefits of an undetermined magnitude may accrue to fishers in the recreational sector as a result of increases in the size of stocks protected by the proposed regulations.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on employment the public or private sector.

James L. Patton
Undersecretary
0008#084

John R. Rombach
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 4-5, 2000 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: September 08, 2000
 Re-Take Candidates: September 22, 2000
 Reciprocity Candidates: November 17, 2000

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 8, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
 Commissioner

0008#050

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given October 23-27, 2000, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is September 8, 2000. No applications will be accepted after September 8, 2000.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 8, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
 Commissioner

0008#049

POTPOURRI

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Structural Pest Control Commission

Approved Termiticides

The Structural Pest Control Commission of the Louisiana Department of Agriculture and Forestry hereby designates the following as approved termiticides for the treatment of subterranean termites.

The termiticides are approved for use by structural pest control operators in Louisiana.

Approved Termiticides		
Product	Percentage	Manufacturer
Biflex TC		
Chlorpyrifos TC	0.06% - 0.12%	FMC
Cyren TC	0.5% - 2.0%	Micro-Flo
Demon	0.5% - 2.0%	Chemnova
Dragnet FT	0.25% - 1.0%	Zeneca
Dragnet SFR	0.5% - 2.0%	FMC
Durban 75WG	0.5% - 2.0%	FMC
Dursban TC Equity	0.5% - 2.0%	DowAgro Sciences
Navigator 4TC (Chlorpyrifos)	0.5% - 2.0%	DowAgro Sciences
Permethrin SFR	0.5% - 2.0%	DowAgro Sciences
Permethrin TC	0.5% - 2.0%	Gharda USA, Inc
Prelude (Torpedo)	0.5% - 2.0%	Control Solutions
Premise 75	0.5% - 2.0%	Micro-Flo
Prevail	0.5% - 2.0%	Zeneca
Prevail TC	0.05% - 0.1%	Bayer
*Pryfon	0.25% - 1.0%	FMC
Surrender (Chlorpyrifos TC)	0.3% - 0.6%	FMC
Talstar	0.75%	
Tengard SFR	0.5% - 2.0%	Solutions
Tenure	0.06% - 0.12%	FMC
Termidor SC	0.5% - 2.0%	United Phosphorus
Termidor 80 WG	0.5% - 2.0%	DowAgro Sciences
Tribute	0.06% - 0.125%	Aventis
	0.06% - 0.125%	Aventis
	.05% - 1.0%	AgrEvo
*Please Note:Pryfon (some companies still have some of this Chemical. It is still one of the approved termiticides, but we are trying to phase it out.)		

Baits (Not in Pilot Project)

DowAgro Sciences

Recruit II
 Recruit AG

FMC

FirstLine GTX Termite Bait Station
 FirstLine GT Termite Bait Station
 FirstLine Termite Bait Station
 FirstLine GT Plus

Ensystem
Labyrinth
Cyanamid C Not being Marketed
Subterfuge

Bob Odom
Commissioner

0008#103

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Amendment to the Waste Tire Regulations SW029 Risk/Cost Benefit Statement

Introduction

The Louisiana Department of Environmental Quality (LDEQ) is proposing amendments to the Waste Tire Regulations that would increase the fees on the sale of tires. These fees, designated for the Waste Tire Management Fund, are collected by retailers and remitted to the department. The increase in fees was authorized by Act 1015 of the 1999 Louisiana Legislature.

The fee increase will provide funding to address the proper collection, processing, and marketing of off-road tires. The rule will affect all retailers selling tires that weigh in excess of 100 pounds. The rule will also effect any consumer who purchases a tire weighing in excess of 100 pounds. At the present time, only passenger and truck tires are included in the Waste Tire Program.

This statement is prepared to satisfy the requirements of R.S. 30:2019(D) and R.S. 49:953(G)(Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document is not a quantitative analysis of cost, risk, or economic benefit, although costs of implementation were identified to the extent practical. The statutes allow a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practical. The department asserts that the benefits of a rule designed to support a legislatively-passed broadening of the waste tire program justify the costs associated with the fee increases.

Therefore, the qualitative approach is taken with this risk/cost benefit statement. As discussed further in this document, these amendments to the Waste Tire Regulations provide environmental and economic benefits. Assessing dollar benefits of avoided environmental risk or economic benefits of this rule is not practicable. In addition, the department asserts that the indirect and direct environmental and economic benefits to be derived from this rule will, in the judgement of reasonable persons, outweigh the costs associated with the implementation of the rule and that the rule is the most cost-effective alternative to achieve these benefits.

Risks Addressed by the Rule

The fee portion of the rule addresses the risks associated with the pollution caused by improper disposal of off-road tires to include unauthorized waste tire piles consisting of this type tire. The rule does this by bringing off-road tires into the Waste Tire Program with the addition of a fee. The fee will allow the department, through the Waste Tire

Management Fund, to pay waste tire processors for the processing of off-road tires and the marketing of the resulting waste tire material. The payment incentive will encourage waste tire processors to seek out this type tire rather than only accepting passenger tires for processing and marketing.

Numerous risks are associated with the improper disposal of tires, including off-road tires. Unprocessed tires hold water that provides a fertile breeding ground for mosquitoes, which provide an excellent vector for diseases. Unprocessed tires also provide shelter for vermin, such as rats, that are another vector for disease in addition to being a destructive pest. Tire piles may catch fire under certain circumstances. These fires are extremely difficult to extinguish, and they emit noxious gases and thick smoke. Lastly, individual tires or tire piles that litter the landscape are unsightly. Waste tires do not degrade which provides a long-lasting hazard to the environment.

Environmental and Health Benefits of the Rule

The additional money collected through this rule will provide an incentive for waste tire processors to process and market off-road tires. This will result in the removal of off-road tires from parish collection centers, Department of Transportation and Development collection centers, and from private residences and farms. The removal, processing, and marketing of these tires will eliminate potential breeding places of disease-spreading insects and mammals. The removal of these tires would eliminate the possibility of tire pile fires. The rule would also lead to the removal, either to a collection center or processor, of off-road tires stored on farms, as no entity was willing to accept farm tires for disposal or processing previously.

Social and Economic Costs

This rule is an amendment to raise fees that are already assessed in some cases and as such there are no significant costs to implement the rule. The only new fees are on off-road tires that constitute only one percent of the tires sold at the retail level in Louisiana. The rule increases fees on truck tires and places a fee on off-road tires, while retaining the same fee for passenger tires.

Persons purchasing truck tires that weigh in excess of 100 pounds will pay an additional fee of \$4 to \$6, depending on weight, for every truck tire. Persons purchasing off-road tires will pay an average fee of \$20 for a retail purchase. These new fees will generate an estimated \$3,080,000 for the Waste Tire Management Fund. In conjunction with this fee increase, waste tire processors will receive a payment increase from \$1.00 to \$1.50 for every 20 pounds of waste tire material processed and marketed. This will result in an estimated \$3,646,697 of additional funds paid from the Waste Tire Management Fund. The difference in funds received and paid will be made up with waste tire remediation funds. More than 98 percent of the waste tire sites in the state have been remediated, freeing funds for additional processor payments.

Persons purchasing truck tires will pay additional fees, and persons purchasing off-road tires will pay fees for the first time; however, these fees will provide benefits in excess of the fees. Health hazards will be removed in the form of unauthorized tire piles. The fire hazardous associated with unauthorized piles will also be removed. Lastly, the removal

of tire piles and individual off-road tires will aesthetically enhance the state for the benefit of its citizens.

Conclusion

The department believes that the benefits of enhanced environmental and public health protection, as well as other benefits, outweighs the costs of implementation of the rule. Therefore, the rule is obviously the most cost-effective alternative to achieve these benefits.

James H. Brent, Ph.D.
Assistant Secretary

0008#096

POTPOURRI

**Division of Administration
Office of Community Development**

Availability of Proposed FY 2001
Consolidated Annual Action Plan

As set forth in 24CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana, the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program).

A consolidated plan was prepared which outlines the state's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 2000-2004 and included a one-year action plan for the distribution of FY 2000 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds must be prepared and publicized for each of the subsequent four program years.

The proposed FY 2001 Consolidated Annual Action Plan which identifies the proposed method of distribution of FY 2001 funds under the four HUD programs will be prepared and will be available for review beginning September 6, 2000, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168, Baton Rouge, LA. Copies of the proposed annual action plan will also be available for review at the Louisiana Housing Finance Agency at 200 Lafayette Street, Suite 300 in Baton Rouge, and the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 606, in Baton Rouge, and the Department of Health and Hospitals/HIV/AIDS Program at 234 Loyola Avenue, Fifth Floor, in New Orleans.

A limited number of the proposed plans will be available for distribution and may be requested in writing or by telephone from any of the four agencies participating in the consolidated planning process. The proposed plan will also be available for viewing and copying on the internet (www.state.la.us/cdbg/cdbg.htm) on or before September 6, 2000.

The following presents a summary of the proposed FY 2001 Consolidated Annual Action Plan.

The state's anticipated federal allocation for the FY 2001 Louisiana Community Development Block Grant (LCDBG) Program is approximately \$37,000,000 (subject to federal allocation). The Office of Community Development is proposing to establish the following five program areas for the distribution of these funds. (1) Housing: \$2.4 million will be set aside to provide safe and sanitary living conditions through housing rehabilitation or replacement housing for low/moderate income persons. (2) Public Facilities: approximately \$24 million will be allocated for water and sewer systems, streets, and multi-purpose community centers. (3) Economic Development: approximately \$6 million will be allocated to provide loans to businesses for job creation or retention projects and/or to provide grants to local governing bodies for infrastructure improvements which will facilitate the location of a particular business. (4) Demonstrated Needs: \$2.7 million will be set aside to alleviate critical/urgent needs involving improvements to existing water, sewer, and gas systems. (5) LaStep: \$600,000 will be set aside to fund one or more water and/or sewer projects which may utilize LCDBG funds for materials, engineering, and administrative costs in conjunction with local resources (human, material, and/or financial). The remainder of the LCDBG funds will be utilized for the state's cost of providing program administration and technical assistance services.

The Louisiana Housing Finance Agency, as the administrator of the state's HOME Program, expects to receive an estimated allocation of \$14,634,000 in FY 2001 funds. These funds are intended for use in support of the following affordable housing categories: (1) approximately \$2 million (or 15 percent of the HOME project allocation) will be set aside for the exclusive use of state designated community housing development organizations in developing home ownership, rental and transitional housing projects. (2) Approximately \$3.5 million will be reserved to provide mortgage financing, down payment and closing cost assistance for first time home buyers. These funds are to be used in combination with state mortgage revenue bonds which provide below market rates mortgage financing. (3) Approximately \$4 million will be available for primary or secondary financing to for-profit and non-profit developers of multi-family rental housing in HOME nonentitlement areas. (4) Approximately \$2 million will be available for funding the SHARE Grant Program to provide monies for the rehabilitation of substandard housing owned and occupied by very low income families. The balance of the grant is to be used by the agency in support of the administration of the various HOME supported programs.

The state's estimated federal allocation for the FY 2001 Emergency Shelter Grants Program (ESGP) is \$1,583,000. ESGP funding is dedicated for the rehabilitation, renovation, or conversion of buildings for use as emergency shelters for the homeless, for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless and for homeless prevention services. The Louisiana Department of Social Services, administrative agency for the Emergency Shelter Grants Program, proposes to distribute the state's funding allocation to eligible units of general local government which may make all or part of the grant amounts available to private non-profit organizations for use in eligible activities. Eligible applicants are defined as governmental bodies for all parish jurisdictions and those city jurisdictions with a minimum population of 10,000. The Department of Social Services shall continue use of a geographic allocation formula (based on factors for low income population) to ensure that each region of the state is allotted a specified minimum of Emergency Shelter Grant assistance. Within each region, grant distribution will be conducted through a competitive grant award process. Among other evaluation criteria, this selection process will consider the extent to which proposed activities will address local needs to "complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living."

The Louisiana Department of Health and Hospitals, Office of Public Health, HIV/AIDS Program proposes to allocate the FY 2001 Housing Opportunities for Persons with AIDS grant funds (approximately \$763,000) through a 60/40 percent funding split. This funding split is pending the outcome of the 2000-2001 Louisiana HIV/AIDS survey results. Through HOPWA the state receives housing assistance funds which are disbursed in Regions III through IX. Funding for Regions I and II, the greater New Orleans and Baton Rouge areas, is administered through separate grants provided directly to the cities of New Orleans and Baton Rouge. Currently there are residential facilities located in each of the state's seven funded regions; they will be allocated 40 percent of the HOPWA grant funds, with the exception of Regions VI and IX. These funds will be allocated through a competitive statewide HIV/AIDS Residential Facilities Solicitation of Application process. These HOPWA funds are for new construction, renovation, rehabilitation, acquisition, conversion, lease and repair of facilities or purchase of capital equipment. The other source of assistance available through HOPWA is short-term emergency rental assistance which provides low income persons with HIV/AIDS with funding to aid in paying their housing expenses such as rent, mortgage, and utility assistance for a maximum of five months. This remaining 60 percent will be allocated through a Request for Proposal through the Ryan White Title II Regional Consortia. These grant funds will be disbursed to Regions II through IX.

Written comments on the proposed consolidated and annual action plans may be submitted beginning September 6, 2000, and must be received no later than October 9, 2000. Comments should be submitted to the Office of Community

Development, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Mark C. Drennen
Commissioner

0008#047

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board Examination Committee (NBEC) as follows:

Test Window Dates	Deadline To Apply
November 20 through December 15, 2000	Wednesday, September 20, 2000

The NAVLE is the computerized national examination for licensure to practice veterinary medicine which has replaced the National Board Examination (NBE) and Clinical Competency Test (CCT).

The board will administer the state examination for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the State Board Examination (SBE) is the third Friday prior to exam date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

Applications for all examinations must be received on or before the deadline. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by calling (225) 342-2176.

Kimberly B. Barbier
Administrative Director

0007#007

POTPOURRI

**Department of Health and Hospitals
Bureau of Health Services Financing**

Private Intermediate Care Facilities for the Mentally Retarded
New Reimbursement Rates

Effective for dates of service July 1, 2000 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private intermediate care facility services for the mentally retarded:

Level of Care	1-8 Beds Per Diem Rate	1-8 Beds Monthly Rate	9-32 Beds Per Diem Rate	9-32 Beds Monthly Rate	33+ Beds Per Diem Rate	33+ Beds Monthly Rate

2	\$118.97	\$3,618.67	\$96.74	\$2,942.51	\$86.03	\$2,616.75
3	\$128.36	\$3,904.28	\$104.20	\$3,169.42	\$92.56	\$2,815.37
4	\$133.17	\$4,050.59	\$112.31	\$3,416.10	\$99.66	\$3,031.33
5	\$139.86	\$4,254.08	\$121.13	\$3,684.37	\$107.38	\$3,266.14
6	\$143.22	\$4,356.28	\$130.71	\$3,975.76	\$125.33	\$3,812.12
7	\$156.79	\$4,769.03	\$154.28	\$4,692.68	\$134.48	\$4,090.43

It should be noted that these rates include a provider fee of \$10.93.

Inquiries regarding these rates may be directed to the Director of Institutional Reimbursement, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
Secretary

0008#100

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Nutrition Section**

OPH Nutrition Section

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC Programs state plan for 2000-2001. The plan describes in detail the goals and the planned activities of the WIC Program for the next year. Interested persons may find copies of the state plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC Office for copies of the plan at 25 cents per page. Interested individuals should submit their requests for copies or their comments on the plan to the Department of Health and Hospitals, Office of Public Health, Nutrition Section, Room 406, P.O. Box 60630, New Orleans, LA 70160, Attn: State Plan.

Additional information may be gathered by contacting Henry Klimek, Manager of WIC Nutrition Section, (504) 568-5065.

David Hood
Secretary

0008#101

POTPOURRI

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Private Nursing Facilities C
New Reimbursement Rates

Effective for dates of service July 1, 2000 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes

the following reimbursement rates for private nursing facility services:

Level Of Care	Daily	Monthly
Skilled Nursing	\$72.96	\$2,219.20
Intermediate Care I	\$70.00	\$2,129.17
Intermediate Care II	\$70.00	\$2,129.17
Skilled Nursing C Infectious Disease	\$254.89	\$7,752.90
Skilled Nursing C Technology Dependent Care	\$194.79	\$5,924.86

It should be noted that the above rates include a provider fee of \$5.56. Inquiries regarding these rates may be directed to the Director of Institutional Reimbursement, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
Secretary

0008#099

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Average Weekly Wage Rate

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2000, has been determined by the Department of Labor to be \$517.93.

Gary Forster
Secretary

0008#097

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Weekly Compensation Benefit Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2000, through August 31, 2001.

Average Weekly Wage	Maximum Compensation	Minimum Compensation
\$517.93	\$388.00	\$104.00

Gary Forster
Secretary

0008#098

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Sam Barnwell et al	Bellevue	S	Wurtsbaugh Knighton et al	001	102749
Cajun Minerals, Inc.	West Fenris	L	A Deshotels SWD	001	113911
Calumet Refining Co.	Caddo Pine Island	S	State	005	010035
Calumet Refining Co.	Caddo Pine Island	S	State	007	055094
Calumet Refining Co.	Caddo Pine Island	S	Chew State	007	075343
Calumet Refining Co.	Caddo Pine Island	S	Chew-State SWD	008	075344
Jeems Bayou Oil	Caddo Pine Island	S	Clubhouse	002	990434
F. M. Johnson	Monroe	M	FM Johnson	001	090930
John W. Mecom	Bayou Des Allemands	L	Waterford Oil Company A	002	060108
Olin Gas Transmission Corp.	Coffee Bay	L	Grandison	012	080409
Olin Gas Transmission Corp.	Coffee Bay	L	Grandison	001	049663
Olin Gas Transmission Corp.	Coffee Bay	L	Grandison	004	053608
Olin Gas Transmission Corp.	Lake Enfermer	L	Grandison	A-3	059093
Olin Gas Transmission Corp.	Lake Enfermer	L	Grandison	A-9	078782
Olin Gas Transmission Corp.	Lake Enfermer	L	Grandison	A-8	073135
Pala Oil Company	Caddo Pine Island	S	McEnergy	003	990433
Petro-Lewis Corp.	Coffee Bay	L	CB SUA; Grandison	013	087700

Philip N. Asprodites
Commissioner

0008#104

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Docket No. IMD 2000-04

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, March 1, 2000, in the Thibodaux City Courtroom, located on the Second Floor of the Starks Municipal Complex, 1309 Canal Blvd., Thibodaux, Louisiana.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Newpark Environmental Services, Inc., 207 Town Center Parkway, Second Floor, Lafayette, Louisiana 70506. The applicant requests authorization to consolidate and relocate Newpark's two commercial exploration and production (E&P) waste facilities located in Lafourche Parish, Louisiana. Applicant requests authorization to store and transfer RCRA-exempt exploration and production wastes generated from the drilling and production of oil and gas wells. Applicant intends to transfer wastes to other permitted processing and disposal facilities located in Louisiana and Texas. The proposed (relocated) facility, which shall replace Newpark's two existing facilities, will be located in the Port Fourchon, Louisiana area, Township 23S, Range 22E, Section 14 of Lafourche Parish, between 16th Street and the third leg of E-Slip.

The application is available for inspection by contacting Mr. Gary Snellgrove, Office of Conservation, Injection and Mining Division, Room 279B of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the Lafourche Parish Council Office in Thibodaux, Louisiana, or the Lafourche Parish Library in Golden Meadow, Louisiana. Verbal information may be received by calling Mr. Snellgrove at (225) 219-4548.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, March 8, 2000, at the Baton Rouge Office. Comments should be directed to the Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, Louisiana 70804; Re: Docket No. IMD 2000-04 Commercial Facility, Lafourche Parish.

Philip N. Asprodites
Commissioner

0008#102

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that eight claims in the amount of \$25,179.80 were received for payment during the period July 1, 2000 through July 31, 2000. There were eight claims paid and no claims denied.

Loran Coordinates of reported underwater obstructions are:

28554	46879	Jefferson
28775	46845	Jefferson/Plaquemines

A list of claimants and amounts paid, can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804, or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0008#048

POTPOURRI

**Department of Social Services
Office of Community Services**

Chafee Foster Care Independence Program

The Department of Social Services, Office of Community Services is developing a five year plan for the Chafee Foster Care Independence Program to implement the Foster Care Independence Act of 1999 (P.L. 106-169) which was effective on December 14, 1999, amending Section 477 of the Social Security Act. Section 477(b)(3)(E) of the Social Security Act requires that all interested members of the

public have at least 30 days to submit comments on the plan. The plan is available by contacting Mr. Ernie Chapman, Office of Community Services, P.O. Box 3318, Baton Rouge, LA 70821 or telephoning (225) 342-2279. The public may comment on the plan for a period of 30 days from the date of publication of this notice.

J. Renea Austin-Duffin
Secretary

0008#068

POTPOURRI

**Department of Social Services
Office of Family Support**

Child Care Assistance Program Public Hearings

The Department of Social Services, Office of Family Support, will hold additional public hearings on the Child Care Assistance Program changes proposed in the Notice of Intent published in this issue.

A public hearing on the proposed rule will be held on Tuesday, October 3, 2000, at the following times and locations:

9:00 a.m.	2:30 p.m.
OFS Regional Office	OFS Alexandria Parish Office
330 State Office Bldg.	900 Murray Street, Room K-200
1525 Fairfield Ave.	Alexandria, LA 71303
Shreveport, LA 71101	

All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

J. Renea Austin-Duffin
Secretary

0008#062

CUMULATIVE INDEX
(Volume 26, Number 8)

2000	
Pages	Issue
1-177	January
180-440	February
441-615	March
616-966	April
967-1199	May
1200-1388	June
1389-1551	July
1552-1933	August
EOExecutive Order	
PPMCPolicy and Procedure Memoranda	
ERCEmergency Rule	
RCRule	
NCNotice of Intent	

ADMINISTRATIVE CODE UPDATE

Cumulative

January 1999 - December 1999, 171
 January 2000 - March 2000, 954
 January 2000 - July 2000, 1546

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

Aircraft, 1081N
 Aerial pesticide, 1081N
 Boll weevil, 174P
 Pesticide restrictions, 359N, 443ER, 1083N, 1200ER,
 1393ER, 1428R, 1508N

Animal Health Services, Office of

Pet turtles, 1192P

Commissioner, Office of

Pet turtles, 794N, 1567R

Forestry Commission

Timber stumpage, 25R, 174P

Forestry, Office of

Seedling prices, 1395ER, 1508N

Horticulture Commission

Definitions, 627R
 Examination, 1080N
 Landscape architect exam, 174P, 428P
 Licenses, 627R, 1080N
 Permits, 627R, 1080N
 Quarantine, 955P
 Retail floristry exam, 428P, 1192P

Seed Commission

Bulk certification, 235R
 Fees, 235R
 Seed commission, 1428R

CIVIL SERVICE

Civil Service Commission

Performance planning, 1348N
 Reporting actions, 1345N
 Rule amendments, 101N

Ethics, Board of

Contribution limit, 800N, 1429R
 Records, 99N, 927R
 Reports, 99N, 927R

CULTURE, RECREATION AND TOURISM

Office of State Parks

Regulations, 25R

ECONOMIC DEVELOPMENT

Architectural Examiners, Board of

Architects Selection Board, 988R

Certified Public Accountants, Board of

Certified public accountants, 1084N

Commerce and Industry, Office of

Commerce and Industry Board, 1511N
 Gaming ineligibility, 104N, 630R
 University research, 632R
 Regional economic alliance program, 1429R

Economic Development Corporation

Small business, 629R

Financial Institutions, Office of

Additional fees and charges, 1119N
 Credit card solicitation, 236R
 NSF collection fees, 106N, 990R

Interior Examiners, Board of

General operations, 1110N

Racing Commission

Carbon dioxide testing, 972ER, 1120N
 Parlay wagering, 990R
 Substance abuse, 33R

Real Estate Commission

Real estate, 37R

Secretary, Office of the

Economic development award (EDAP), 236R
 Highway 988 relocation, 1192P
 Port development, 239R
 Workforce development, 241R

Small and Emerging Business Development Program, Division of

Business development, 360N, 1572R
 Mississippi River bridge relocation, 1429R
 Sales and use tax exemption, 1430R

EDUCATION

Elementary and Secondary Education, Board of

Awards, 1352N
 Bulletin 741
 Accountability, 246R, 364N, 1260R, 1677N
 Appeal/waiver, 246R
 Business education, 1430R
 Character education, 363N, 1260R
 Computer/technology, 635R
 Distance education, 1430R
 Electives, 247R
 Growth targets, 1431R
 Home school programs, 1432R
 LEAP, 244R

Nonpublic schools, 1432R
 School performance scores, 800N, 1575R
 Superintendents, 62R
 Transfer policy, 1432R
 Bulletin 746
 GPA, 638R
 Post-baccalaureate certification, 635R
 Reinstatement, 62R
 Revocation, 62R
 Superintendents, 62R
 Suspension, 62R
 Bulletin 921
 Support fund, 248R
 Bulletin 1213
 School buses, 639R
 Bulletin 1566
 Pupil progression, 64R, 801N, 1432R, 1575R
 Bulletin 1706
 Exceptional children, 639R, 802N, 1554ER, 1683N,
 1576R
 Bulletin 1794
 Textbook policy, 107N, 991R
 Bulletin 1903
 Dyslexic students, 249R
 Child nutrition program, 826N, 1599R

Student Financial Assistance Commission

Commission Bylaws, 1353N, 1514N
 Medical school students, 1557ER
 START saving program, 444ER, 1263R, 1395ER, 1513N
 Tuition opportunity program for students (TOPS), 3ER, 4ER,
 64R, 65R, 69R, 132N, 133N, 184ER, 365N, 444ER,
 445ER, 446ER, 620ER, 620ER, 621ER, 688R, 689R,
 829N, 972ER, 977ER, 978ER, 1015R, 1121N, 1200ER,
 1261R, 1262R, 1262R, 1354N, 1360N, 1404ER, 1513N,
 1555ER, 1601R, 1602R, 1603R
 Tuition payment program, 1557ER

ENVIRONMENTAL QUALITY

Environmental Assessment, Office of

Agenda, 958P
 Beauregard redesignation, 429P
 Emissions, 832N, 1605R
 Environmental projects, 1603R
 Fluoroscopic x-ray, 1849N
 Grant redesignation, 429P
 I/M, 175P
 Lafayette redesignation, 429P
 LPDES, 1854N
 Organization citations, 1684N
 Orleans redesignation, 430P
 Ozone, 957P
 Pollutants, 1867N
 Response action contractors, 174P
 State beautification program, 1515N
 Storm water regulations, 1852N
 Solid waste, 1515N
 St. Mary redesignation, 430P
 SIP, 175P, 1192P
 Waste tire, 1866N
 AQ102 40 CFR part 60, 1360N, 1607R
 AQ195 Air fee, 263R
 AQ196 Chemical accident prevention, 69R
 AQ198 40 CFR part 63, 690R
 AQ201 Fugitive emission control, 1433R
 AQ202 Reporting requirements, 840N
 AQ203 Volatile compounds, 848N, 1442R

AQ205* 40 CFR part 68, 1851N
 AQ207* 40 CFR part 63, 1850N
 HW062 Waste by deep well injection, 1608R
 HW072 RCRA, 267R
 HW073 Remedial action plans, 1441R
 NE021 Radioactive material, 842N, 1264R
 NE022 Recordkeeping, 365N, 1017R
 NE024 Radiation protection, 1440R
 NE025 Radiographer trainee requirements, 1864N
 OS034 RECAP, 428P, 1263R
 OS035E Program requirements, 4ER, 622ER
 OS035 Laboratory accreditation, 833N, 1434R
 OS038 Reportable quantity for pollutants, 1865N
 SW027 Waste tire, 1123N, 1382P
 SW029 Waste tire regulations, 1866N
 WP035E2 Private sewage, 447ER
 WP035E3 Sewage treatments, 1405ER
 WP038 Water quality, 1270R
 WP039* LPDES stormwater regulations, 1852N
 WP040 LPDES, 1122N, 1609R
 X-ray, 1849N

Secretary, Office of

BEPs, 451ER, 830N, 1409ER
 OS037E1 BEPs, 1409ER

EXECUTIVE ORDERS

MJF 99-54CJustice System Funding Commission, 1EO
 MJF 99-55CCarry-Forward Bond Allocation Louisiana
 Louisiana Housing Finance Authority, 1EO
 MJF 00-1CBond AllocationCIndustrial Development Board
 of the City of New Orleans, Louisiana, Inc.,
 180EO
 MJF 00-2CTobacco Settlement Payment Options Task Force,
 180EO
 MJF 00-3CState of EmergencyCSuspension and
 Rescheduling of Qualifying in the Parishes of
 Bossier, Caddo, Claiborne, Lincoln, Union,
 Webster, and West Carroll, 182EO
 MJF 00-4CBond AllocationCIndustrial Development Board
 of the City of New Orleans, Louisiana, Inc.,
 182EO
 MJF 00-5CBond AllocationCLouisiana Local Government
 Environmental Facilities and Community
 Development Authority, 183EO
 MJF 00-6CLouisiana Women's Policy and Research
 Commission, 441EO
 MJF 00-7CLouisiana Highway 1Project Task Force, 442EO
 MJF 00-8CLouisiana Women's Policy and Research
 Commission, 967EO
 MJF 00-9CBond AllocationCDenham Springs/Livingston
 Housing and Mortgage Finance Authority,
 616EO
 MJF 00-10CBond AllocationCEast Baton Rouge Parish
 Mortgage Finance Authority, 616EO
 MJF 00-11CBond AllocationCCalcasieu Parish Public
 Trust Authority, 617EO
 MJF 00-12CBond AllocationCLouisiana Housing Finance
 Agency, 617EO
 MJF 00-13CBond AllocationCParish of Jefferson Home
 Mortgage Authority, 618EO
 MJF 00-14CBond AllocationCExecutive Department
 Spending Freeze, 619EO
 MJF 00-15CBond Allocation Procedures, EO967
 MJF 00-16CBond AllocationCThe Finance Authority of
 New Orleans, 968EO

MJF 00-17CBond AllocationCCalcasieu Public Trust Authority, 968EO
 MJF 00-18CHiring and Spending Freeze, 969EO
 MJF 00-19CBond AllocationCDenham Springs/Livingston Housing & Mortgage Finance, 1389EO
 MJF 00-20CBond AllocationCParish Jefferson Home Mortgage Authority, 1389EO
 MJF 00-21CContinuation of Hiring Freeze, 1390EO
 MJF 00-22CBond AllocationCLouisiana Local Government Environmental Facilities and Community Development Authority, 1390 EO
 MJF 00-23CBond AllocationCLouisiana Local Government Environmental Facilities and Community Development Authority, 1391EO
 MJF 00-48CFormosan Termite Task Force, 1391EO
 MJF 00-25CSpecial Farm Product Permit Transportation of Corn Product Permit Transportation of Corn in its Natural State, 1552EO
 MJF 00-26CPost-Conviction DNA Testing Advisory Commission, 5225EO

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity

Definitions, 290R
 Eligibility, 290R
 DROP, 291R
 DROP accounts, 294R
 Leave, 294R
 Participation, 291R
 Payments, 1609R
 Post-DROP, 294R

GOVERNOR'S OFFICE

Administration, Division of Commissioner, Office of

General travel, 1252PPM

Community Development, Office of

Action plan, 958P

Data Base Commission, Office of

Data base, 134N

Facility Planning and Control, Office of

Rental/lease, 137N, 1019R

Property Assistance Agency

Inventoried property, 1361N, 1540P

State Employees Group Benefits Program, Board of Trustees of the

EPO, 186ER, 623ER, 1204ER, 1208ER, 1209ER, 1411ER
 Fee schedule, 453ER
 Late payment, 981ER
 PPO, 187ER, 623ER, 1209ER, 1213ER, 1324ER, 1411ER

State Uniform Payroll, Office of the

Payroll deduction, 187ER, 367N, 1024R

Crime Victims Reparation Board

Award limits, 366N, 1019R

Elderly Affairs, Office of

Area agencies on aging, 70R
 GOEA-policy revision, 79R
 State plan, 1135N, 1610R

Law Enforcement and Administration of Criminal Justice, Commission on

Drug abuse education/treatment, 1882N
 Federal grant funds, 133N, 1018R
 Standards, 1214ER
 Training, 1214ER, 1882N
 Victims fund, 1882N

Oil Spill Coordinator's Office

Four Bayou Pass, 959P
 Restoration planning, 959P
 Vessel response plans, 1193P

Veterans Affairs

Bonus payments, 849N, 1442R

Women's Services, Office of

Family violence, 849N

HEALTH AND HOSPITALS

Addictive Disorders, Office of

Resource allocation formula, 1367N

Certified Social Work Examiners, Board of Standards, 295R

Dentistry, Board of

Advertising, 138N, 690R
 Air abrasions units, 1137N
 Communicable disease, 141N
 Curriculum, 1137N
 Expanded duty, 139N, 691R
 Exemptions, 1137N
 Hygienists fees, 140N
 Licenses, 1137N, 1612R
 Licensure-dental hygienists, 140N, 691R
 Licensure-dentist, 140N, 691R
 Licensure requirements, 141N, 142N, 692R, 692R, 1612R
 Meeting dates-2000, 176P
 Violations, 1136N

Embalmers and Funeral Directors, Board of

Examinations, 961P, 1540P

Examiners in Dietetics and Nutrition, Board of

License, 1517N

Examiners of Electrolysis, Board of

Definition, 1362N
 Exceptions and rights, 1362N
 License renewal, 1362N
 Licensure, 1362N
 Sanitary requirements, 1362N

Examiners of Nursing Facility Administrators, Board of

Board member, 142N, 692R
 Certificates, 82R, 316R
 Licenses, 82R, 316R

Management and Finance, Office of

Services provider fees, 1478R
 MRHF, 1480R

Medical Examiners, Board of

Chronic pain, 693R
 Education requirements, 695R

Nursing, Board of

Continuing education, 83R
 Education programs, 1882N
 Education services fees, 83R
 Licensure fee, 83R
 Registration fee, 83R
 Submission fees, 83R
 Criminal history, 864N, 1614R
 Disciplinary proceedings, 865N, 1614R
 Licensure and change of status, 1443R
 Official Office of the Board, 866N, 1615R

Pharmacy, Board of

Automated medication, 1271R
 Drug returns, 453ER, 867N, 1615R
 Pharmacy technicians, 868N, 1518N

Physical Therapy, Board of

Licensure, 870N, 1443R
 Pharmacy education, 1365N
 Supervision, 870N
 Unauthorized practice, 870N, 1443R

Practical Nurse Examiners, Board of

Education, 1140N
 Fees, 1140N
 Licensure, 1140N
 Practice, 1140N

Public Health, Office of

Child health block grant, 1382P
 Hearing, 433P
 Lead poisoning prevention, 85R
 Maternal health block grant, 1382P
 Vital records, 1298R
 Sanitary Code
 Body art, 1616R
 Plumbing, 1481R
 Seafood, 143N, 1033R
 Sewage disposal, 1520N
 Water supplies, 368N, 1036R, 1145N, 1274R, 1624R
 Shellfish, 430P

Secretary, Office of the

Breast cancer, 697R
 Case management, 909N
 Drug Testing Policy, 1058R
 Health Services Financing, Bureau of
 AAC devices, 1412ER, 1625R
 Addiction treatment, 879N
 Adult denture program, 196ER
 Care facilities Cretarded, 222ER
 Chiropractic services, 197ER, 1215ER, 1885N
 Durable medical equipment
 Customized wheelchairs, 198ER, 1215ER
 E and K procedure codes, 198ER, 1216ER
 Enteral formulas, 199ER, 1217ER
 Enteral supplies, 204ER
 Equipment delivery, 200ER, 1217ER, 1886N
 Family planning, 875N, 1418ER
 Flat fee, 200ER, 1218ER
 Glucometers, 204ER
 Health care sanctions, 876N, 1448R
 Hemodialysis, 1153N
 Medicare Part B claims, 201ER, 1147N, 1219ER
 Nurse home visits, 982ER
 Orthotics, 202ER, 1220ER
 Ostomy, 203ER, 1220ER
 Oxygen concentrators, 204ER, 1221ER
 Parenteral supplies, 204ER, 1221ER
 Physician services, 908N
 Prosthetics, 202ER
 Rehabilitation services, 909N
 Substance abuse/addictions, 1450R
 Supplies delivery, 200ER, 1886N
 Urological supplies, 203ER
 X-ray services, 907N, 1419ER
 Z and E procedure codes, 205ER, 1222ER
 Emergency ambulance services, 207ER, 208ER, 1224ER, 1225ER, 1418ER
 EPSDT
 Dental, 206ER, 1223ER, 1416ER
 Case management, 624ER, 1562ER
 KidMed, 206ER, 1223ER, 1417ER
 Rehabilitation, 207ER, 1224ER, 1417ER
 Family planning clinics, 209ER, 1226ER
 Hemodialysis centers, 209ER, 1148N, 1227ER
 Home health nursing, 210ER, 211ER, 1227ER, 1228ER, 1419ER
 Inpatient services, 212ER, 213ER, 214ER, 1150N, 1151N, 1229ER, 1230ER, 1231ER, 1299R, 1558ER
 Laboratory x-ray services, 214ER, 215ER, 1153N, 1231ER,

1232ER

Long term hospital, 216ER, 1233ER, 1541P, 1558ER
 Mental health services, 216ER, 1233ER, 1239ER, 1239ER, 1420ER
 Mentally retarded reimbursement, 1542P, 1560ER
 Native American fishing rights, 323R
 Nonemergency ambulance services, 208ER, 1226ER, 1420ER
 Nursing facilities-reimbursement, 5ER, 1421ER, 1524N, 1561ER
 Out-of-state hospitals, 217ER, 1234ER
 Outpatient hospitalClaboratory, 218ER, 1156N, 1235ER, 1541P, 1559ER
 Outpatient hospitalCrehabilitation, 218ER, 1235ER, 1542P, 1559ER
 Outpatient hospitalCservices, 219ER, 1151N, 1228ER, 1236ER
 Outpatient services, 211ER
 Outpatient surgery, 220ER, 1237ER
 Pharmacy program, 220ER, 1237ER, 1299R, 1629R
 Private nursing facilities, 223ER, 1240ER, 1240ER, 1543P, 1561ER
 Private hospital services, 221ER, 1238ER, 1542P, 1560ER
 Professional services
 Adenoidectomy services, 226ER
 Medicare part B, 224ER, 1241ER
 Neonatal care, 225ER, 1242ER
 Physician services, 225ER, 1242ER, 1422ER
 Tonsillectomy services, 226ER, 1243ER
 Psychiatric services, 1540P, 1558ER
 Rehabilitation services, 227ER, 1157N, 1243ER, 1244ER, 1423ER
 Substance abuse clinics, 228ER, 229ER, 1158N, 1245ER, 1246ER
 Targeted management services, 229ER, 624ER, 625ER, 1246ER, 1423ER, 1561ER, 1562ER

Veterinary Medicine, Board of

Certificate renewal, 84R
 Euthanasia, 317R
 Fees, 84R
 Fee schedule, 176P
 Late charge, 84R
 Renewals, 322R

INSURANCE**Commissioner, Office of the**

Fraud assessment, 7ER, 323R
 Reg 68 Patient rights, 324R
 Reg 69 Year 2000 exclusions, 86R
 Reg 70 Life insurance, 433P, 1300R, 1482R
 Reg 74 Health coverage claims, 1368N

LABOR**Plumbing Board**

Fees, 327R
 Integrity of examination, 328R
 Medical gas verifiers, 328R

Secretary, Office of the

Drug testing, 392N

Workforce Development, Office of

Training fund, 1629R

LEGISLATURE

State Legislature

1999 Regular Session

Administrative Procedure Act, 412L

LOUISIANA LOTTERY CORPORATION

Louisiana Lottery Corporation

Instant lottery, 699R

On-line lottery, 703R, 1159R, 1631R

Policies, 705R

Prize payment, 703R

Retailer regulations, 709R

NATURAL RESOURCES

Conservation, Office of

Fees, 1526N

LaFourche Parish, 1382P

Newpark's waste facilities, 177P

Orphaned oilfield sites, 176P, 433P, 961P, 1193P, 1382P, 1543P

Statewide Order No. 29-B, 230ER, 394N, 1247ER, 1306R

Mineral Recourses, Office of

Surveys, 1060R

Secretary, Office of

Fishermen's gear compensation fund, 962P, 1194P, 1383P, 1544P

Loran coordinates, 962P

Oyster lease, 1483R, 1565ER

NEW ORLEANS AND BATON ROUGE STEAMSHIP PILOT COMMISSION

New Orleans and Baton Rouge Steamship Pilot

Commission, Board of

Steamship pilots, 396N, 1064R

PUBLIC SAFETY AND CORRECTIONS

Board of Pardons

Clemency, 88R

Corrections Services

Adult offenders, 1529N

Drug-free workplace, 1308R

Equal employment, 1308R

Medical reimbursement, 331R

Sex offender, 332R

Visitation-attorney, 1313R

Gaming Control Board

Accounting regulations, 334R, 1371N

Application/license, 339R

Application/reporting form, 339R

Definitions, 1314R

Check cashing, 335R

Conduct of licensees/permittees, 1888N

Electronic devices, 8ER, 716R

Establishments, 1320R, 1373N

Hearing, 177

Impositions-sanctions, 1324R, 1321R

Internal control, 1371N

Land-based, 160N

Licensing requirements, 1373N, 1892N

Non-gaming suppliers, 1314R

Pari-mutuel racing, 728R

Reciprocity, 339R

Riverboat, 1893N

Slots, 1371N

Violations, 1887N

Liquefied Petroleum Gas Commission

Fueling, 911N, 1487R

Inspections, 911N, 1487R

Installation, 911N, 1487R

Mass transit vehicles, 911N

Requirements, 911N, 1487R

School bus applications, 911N, 1487R

Motor Vehicles, Office of

Compulsory insurance, 88R

Driver's license handling fee, 1530N

Identification cards, 1177N, 1633R

License plates, 89R

Requirements, 1175N, 1632R

Private Investigator Examiners, Board of

Disciplinary information, 574N

Disciplinary information, 1307R

Private Securities Examiners, Board of

Administrative penalties, 1067R

Board members, 1067R

Company licensure, 1067R

Criminal background checks, 1067R

Disciplinary action, 1067R

Insignias, 1067R

Investigations, 1067R

Licensee suitability, 1067R

Markings, 1067R

Records, 1067R

Registrant violations, 1067R

Registration, 1067R

Restrictions, 1067R

Training, 1067R

State Fire Marshal, Office of the

Fire alarms, 150N, 1324R

Fire extinguishers, 150N, 1324R

Manufactured housing, 1250ER, 1374N

State Police, Office of

Analysis of blood and urine, 21ER, 146N

Explosive code, 90R

Mobile police, 1895N

Towing recovery, 347R

Underground utilities, 92R

User fees, 95R, 1894N

Weights and standards, 1895N

REVENUE AND TAXATION

Alcohol and Tobacco Control, Office of

Caterer's permits, 1424ER, 1907N

Liquor, 1908N

Corporation Income and Franchise Taxes

Income tax withholding, 1899N

Secretary, Office of

Refund claims, 95R

Severance Tax Division

Natural gas tax, 962P

Tax Commission

Timber stumpage, 25R, 174P

SOCIAL SERVICES

Community Services, Office of

Children's trust fund, 1531N

Child abuse, 790R

Emergency shelter, 435P
Maintenance, 96R
Neglect, 790R
Reimbursement rates-residential, 23ER, 1341R
Residential facilities, 985ER
Trust fund, 1531N
Weatherization assistance, 436P

Family Support, Office of

Child care assistance program, 1909N
FITAP, 349R, 399N, 962P, 1342R, 1563ER
FIND work, 1342R
Food stamps, 349R, 912N, 1545P, 1633R
Kinship care, 350R, 351R, 1564ER
Support enforcement, 356R, 401N, 1343R
TANF caseload, 962P
Wrap-around child care, 983ER

Rehabilitation Services, Office of

Appeal rights, 914N, 1425ER, 1634R
Cued speech transliterator, 916N, 1488R
Independent services, 1178N
Sign language interpreter, 916N, 1488R

Secretary, Office of the

Adult care, 1914N
Child care, 402N, 1194P, 1635R

TRANSPORTATION AND DEVELOPMENT

General Counsel, Office of the

Outdoor advertisement, 1375N

Highways/Engineering

Contracting, 790R
Fiber optic permit, 1915N
Roadside vegetation, 920N, 1644R

Sabine River Compact Administration

Spring meeting notice, 1194P

Secretary, Office of

Crescent City Connection Division

Bridge toll, 97R

Weights and Measures, Office of

Equipment permit, 1375N
Reflective sign sheeting, 357R

TREASURY

State Bond Commission

Electronic bidding, 1187N, 1675R
Surety bond, 1187N, 1675R

State Employees ' Retirement System, Board of Trustees of the

Disability eligibility, 1490R
Election, 1916N
Excess benefit plan, 1490R
Optional retirement plan, 1490R
Purchase of military service, 1490R
Retiree election, 1490R
Spousal consent, 1490R

State Employees' Retirement, Board of Trustees

Disability eligibility, 917N
Excess benefit, 917N
Military service purchase, 917N
Optional retirement, 917N
Retiree election, 917N
Spousal consent, 917N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Alligator, 1427ER, 1492R
Billfishes, 952N, 1676R
Birds, 1564ER
Black bass, 97R
Black drum size, 1377N
Cobia, 1917N
Commercial king mackerel, 1250ER, 1426ER, 1505R, 1532N
Crawfish, 168N, 1077R
Deer, 1188N, 1189N
Electronic licensing, 168N, 1077R
Flotation devices, 1493R
Harvest, 98R, 1919N
Hunting, 24ER, 233ER, 1494R, 1506R, 1564ER
Inshore shrimping, 1565ER, 1566ER
Mackerel, 1505R, 1532N, 1917N
Migratory birds, 1564ER
Mullet, 1379N
Oyster, 1565ER
Pompano permits, 1378N
Prohibited fish, 953N, 1505R, 1676R
Quotas, 1377N, 1505r
Red snapper, 986ER
Reef fish, 792R, 1505R
Shrimp, 233ER, 626ER, 986ER, 1426ER, 1427ER, 1564ER, 1565ER, 1566ER
Spotted seatrout, 1380N
Traversing permit, 1381N
Tuna, 1919N
Turkey, 1533N